

## *Planning Authority Report*

1. *Section 35F of the Land Use Planning and Approvals Act 1993 – Consideration of Representations to the draft Glamorgan Spring Bay Local Provisions Schedule'*
2. *Section 35G of the Land Use Planning and Approvals Act 1993 – Notice to Tasmanian Planning Commission on recommended changes to State Planning Provisions*



GLAMORGAN SPRING BAY  
COUNCIL

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## Abbreviations

The following abbreviations and references are commonly used through this report:

Act	<i>Land Use Planning and Approvals Act 1993</i>
Agricultural Policy	<i>State Policy for the Protection of Agricultural Land 2009</i>
Commission	Tasmanian Planning Commission
Council	Glamorgan Spring Bay Council
Exhibition period	Friday 13 December 2019 to Saturday 15 February 2020
Guidelines	Guideline No.1 Local Provisions Schedules (LPS) zone and code application
Interim Scheme	Glamorgan Spring Bay Interim Planning Scheme 2015
LPS	Local Provisions Schedule
Owner	owner of land subject to the representation
Planning Authority	Glamorgan Spring Bay Council
PPZ	Particular Purpose Zone
Representor	author of the subject representation
RMPS	Resource Management and Planning System
SAP	Specific Area Plan
SPP	State Planning Provisions
Supporting Report	Glamorgan Spring Bay Council Local Provisions Schedule Supporting Report, December 2019
Transitional provisions	provisions that were carried over from the Interim Scheme to the LPS under a notice issued by the Minister for Planning
35F report	report that assesses the representations received during the exhibition period and provides a recommendation for consideration by the Commission.
35G Notice	Notice submitted under section 35G of the Act identifying changes required to the SPP's for consideration by the Commission.
1994 Scheme	Glamorgan Spring Bay Planning Scheme 1994

## 1. Section 35F of the Land Use Planning and Approvals Act 1993 – Consideration of Representations to the draft Glamorgan Spring Bay Local Provisions Schedule'

### Process

The exhibition of *Local Provisions Schedule* (LPS) and the process to make and assess representations is established under Part 3A of the *Land Use Planning and Approvals Act 1993* (Act).

The LPS was lodged with the Commission in 2017 and subject to a series of changes before it was approved for exhibition by the Commission.

The LPS was on exhibition from Friday 13 December 2019 to Saturday 15 February 2020.

Representations were accepted until the close of business on Monday 17 February 2020, based on the requirements of the *Acts Interpretation Act 1935*, which effectively requires that the statutory period ends on a day that the Council was open.

In addition, late representations have been accepted past this date where they relate to LPS issues.

The Act contains specific provision on number of matters that representations can and cannot contain. A copy of the statutory provisions for sections 34 and 35E of the Act is provided as Attachment 1 to this report.

A simplified summary of what a representation can and cannot contain follows, as the legislation is circuitous, unclear and confusing.

### The Can...

Subsection 3 says a representations **can** state:

- (a) that a part of the LPs is inconsistent with the SPP's; or
- (b) part of the SPP's should or should not apply to an area of land; or
- (c) the LPS should or should not contain provisions that the s.34 criteria allow.

Representations that raise these matters can be assessed and have a recommendation provided. Generally, submissions made comments that complied with the requirements of clauses (b) and (c).

### The Not...

Subsection 4 clearly states that representations **must not** state that the SPP's should be altered.

Subsection 5 states specific matters that **cannot** be taken as a representation:

- (a) matters that do not relate to the content or merits of the LPS; or
- (b) are not allowed under subsection 3 (see previous comments); or
- (c) statements that the SPP's should change.

While many representations contain comments and submissions on these issues, Council is not allowed to consider these matters as part of the representation.

## Assessment of representations

Full copies of the representations were provided as a separate attachment to this report.

The assessment of each representation provides a general discussion and response before providing the recommendation required under section 35F(2) of the Act, which requires a decision under each of the following categories.

- Recommendation for draft LPS:
- Effect on Draft LPS as a whole
- LPS Criteria

The report structure provides this at the end of each representation.

### A default recommendation

There are a range of issues where the initial response is to withhold changes at this point, usually subject to the provision of additional information throughout the hearing process.

This achieves two main outcomes:

- Representors are not required to obtain expert reports from consultants until the issue is addressed in hearings to the LPS; and
- The LPS can progress through the assessment process while Council reserves the option to change its position where additional information is provided.

This recommendation allows Council to then change its position on issues at a later date when information becomes available. It also allows Council to undertake additional work with property owners and representors as a result of the representations.

Examples include the following:

- Use of Landscape Conservation zoning for properties with conservation covenants;
- Use of rural zone versus agriculture zone; and
- Rezoning of property that is not owned by the representor.

### Late representations

Representations that related to LPS issues that were received after 15 February were processed as if they were lodged in time for consideration. This was for two reasons.

The closing date specified in the Notice was a Saturday, which means the Council office was closed. Acts Interpretation Act 1931, section 29(4) requires that the conclusion of the exhibition period was therefore Monday 17 February.

The process for consultation on this set of planning reforms has been confusing and, some may consider, has not facilitated public involvement, nor understanding. The assessment of late representations is the only measure available for Council to provide for an independent review of people's concerns.

## Common issues

Common themes to the representations were identified. This summary provides a general response to those themes and other selected relevant issues.

### Changes to the State Planning Provisions

A number of representations related to changes to the State Planning Provisions (SPP). These issues typically included the following:

- the SPP's should or should not include certain provisions or be changed;
- the SPP's failed to consider relevant or significant issues;
- the SPP's provided too much or too little discretion;
- querying how the LPS and/or SPP provisions should be interpreted or how discretion in provisions should be exercised for the future implementation of the SPP's; and
- that the format and/or provisions permitted to be included in the LPS by the SPPs should be altered/changed or revised.

The Act is very clear in prohibiting Council from considering any such statements and establishes an alternative process for Council to submit a notice to the Tasmanian Planning Commission (Commission) on these matters. This is done through a separate decision of the Council to submit a notice under section 35G of the Act.

Where these matters were raised in representations, the discussion identifies the matter, the prohibition on consideration and mentions that whilst Council may wish to list the issue for future consideration, there is no recommendation provided on these matters in this report.

### Changes to transitional provisions

Reps 9, 10, 12, 16, 17, 22, 25, 29, 30, 33, 35, 40, 41, 43, 44, 51, 52, 54,

The Act provides for some provisions to transition across from the Interim Scheme to the LPS. These include the following:

- GSB-P1.0 Particular Purpose Zone – Dolphin Sands
- GSB-P2.0 Particular Purpose Zone – The Gulch
- GSB-P3.0 Particular Purpose Zone – Spring Bay Mill
- GSB-P4.0 Particular Purpose Zone – Saffire Freycinet
- GSB-P5.0 Particular Purpose Zone – North Bicheno Future Urban
- GSB-S1.0 Spring Bay Marina Specific Area Plan
- GSB-S2.0 Bicheno Golf Club Specific Area Plan
- GSB-S3.0 Louisville Road Specific Area Plan
- GSB-Table C3.1 Local Heritage Places

Many representations suggested changes to these provisions that were transitioned from the Interim Scheme to the LPS.

The Act is very clear. Changes to these provisions are severely limited and for all practical purposes, are not allowed.

Representations that seek such changes, regardless of extent, cannot be considered without revoking the transitional status of these provisions. This entails Council justifying the provisions as if they do not exist and involves significant risk that the same or similar provisions may not be



approved as part of the LPS. This process would create significant risk for the Council and the affected property owners.

Absent a significant change in policy position by the Council, the reality is that changes cannot be made to the transitional provisions.

Representations 33 is the exception to this, because the matters under discussion relate to the translation of existing provisions to a different type of control under the SPP and LPS structure. This issue will require further examination through the hearings to confirm that the transitional status will not be revoked as a result.

### Landscape Conservation zoning and Conservation Covenants

Reps 1, 2, 6, 7, 11, 18, 45, 48, 53, 55, 56

Many representations have demanded the landscape conservation zone as they have conservation covenants over their property. It is understood that these submissions have been encouraged by Conservation Landholders Tasmania, based on the Commission's Guideline number 1.

Discussions with the Tasmanian Land Conservancy provided further clarity for the representations regarding this issue. Landscape Conservation zoning is preferred for conservation covenanted land because it provides for the assessment of vegetation removal and does not allow for extractive industries.

The Guideline statements are inconsistent with the zone provisions, which also lack clear guidance about application of priority vegetation and scenic management overlays within the zone. The requests are consistent with guidelines LCZ 1, 2 and 3.

The landscape conservation zone cannot regulate biodiversity, which is done through the Priority Vegetation overlay and Natural Assets Code. Guideline LCZ 4(a) provides the following:

*LCZ 4 The Landscape Conservation Zone should not be applied to:*

- (a) land where the priority is for residential use and development (see Rural Living Zone); or*
- (b) State-reserved land (see Environmental Management Zone).*

*Note: The Landscape Conservation Zone is not a replacement zone for the Environmental Living Zone in interim planning schemes. There are key policy differences between the two zones. The Landscape Conservation Zone is not a large lot residential zone, in areas characterised by native vegetation cover and other landscape values. Instead, the Landscape Conservation Zone provides a clear priority for the protection of landscape values and for complementary use or development, with residential use largely being discretionary.*

*Together the Landscape Conservation Zone and the Environmental Management Zone, provide a suite of environmental zones to manage use and development in natural areas.<sup>1</sup>*

While it is not a planning issue, there is a risk to the property owners that the requested change to the Landscape Conservation zone may affect financing for properties. Guideline No. 1 very clearly states that residential purposes should be directed to the Rural Living zone.

As an initial response, it is suggested that Council supports these representations but does not recommend any changes at this point in time. This may change pending further investigation and

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<sup>1</sup> P20 Guideline 1

clarification by the State in response to the suggested actions. Workshops on this issue identified Councils response as follows:

- Ensure that the priority vegetation overlay covers the areas protected by Conservation Covenants under the Nature Conservation Act;
- Seek confirmation from Planning Policy Unit of State that the exclusion areas under conservation covenants under the Nature Conservation Act comply with the defined term of building area at Table 3.1 and therefore enable residential use to comply with the permitted use qualification (b) at clause 22.2 of the SPP's; and
- Determine the requested change of zoning following the previous as follows:
  - Support the change for where the subject property owners confirm their wish; and
  - Do not support for property owners who do not request the change or withdraw their support through the process.

This last point will allow Council to change its position on any or all of the representations during the hearing process.

### Scenic Management issues

#### More use of Landscape Conservation zone / scenic management overlay

Reps 24, 31, 39, 45, 48, 49, 52, 53, 56

Multiple representations raised management of scenic landscapes, arguing for increased use of the Landscape Conservation zone and Scenic Protection Overlays and Corridors. Specifically, the broad nature of the coastal/rural landscapes and particular values of specific areas such as Coles Bay and Freycinet were identified as requiring additional protection.

The landscape conservation zone provides acceptable solutions for development which include:

- Site coverage (site covered by roofed buildings<sup>2</sup>) up to 400 m<sup>2</sup>;
- Building height up to 6 metres;
- Minimum frontage setbacks of 10 metres;
- Minimum side and rear setbacks of 20 metres;
- Setbacks for sensitive use to agriculture or rural zones of 200m or to match existing;
- Maximin light reflectance values of 40% with muted colours;
- New dwellings requiring suitable access to a road; and
- Landscape protection measures for buildings and works including location of buildings, building height, maximum cut and fill tests and consideration of skyline and ridgeline impacts of the proposal.

While this zone appears to be well suited to management of scenic values, it must be considered against the landscapes and land use that comprise the significant landscapes that the representors are seeking to manage. These are typically broad scale rural and coastal landscapes that are significantly comprised of rural activities and coastal areas.

The Guidelines are clear at section 22, LCZ1 to LCZ4, that the Landscape Conservation zone is not suitable for locations where large scale use and development are intended to occur. This includes the type of rural activities that comprise the subject landscapes.

Further, the SPP exemptions provide for buildings and works that can have significant impact on rural landscapes (4.3.8, 4.3.9) and therefore, scenic values.

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<sup>2</sup> Defined term under Section 4

The provisions of the Scenic Protection Code were reviewed for their use and effectiveness as part of the *Guidelines for Scenic Values Assessment Methodology and Local Provisions Schedules*. These Scenic Guidelines identified that the provisions in the Code focussed on skylines and road corridors, with additional assessment criteria required to provide better identification and assessment of scenic management values and management objectives<sup>3</sup>.

This is consistent with the nature of the exemptions and controls in the code. Significant exemptions are available from the code. Acceptable solutions mean that development at less than 50m elevation below a skyline and under 500 m<sup>2</sup> in area are accepted for scenic protection areas and for scenic road corridors, vegetation removal and buildings must not be visible.

Aside from proposals over 500m<sup>2</sup> in extent (a phrase which is undefined and is not used in this form anywhere else in the Scheme, and therefore open to planning and legal interpretation and challenge) or removing specified vegetation types, there is no capacity to consider impacts to broad scale landscapes, even if they are within an overlay.

The basis for use of the Scenic Management overlays under the LPS was identified in the Supporting Report, which incorporated the policies of the 1994 Scheme and also used the Landscape Conservation zone. This strategy was prepared in response to SPC1(b) of the Guidelines.

The Southern Tasmanian Regional Land Use Strategy 2010-2035 recognises the need for management of scenic resources.<sup>4</sup>

Management of scenic landscape values is clearly identified within the STRLUS and Scenic Guidelines within. It is considered that the policies of the STRLUS are frustrated by the SPP provisions.

Specifically, the limited nature of the controls in the SPP's do not allow proper consideration of the impacts of development on broad scale scenic landscapes. The delivery of CV4.2 is compromised by the provisions of the SPP's.

The Guidelines clearly provide for the identification and management of scenic resources, as follows:

*SPC 1 The scenic protection area overlay and the scenic road corridor overlay may be applied to land identified at the local or regional level as important for the protection of scenic values. These may include areas:*

- (a) containing significant native vegetation or bushland areas with important scenic values (such as skyline areas); or*
- (b) identified for their significant scenic views.*

*SPC 2 The scenic protection area overlay and the scenic road corridor overlay should be justified as having significant scenic values requiring protection from inappropriate development that would or may diminish those values.<sup>5</sup>*

Specific issues were raised in representations 20, 31, 45 and 52 including the need to protect broader scenic landscapes, which cannot occur under the SPP provisions.

Council also has issues regarding the impact of development in coastal areas through heights and setbacks of buildings under the respective zones and codes. The limited operation of the Scenic Protection Code prohibits use of this tool to effectively manage development impacts in these areas. While Codes provide assessment for geomorphic, risk and biodiversity impacts, the one code that can consider development impacts is specifically prohibited from doing so.

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<sup>3</sup> Scenic pp47-49

<sup>4</sup> STRLUS p A-4

<sup>5</sup> Guidelines p42

The representations and Council raised issues with the management of scenic resources that appear to be within the scope of the STRLUS and Guidelines, but not capable of being managed under the SPP's.

It is also expected that the current regulatory regime does not comply with the Schedule 1 objectives of the Resource Management and Planning System if Tasmania and the Act. Specific concerns exist for compliance with objectives at Part 1, 1 (a, b, d, and e) and Part 2 (a, b, c, d, f, and g).

Workshops with the Council confirmed the significance of this issue to the planning authority and its understanding of the expectations of the local community.

For these reasons, this issue will be listed in the 35G Notice to review the Scenic Management Code of the State Planning Provisions to:

- expand their operation to consider broader scenic landscapes, such as coastal and rural areas and the impacts of development on their scenic quality;
- improve the ability of the code to comply with the requirements of the Regional Land Use Strategies for management of scenic resources and the Objectives of the Resource Management and Planning System and Land Use Planning and Approvals Act 1993 for sustainable development, management of resources and consideration of intergenerational impacts;
- consider the impacts of the exemptions on the function and purpose of the Code; and
- provide recognition for the significance of scenic values (such as national state and local) and the impacts of development on them; and
- Establish specific guidelines for the identification of scenic values and management objectives for use in developing the provisions.

Council may wish to revisit this issue following consideration of the 35G Notice by the Commission and Minister. A separate planning scheme amendment is likely once the LPS is in place.

#### Rural versus Agriculture zoning

Reps 41, 13, 15, 23, 27,

Representations typically express concern or objection to the limitations that the Agriculture zone will place on their properties and operations.

As noted in the Supporting Report, the Agriculture zone is based on the Agricultural Land Mapping Project by the State, with further review by AK Consulting. Modifications were made to this information for compliance with the Guidelines.

For clarity, the SPP's define agricultural use as follows:

*agricultural use means use of the land for propagating, cultivating or harvesting plants or for keeping and breeding of animals, excluding domestic animals and pets. It includes the handling, packing or storing of plant and animal produce for dispatch to processors. It includes controlled environment agriculture and plantation forestry.*

This definition is very broad, and includes all aspects of agricultural use for cropping and grazing.

The following table provides a comparison between the two zones, based on the requirements of the Guidelines:

Rural zone	Agriculture zone
Non urban	Used for agriculture
Has limited potential for agriculture	<ul style="list-style-type: none"> <li>Based on land potentially suitable for agricultural use mapping; and</li> <li>should include land in the Significant Agriculture zone of Interim schemes</li> </ul>
Must be considered against the land potentially suitable for agricultural use	May include land identified in local or regional strategic analyses
<p>Can be used for agricultural land where:</p> <ul style="list-style-type: none"> <li>It is demonstrated that the land has no agricultural value;</li> <li>It is not part of a larger land holding in the Agricultural zone;</li> <li>It is demonstrated there are significant constraints to agricultural use;</li> <li>The land has a strategically important natural resource and is supported by strategic analysis.</li> <li>The land has other significant strategic uses and is supported by strategic analysis; or</li> <li>Strategic analysis identifies Rural zone as more appropriate</li> </ul>	<p>Potentially Suitable Land may be considered for alternative zoning where:</p> <ul style="list-style-type: none"> <li>Local or regional analysis identifies alternative zoning is required and consistent with RLUS or local strategy;</li> <li>It contains strategic natural resources of significance</li> <li>Protection of natural values</li> <li>It contains strategically significant uses or activities; or</li> <li>It is demonstrated the land has no agricultural potential.</li> </ul>

Detailed examination of the Guidelines clearly suggests that any properties wanting to pursue the Rural over the Agriculture zone will need to obtain a specialist assessment from a suitably qualified person (most typically, an agronomist who performs an assessment against the Land Capability Classification System, Noble/Grose).

The Supporting Report identifies Council's approach to application of the zoning in accordance with the requirements of the Guidelines. The Rural zone contains specific tests for its use over the Agriculture zone, and likewise for the removal of properties from the Agriculture zone.

Where additional investigations are required to support representations, it is recommended that the representors be advised of the likely requirements and requested to provide such information for the hearings. Absent detailed investigations and reporting provided by the owners/representors, no change should be supported.

For example, the *Land Potentially suitable for agricultural use* mapping is based on information provided by the State and known to contain errors based on the scale of the mapping and analysis that informed it. The Guidelines recognise this and provide 'outs' for further detailed investigations and other strategic or significant impacts. Local strategies are one example, as is protection of natural values. Natural values inform the Priority Vegetation overlay but are again based on State mapping that is known to contain errors (information sources, scale of mapping, lack of ground truthing). The Guidelines also recognise this and provide an 'out' for provision of specific investigations that confirm existence of significant natural values and allow an alternative zoning.

Council is required to use the State mapping in both cases and cannot commit the required resources for municipality wide ground truthing of the available information.

Therefore, it is recommended that Council:

- Support the representations:
- determine the 35F report issues on the basis of no change to the LPS maps, pending provision of additional information by the representor during the hearings; and
- advise affected representors that specialist reports are likely to be required once the Commission commences the hearings.

#### State agency issues (State Growth, Tas Networks, Tas water, Tasfire)

Reps 3, 19, 27, 51

Council has the benefit of a recently published decision on the Burnie LPS to inform its consideration. This decision identifies the following guidance:

- the primary purpose of the decision is to achieve compliance with the zone purpose statements to the greatest extent possible (multiple decisions);
- communication facilities do not comprise major infrastructure within the SPP's (paragraph 36)
- discrete titles or long term leases are required for split zoning of relevant infrastructure (paragraph 38);
- Taswater infrastructure must be considered under the terms of the Guidelines (paragraphs 55/56);
- Private Timber Reserves are not regulated by planning schemes and therefore do not require Agriculture zoning (Rural zone is appropriate);
- Mineral Resources leases are preferred for Rural zoning but split zoning should be avoided under Practice Note 7 as mineral leases are limited to the life of the resources. Zoning should be determined by assessment of the underlying area (paragraph 74);
- Road and Rail attenuation overlays should be by description rather than identification on an overlay map (paragraph 90);
- Electricity substations should have the overlay applied to the entire site as defined in the Guidelines (paragraphs 92-96);

The recommendations for the representations were provided considering this information.

#### Coles Bay Swanwick SAP

Reps 5, 45, 57

Two representations raised objection to the inclusion of this SAP, based on:

- problems with the existing and future development and visitation of the Coles Bay and Stanwick areas through the SAP's in the LPS;
- the lack of services and impact of high visitation rates on the amenity of the area (for a range of reasons);
- problems with increased visitors to the area detrimentally affecting the amenity of the area;
- a lack of clarity over what the local provisions will be that apply to the area;
- objection to the change in character that occurs with the transition from 'shack' style communities as increasing numbers of properties change to visitor accommodation.
- consistency with the local area and the construction of the SPP's;
- the additional opportunity for operating hours, commercial vehicle movements and floor area of non-residential uses



- supporting report is devoid of evidence to justify the departure from the SPP LDRZ provisions
- implementation of the SAP is likely to diminish residential amenity and development patterns,
- implementation of the SAP is likely to compromise the inclusion and spatial application of the LBZ in the area through the ad-hoc proliferation of non-residential uses and developments
- likely impacts to and Guidelines for the Local Business zone and justification of unstructured mix of residential, commercial and community services with strategic intent to maintain this mix.

A late representation was lodged supporting the SAP.

The issues were workshopped with the Council. The issues raised in the representations were identified as having merit and the potential for unintended impacts to the residential nature of the area were recognised.

During the workshops, it was identified that Council wished to withdraw the SAP to allow further consultation with the local community and consideration of the options available to provide for the intended uses in the area. It is likely that the intended outcomes of the SAP will be subject to a separate amendment process following completion of the LPS process. Council considers that will provide for better consideration of the issues that affect the amenity of the area and the tourism industry.

As a result of the representations, support for the SAP was withdrawn from the LPS.

#### Future urban zone at Orford/Rheban Road

Reps 6, 27, 31, 39,

Representations raised the suitability of the subject land for urban development, noting the recent rejection of a proposal by the Commission for its rezoning to General Residential.

As noted in the supporting report and response to the specific representations, the subject land is identified in the Triabunna Orford Structure Plan for residential development. The Future Urban zone was selected for the land to recognise the strategic identification of residential development potential.

The proposal was assessed against the requirements of the Guidelines and determined initially to have merit. Later review of the proposal against the issues raised in the representations confirmed suitability of the land for the Future Urban zone. Further, use of the Future Urban zone will allow for infrastructure issues for the development of the land to be addressed prior to or as part of its rezoning to enable subdivision and development for residential purposes.

Use of the Future Urban zone for the subject lands was supported following assessment of the representations.

#### Fisheries subdivision prohibition

Reps 38, 45

Representations sought removal of the opportunity for subdivision at the Fisheries, in Coles Bay.

The Glamorgan Spring Bay Planning Scheme 1994 Scheme contained provisions that recognised the Fisheries as a particularly unique area and provided specific objectives to reflect this and the following restriction on use and development at clause 8.1.3:

*Notwithstanding the provisions of the above, any use or development other than that identified as either exempt or permitted shall be prohibited in the area known as “The Fisheries” at Coles Bay.*

The following provides the permitted and discretionary entitlements within the Village zone of the 1994 Scheme:

Permitted	Discretionary
<i>Dwelling</i>	<i>Active Recreation</i>
<i>Home Business</i>	<i>Child Care Centre</i>
<i>Public Utility (minor)</i>	<i>Civic Building/Centre Communal Dwelling</i>
<i>Outbuilding</i>	<i>Educational Establishment</i>
<i>Passive Recreation</i>	<i>Local Shop</i>
<i>Public Park</i>	<i>Miscellaneous</i>
	<i>Multiple Dwelling Units</i>
	<i>Subdivision</i>
	<i>Telecommunications</i>
	<i>Infrastructure</i>
	<i>Visitor Accommodation</i>

This clearly demonstrates that Subdivision, amongst other uses, was prohibited at the Fisheries.

That prohibition was removed with proclamation of the Interim Scheme, where the Fisheries were zoned Low Density Residential. Available records suggest that this provision was not subject to representation during notification of the Interim Scheme. This zoning was carried forward to the LPS, which provides for subdivision of a few titles and the development of units in the area.

Workshops with Council confirmed the wish to address this matter. Within the options available under the SPP's, Council supported establishment of a new particular purpose zone to reflect the particular values of the Fisheries area.

The proposed particular purpose zone provides similar controls to the 1994 Scheme, which will effectively limit use within the area to single dwellings, visitor accommodation, natural and cultural values management, passive recreation and (minor) utilities.

### Rezoning of properties

A number of representations sought rezoning of properties. These were assessed against the STRLUS, respective Structure Plans, LPS supporting report and specific policies under the Guidelines. Initial consideration was also provided to the availability of services appropriate to expectations of the requested zoning and whether the current process was likely to provide for appropriate consideration of the subject change.

Where the representation was consistent with the relevant document, the change is supported. In some cases, as with the Landscape Conservation or Rural versus Agriculture issues, compliance is less clear. In these cases, the representations may be supported while no change is recommended in this report.



## Priority Vegetation

Reps 2, 48

Representations raised the extent and quality of the Priority Vegetation mapping, specifically seeking development and maintenance of the mapping by the State government and improvements in the data that informed composition of the mapping.

It is suggested this issue also ties in with representations seeking landscape Conservation zoning for conservation covenanted properties. Council may provide this as an additional consideration in response to Guidelines NAC 9, 10 and 12.

The mapping within the LPS was prepared in accordance with the Guidelines, as detailed in the supporting report.

Further to this, Council notes the lack of clarity and practicable vegetation offsets available under the Interim Scheme and questions its consistency with the objectives of the Act and Resource Management and Planning System.

It is recommended that Council list the Priority Vegetation layer in the 35G Notice for the following:

- review of the guidelines for composition of the Priority Vegetation Layer;
- provision for development of the Priority Vegetation lay by State Government; and
- incorporation of biodiversity offsets for vegetation removal.

## Waterfront building height and setback

Council has expressed concern at the impacts that development have on coastal locations, principally in terms of height and setback.

The SPP's provide assessment of use and development impacts through standards that make some reference to visual impact in the relevant zones (residential, commercial suite, rural and environmental suites) and codes.

As previously noted, the SPP Code for Scenic Protection does not allow for its effective use in these areas. The SPP's make no specific response to this issue, nor for its specific consideration.

Under the current SPP's, the appropriate tool for management of building height and setback in coastal locations is the development of a Specific Area Plan. It is understood at least one other Council is seeking to use Specific Area Plans to address similar issues. In addition, Council is seeking review of the Scenic Protection Code to allow consideration of this issue within that mechanism.

Further discussion is provided on this issue under the Council recommendations of the LPS.

## Representation assessment

### 1. Robert & Lisa Brodribb

Received: 19 December 2019

Subject: Rezoning of land, Crossins Road, Swansea (PD 1683093)

The representation seeks rezoning of the subject property from Rural under the LPS to Landscape Conservation. The representor confirmed the request applies to all five titles that are subject to conservation covenants.

The representation is subject to the discussion on this issue in the summary. This representation should be determined on this basis at present. That includes the following:

- Ensure that the priority vegetation overlay covers the areas protected by Conservation Covenants under the Nature Conservation Act;
- Seek confirmation from Planning Policy Unit of State that the exclusion areas under conservation covenants under the Nature Conservation Act comply with the defined term of building area at Table 3.1 and therefore enable residential use to comply with the permitted use qualification (b) at clause 22.2 of the SPP's; and
- Determine the requested change of zoning following the previous as follows:
  - Support the change for where the subject property owners confirm their wish; and
  - Do not support for property owners who do not request the change or withdraw their support through the process.

**Recommendation for draft LPS:** no change at present.

**Effect on Draft LPS as a whole:** The potential for fragmentation of the zoning regime for implementation of the Landscape Conservation zone in this manner is the result of mandatory policies under the SPP's and is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

### 2. Conservation Landholders Tasmania, Gail Dennett

Received: 20 December 2019

Landscape Conservation zoning for properties with conservation covenants.

Dr Dennett submits, on behalf of Conservation Landholders Tasmania, that an additional 90 of the 98 properties subject to conservation covenants with the Council area should be located within the Landscape Conservation zone, rather than the Rural and Significant Agriculture zones contained in the draft LPS that was notified. Dr Dennett also requested Council notify the affected land holders and seek their advice on their preferred zoning.

These statements clearly reinforce that the zone is for management of landscape values. The representation makes reference to the Section 8a Guidelines, which were published by State to inform development of LPS's including zoning and overlay maps. This is supported by the Supporting Report, which provides the following explanation of how the code was applied:

*In 2018, the Southern Tasmanian Councils Authority initiated a regional scale project to assist in identifying scenic landscape values and assessing their relative significance. This*

*work was conducted by Inspiring Place and Geoscene International and resulted in 'Guidelines for Scenic Values Assessment Methodology and Local Provisions Schedule'; to assist Southern Tasmanian Councils with the Scenic Protection Code.*

*Whilst principally associated with the Scenic Protection Code, the methodology to identify and assess scenic values is considered an appropriate resource to draw upon for considering the application of the LCZ.<sup>6</sup>*

Dr Dennets comments regarding the Guidelines are noted and represent an accurate interpretation of their contents (again, consistent with the supporting report).

By contrast to the guidelines, the purpose statements and standards within the zone focus on the assessment of landscape values, with biodiversity included as a secondary consideration for assessment of landscape impacts through performance criteria.

Part of the problem that generated this representation is that the Guidelines present a different function for the Landscape Conservation zone than the SPP's provide. This is compounded by the Guidelines' status as a non-statutory and non-binding document.

The issue of appropriate zoning of properties subject to conservation covenants is wider than the Glamorgan Spring Bay Council. It is appropriate to seek further guidance from the owners of the SPP's, State government.

Changes of the type necessary to make the provisions of the Landscape Conservation zone reflect the information provided in the Guidelines mandate changes to the SPP's, which are specifically excluded from representations under Sections 35E and F of the Act.

The requested notification of affected land owners is outside of the proscribed statutory exhibition process. Council opens itself to risk of significant action where it undertakes such activities that are not supported by a statutory power, particularly with documents like planning schemes that provide development opportunities. This step was not undertaken.

This issue is subject to the earlier discussion in this report, as follows:

- Ensure that the priority vegetation overlay covers the areas protected by Conservation Covenants under the Nature Conservation Act;
- Seek confirmation from Planning Policy Unit of State that the exclusion areas under conservation covenants under the Nature Conservation Act comply with the defined term of building area at Table 3.1 and therefore enable residential use to comply with the permitted use qualification (b) at clause 22.2 of the SPP's; and
- Determine the requested change of zoning following the previous as follows:
  - Support the change for where the subject property owners confirm their wish; and
  - Do not support for property owners who do not request the change or withdraw their support through the process.

**Recommendation for draft LPS:** No change at this point as a result of this representation.

**Effect on Draft LPS as a whole:** The potential for fragmentation of the zoning regime for implementation of the Landscape Conservation zone in this manner is the result of mandatory policies under the SPP's and is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the Guidelines and SPP zone purpose statements. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

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<sup>6</sup> Supporting Report, p34

### 3. Department of Police, Fire and Emergency Management, Andrew Newell

Received: 21 January 2020

Retain Community Purposes zone 6 Noyes St.

The representation seeks to retain the Community Purposes zone over the Swansea Police Station and house at 6 Noyes St, Swansea, as it is considered the best representation of the use.

The request was worked through in detail with Council's previous consultant planner, Nell Nettlefold. Nell's recommendation was to return the property to the Community Purpose zone. Both the reasoning and the outcome of that analysis is supported.

**Recommendation for draft LPS:** rezone 6 Noyes St, Swansea to Community Purpose

**Effect on Draft LPS as a whole:** The change in zoning and retention of the Community Purpose zone is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

### 4. Taswater, Jason Taylor

Received: 29 January, 2020

Rezoning to Utilities

The representation seeks the rezoning of two treatment plants to Utilities, on the basis that treatment plants comply with the Utilities zone intent and guidelines.

Guidance is provided by the recent decision on the Burnie LPS, which supported the approach where treatment plants are located within the Utilities zone.

The plants are:

- Orford Sewage Treatment Plant Orford, CT175651/1, 108A Rheban Rd, Orford TAS 7190
- Bicheno WTP Water Reservoir No.1, CT 160077/1 Lot 1 Gordon St, Bicheno TAS 7215

The representation is supported. It is recommended that the identified properties be rezoned to Utilities.

**Recommendation for draft LPS:** that CT175651/1 and CT 160077/1 be rezoned to Utilities.

**Effect on Draft LPS as a whole:** The Utilities zoning is the result of mandatory policies under the SPP's and is not expected to have any significant impact on the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

### 5. Catherine Strudwick

Received: 2 February 2020

Representation against GSB-S4.0 Coles Bay and Swanwick SAP

The representation cites the following:

- problems with the existing and future development and visitation of the Coles Bay and Stanwick areas through the SAP's in the LPS;
- the lack of services and impact of high visitation rates on the amenity of the area (for a range of reasons);
- problems with increased visitors to the area detrimentally affecting the amenity of the area;
- a lack of clarity over what the local provisions will be that apply to the area; and
- objection to the change in character that occurs with the transition from 'shack' style communities as increasing numbers of properties change to visitor accommodation.

The representor's concerns are common across a range of former shack style and communities with high visitor amenity across Tasmania.

The subject SAP introduces seven additional discretionary uses, removed use qualifications for three uses and provides additional use standards to those that apply under the Low Density Zone. The remainder of the standards for the Low Density zone apply.

Measures proposed under the draft SAP provide for an expanded range of uses to accommodate the needs of the area as a result of high visitation rates. The earlier discussion on this issue noted that the SAP is to be withdrawn from the LPS and pursued as a separate planning scheme amendment once the LPS is completed.

Issues with GSB-S4.1 Coles Bay and Swanwick SAP were discussed with the Council and it was determined that the provisions will be withdrawn from the LPS at this point. Following completion of the LPS, it is anticipated that Council will commence a separate review of the required provisions and what amendments may be required at that time.

**Recommendation for draft LPS:** That GSB-S4.0 Coles Bay and Swanwick SAP be removed from the LPS as a result of the representation

**Effect on Draft LPS as a whole:** The recommendation removes local provisions and therefore increases consistency with SPP's. It is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

## 6. Neil & Elizabeth Roberts

Received: 3 February 2020

Objection to residential zoning of Rheban Road, Orford.

The representation makes objection against the proposed rezoning of land at Rheban Road from Rural to Residential; and support for application of the Scenic Protection Code overlay to Raspines Beach.

The Rheban Road rezoning was refused by the Commission and then subject to challenge by the Proponent to the Supreme Court. The outcome of that challenge is not known at this time.

The LPS provides the subject titles (CT's CT 149641/2, 117058/150 and 149641/1) with a Future Urban zone as part of a wider proposal for that area, as detailed on page 22 of the supporting report. The Future Urban zoning was applied to reflect the Triabunna/Orford Structure Plan and preclude inappropriate development of the land which could compromise its future conversion to residential use. Its use in this location was identified in the Triabunna Orford Structure Plan.

Use of the future urban zone is consistent with the note to guideline GRZ 2 as the site has unresolved servicing issues. Review of the submissions in the supporting report confirms that the use of the Future Urban zone in this location is consistent with guidelines FUZ 1, 2 and 4.

Given this, no changes are recommended as a result of this part of the representation.

The representation also provides support for application of a Scenic Protection Area to Raspines and suggests that it be extended to Spring Beach. Beaches have not typically had the Scenic Protection Area applied. Raspines Beach was different in that it provides a key vista for all users of that section of the Tasman Highway, and as such is considered to meet Guidelines SPC 1, 2 and 3.

The Scenic Management Code support is noted. No change is required to the LPS as a result.

**Recommendation for draft LPS:** no change as a result of the representation

**Effect on Draft LPS as a whole:** The potential for fragmentation of the zoning regime for implementation of the Landscape Conservation zone in this manner is the result of mandatory policies under the SPP's and is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

## 7. Marcia Harvey

Received: 3 February 2020

Landscape Conservation zone for 4189 Lake Leake Road, Swansea

The representation seeks property at RD 4180 Lake Leake Road, Swansea, to be rezoned from Rural to Landscape Conservation, as the property is for conservation purposes and has no business operations.

The property has been subject to a conservation covenant since September 2001, which covers approximately 95% of the subject title. This representation relates to the earlier discussion on this issue and a similar response is recommended.

It is recommended that:

- Ensure that the priority vegetation overlay covers the areas protected by Conservation Covenants under the Nature Conservation Act;
- Seek confirmation from Planning Policy Unit of State that the exclusion areas under conservation covenants under the Nature Conservation Act comply with the defined term of building area at Table 3.1 and therefore enable residential use to comply with the permitted use qualification (b) at clause 22.2 of the SPP's; and
- Determine the requested change of zoning following the previous as follows:
  - Support the change for where the subject property owners confirm their wish; and
  - Do not support for property owners who do not request the change or withdraw their support through the process.

**Recommendation for draft LPS:** no change at this point as a result of the representation.

**Effect on Draft LPS as a whole:** The potential for fragmentation of the zoning regime for implementation of the Landscape Conservation zone in this manner is the result of mandatory policies under the SPP's and is not expected to impact the LPS as a whole.



**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

## 8. Nigel Bentley

This representation provides support for the one by Neil and Elizabeth Roberts (refer to representation 6). This support is noted.

A specific response is not required to this representation by Council or under the Act.

**Recommendation for draft LPS:** no change as a result of the representation.

**Effect on Draft LPS as a whole:** The representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

## 9. FJA Solutions for Alpine (Tas)

Received: 3 February 2020

Changes to GSB-P2.0 Particular Purpose Zone – the Gulch

The representation seeks to alter the *GSB-P2.0 Particular Purpose Zone – the Gulch* of the Local Provisions Schedule by including Visitor Accommodation:

- as a discretionary use for new establishments and
- permitted use if located in or an extension to an existing building.

The representation provides information to support the request and a concept for how a development might proceed based on the Gulch site. Comparative examples are provided from Strahan, Stanley and Wynyard. The supporting report also identified consistency with The Gulch Urban Design and Strategy Report, prepared by Gilby + Brewin Architecture / Urban Design.

There are two issues with this representation.

The Gulch PPZ is a transitional provision under the Notice of Declaration issued by the Minister. Alterations to transitional provisions are severely limited. Changes can only be made to transitional provisions where the status is revoked and all provisions for the PPZ are argued as new provisions.

There are significant risks to all properties affected by the Gulch PPZ due to this process, that is, the PPZ may not receive final approval by the Commission.

The representation seeks a change to the PPZ that affects all property owners within the PPZ. The consent/support of the other property owners was not provided.

A section 43A application would allow assessment of the specific concept identified in the representation and if successful, its approval and development under a planning permit. The remaining owners may then wish to pursue a change to the PPZ once the LPS is operational.

Given these issues, a full assessment was not completed against the statutory tests at this time. No changes to the LPS are recommended as a result of the representation.

Council may wish to advise the representor/proponent of the alternative approval pathway.

**Recommendation for draft LPS:** no change as a result of the representation

**Effect on Draft LPS as a whole:** The representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the requirements of the Act. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

## 10. Chris & Lucy Landon-Lane

Received: 6 February 2020 & 9 February 2020

Particular Purpose Zones – GSB-P2– the Gulch & P5 Zone – North Bicheno Future Urban

The representation makes comment regarding the Particular Purpose zones for the Gulch and North Bicheno Future Urban, specifically regarding changes to the zone purpose statements, use table, use standards, codes identified under the draft LPS maps and provision of water services.

GSB-P2 Particular Purpose Zone – the Gulch was declared as a transitional provision by the Minister when the LPS was approved for advertising. As such, modifications are limited to translation issues.

GSB-P5 Particular Purpose Zone – North Bicheno Future Urban was also declared as a transitional provision, with modifications limited to translation issues.

The issues within the representation relating to zone purpose, use table and use standards all affect matters within the declaration as transitional provisions. As such, they cannot be addressed without removing the transitional status of the PPZ and arguing for these as new provisions. As mentioned in the previous representation, this requires full assessment, notification and review by the Commission.

No change is proposed as a result of this section of the representation.

LPS Map issues identify issues for assessment under the Natural Assets Code of the SPP's. Specifically, clause C7.6.1 requires assessment of the issues discussed in this section of the representation as part of any assessment against performance criteria. Acceptable solutions involving coastal refugia are very limited, which will require most planning applications to be assessed against performance criteria.

Water supply issues are outside the purview of Council and reside with Taswater, who are a party to any rezoning process so that servicing (both water and sewer) can be assessed and inform assessment of such issues by the Commission.

Matters relating to grey water re-use, waterless toilets and capturing rainwater are regulated through the Building Act 2016 and outside of the operation of any Planning Scheme.

No change recommended as a result of the representation.

**Recommendation for draft LPS:** no change as a result of the representation.

**Effect on Draft LPS as a whole:** The representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.



## 11. Susan Fahey & Lisel Allen

Received: 7 February 2020

Landscape Conservation zoning for PID 3483597, Certificate of Title Volume 170051 Folio 8

The representation seeks rezoning of the property from Rural to Landscape Conservation as it is subject to extensive nature conservation covenants, as with all other properties in the Blueman's Run subdivision.

This representation supports the discussion earlier in this report and should be determined consistent with that outcome as follows:

- Ensure that the priority vegetation overlay covers the areas protected by Conservation Covenants under the Nature Conservation Act;
- Seek confirmation from Planning Policy Unit of State that the exclusion areas under conservation covenants under the Nature Conservation Act comply with the defined term of building area at Table 3.1 and therefore enable residential use to comply with the permitted use qualification (b) at clause 22.2 of the SPP's; and
- Determine the requested change of zoning following the previous as follows:
  - Support the change for where the subject property owners confirm their wish; and
  - Do not support for property owners who do not request the change or withdraw their support through the process.

**Recommendation for draft LPS:** no change as a result of the representation.

**Effect on Draft LPS as a whole:** The fragmentation of the zoning regime for implementation of the Landscape Conservation zone in this manner is the result of mandatory policies under the SPP's and is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

## 12. Lucy & Chris Landon-Lane

Received: 9 February 2020

Submission for Particular Purpose Zone - The Gulch GSB-P2.0

The representation seeks changes to the zone purpose, use table, use standards and development standards for the zone.

The Gulch PPZ is a transitional provision, as identified in the supporting report. Changes to these transitional provisions are limited to translation.

As previously discussed, changes of the type requested would require the PPZ to be removed from the transition status and argued as a new provision to the Scheme.

**Recommendation for draft LPS:** No change as a result of the representation.

**Effect on Draft LPS as a whole:** The representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the requirements of the Act. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

### 13. Jason Whitehead, Cape Herbert P/L

Received: 7 February 2020

Rezoning - Cape Herbert Pty Ltd

The representation seeks rezoning of 155176/2 and 155176/1 from Significant Agriculture to Rural, providing substantive arguments based on land capability, limitations to agricultural operations on the land, the need to sustain existing research arrangements with the University of Tasmania, inaccuracies in the State Land Capability Classification mapping and the inappropriate nature of the zone purpose statements to the sustainable future use of the property.

Mr Whitehead offers to obtain a specialist land capability assessment if required. Discussions with Mr Whitehead have confirmed that this is likely to be required for the Commission hearings.

Mr Whitehead's statements regarding the status and potential impact to the UTAS research projects are inaccurate – discretionary status is not a prohibition. Regardless, these projects may be a subservient use to the existing agricultural operation of the property (clause 8.2.2 interim scheme, 6.2.2 SPP's). This should be further investigated with the representor and confirmed for clarity of the owner and Council.

The representor's statements regarding the zone intent are selective. The Agriculture zone has five purpose statements regarding the operation of agriculture within the zone. Statement c) in the representation is one of those statements. This, in itself, does not justify or support rezoning of the property as requested.

The land capability issues raised in the representation appear to have merit. It is not clear whether they support the use of the Rural or Agriculture zones at this point.

The SPP's provide the following, relevant, definitions:

<i>agricultural land</i>	<i>means all land that is in agricultural use, or has the potential for agricultural use, that has not been zoned or developed for another use or would not be unduly restricted for agricultural use by its size, shape and proximity to adjoining non-agricultural uses.</i>
<i>agricultural use</i>	<i>means use of the land for propagating, cultivating or harvesting plants or for keeping and breeding of animals, excluding domestic animals and pets. It includes the handling, packing or storing of plant and animal produce for dispatch to processors. It includes controlled environment agriculture and plantation forestry.</i>

It is recommended that further discussions occur with the representor to:

- better understand the likely classification of the UTAS project under the Scheme; and
- better determine how the operations on the subject land fit within the scheme and whether the Rural or Agriculture zone better reflects these operations.

**Recommendation for draft LPS:** no change at this time as a result of the representation.

**Effect on Draft LPS as a whole:** The use of Rural versus Agriculture zone in this manner is the result of mandatory policies under the SPP's and is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

## 14. Miranda Pastoral Co, Graeme Walkem

Received: 9 February 2020

Rezoning 54 Holkham Court, Orford

The representation seeks rezoning of 54 Holkham Court from Low Density Residential to General Residential, on the basis that the property has full urban services and there is an apparent lack of subdivided lots in this zone within the Orford area.

This would create an isolated lot of General Residential land in the area and in doing so, enable units to be developed on the lots. The subdivision is already approved and has full reticulated services (water, sewer, stormwater, telecom).

The subject land is identified in the settlement boundary under the Triabunna Orford Structure Plan which identified the specific area as Rural Living or Low Density residential use<sup>7</sup>.

Based on this, the requested zoning is not consistent with the Structure Plan or RLUS and fails the required tests at guideline GRZ2.

It is noted that the relative logic of the request is apparent – the lots appear for all practical purposes to be serviced urban lots. They do not meet the relevant tests in the Structure Plan and under GRZ2 of the Guidelines. No change is proposed as a result of the representation.

**Recommendation for draft LPS:** No change to the zoning of 54 Holkham Court as a result of the representation

**Effect on Draft LPS as a whole:** The use of General Residential versus Low Density Residential zoning is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

## 15. Adam Greenhill

Received : 12 February 2020

Rezoning from Agriculture to Rural zone.

The representation seeks rezoning of the following properties from Agriculture to Rural for reasons listed. The properties are shown in Figure 1.

Area 1 - several bush titles on the farm (between the Brushy and Cygnet rivers)

- they are not managed for commercial production and are unsuitable for any arable or livestock enterprise.
- We have not grazed sheep on these areas for over 20 years as they have been particularly venerable to changes in our climate and can no longer sustain such activity.
- It is interesting to see that one of these titles (0616) has been zoned Rural and it is virtually identical in land capability as its neighbouring titles 617,618,619,620 and 624

Area 2 concerns title volume 144140 PID 2621871 which was purchased for the dam site on it:

- This block is geographically removed from the main property and unsustainable for any farming enterprise.

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<sup>7</sup> P64 Structure Plan

- This title is about 90 Ha in total area.
- 13 Ha is Private Forrest Reserve as a negotiated offset for land that will be flooded by the dam.
- About 18 Ha is planned to go under water.

All of the subject lands were identified in the State project as suitable for application of the Agriculture zone. All are within the Rural zone of the Interim Scheme, though it is noted that they adjoin the Significant Agriculture zone.

If the Rural zone is to be pursued, specialist advice will be required from the owner to support the request. Email contact has been made with Mr Greenhill regarding this.

Additional research will also be required to determine exactly how to respond to this type of issue. As noted in the general discussion on issues, this will require the representor to obtain an agricultural assessment of the property to determine compliance with the zone purpose statements and relevant guidelines.

Council should also consider how vigorously it wishes to defend application of the Agriculture zone, as required by implementation of the SPP policy regime.

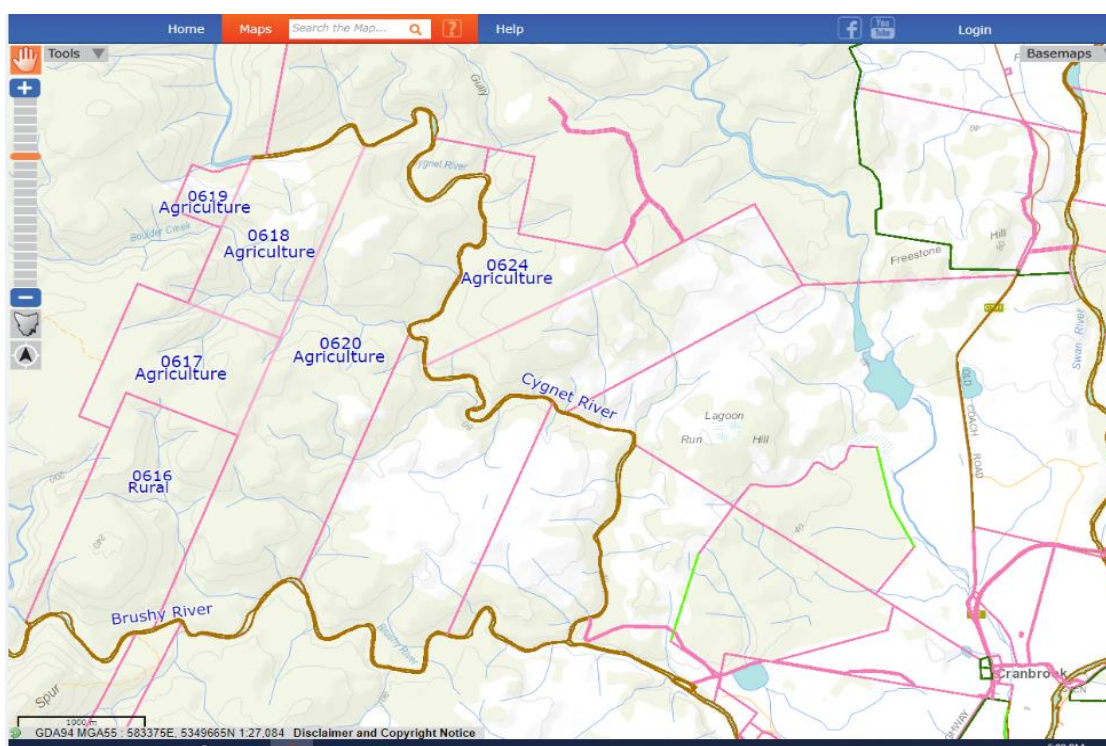


Figure 1 - Greenhill properties rezoning from Agriculture to Rural

**Recommendation for draft LPS:** no change at this point as a result of the representation.

**Effect on Draft LPS as a whole:** The application of Rural or Agriculture zone in this manner is the result of mandatory policies under the SPP's and is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

## 16. Lucy Landon-Lane

Received: 11 February 2020

Objection to GSB-S2.0 Bicheno Golf Club Specific Area Plan

The representation raises concerns regarding the provisions of the GSB-S2.0 Bicheno Golf Club Specific Area Plan, specifically through impacts of development to flora and fauna at Denison Beach, coastal development outside the Town Boundary, the number of existing vacant lots and availability of water services for the area.

As noted in the supporting report, the SAP is a transitional provision from the Interim Scheme and cannot be changed without removing it from that status and arguing its merits as a new provision.

Council may wish to change the transitional status applied to these provisions,

Absent any such specific instruction, no change is recommended.

**Recommendation for draft LPS:** No change as a result of the representation.

**Effect on Draft LPS as a whole:** The representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

## 17. Jonathon Fitzgerald

Received: 11 February 2020

Objection to GSB-S2.0 Bicheno Golf Course Specific Area Plan

The representation seeks to have GSB-S2.0 Bicheno Golf Course Specific Area Plan rejected as they consider it is contrary to the State Coastal Policy, specifically through a lack of community input and planning, potential impacts to coastal dunes, flora and fauna, and through the delivery of ribbon development (which is prohibited under the Coastal Policy).

As noted in the supporting report, the SAP is a transitional provision from the Interim Scheme and cannot be changed without removing it from that status and arguing its merits as a new provision.

Council may wish to change the transitional status applied to these provisions,

Absent any such specific instruction, no change is recommended.

**Recommendation for draft LPS:** no change as a result of the representation.

**Effect on Draft LPS as a whole:** The representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the requirements of the Act. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

## 18. Rolf & Janice Lindholm

Received: 11 February 2020

464 Crossins Road, Swansea, rezoning to Landscape Conservation



The representation seeks to have approximately 3100 hectares of land rezoned from Rural to Landscape Conservation, as it is under Conservation Covenants, including their own property of approximately 700 hectares, refer to Figure 2.

This representation assumes that the Guidelines accurately represent the provisions of the Landscape Conservation zone. As discussed earlier in this report, this representation should be determined consistent with those recommendations:

- Ensure that the priority vegetation overlay covers the areas protected by Conservation Covenants under the Nature Conservation Act;
- Seek confirmation from Planning Policy Unit of State that the exclusion areas under conservation covenants under the Nature Conservation Act comply with the defined term of building area at Table 3.1 and therefore enable residential use to comply with the permitted use qualification (b) at clause 22.2 of the SPP's; and
- Determine the requested change of zoning following the previous as follows:
  - Support the change for where the subject property owners confirm their wish; and
  - Do not support for property owners who do not request the change or withdraw their support through the process.

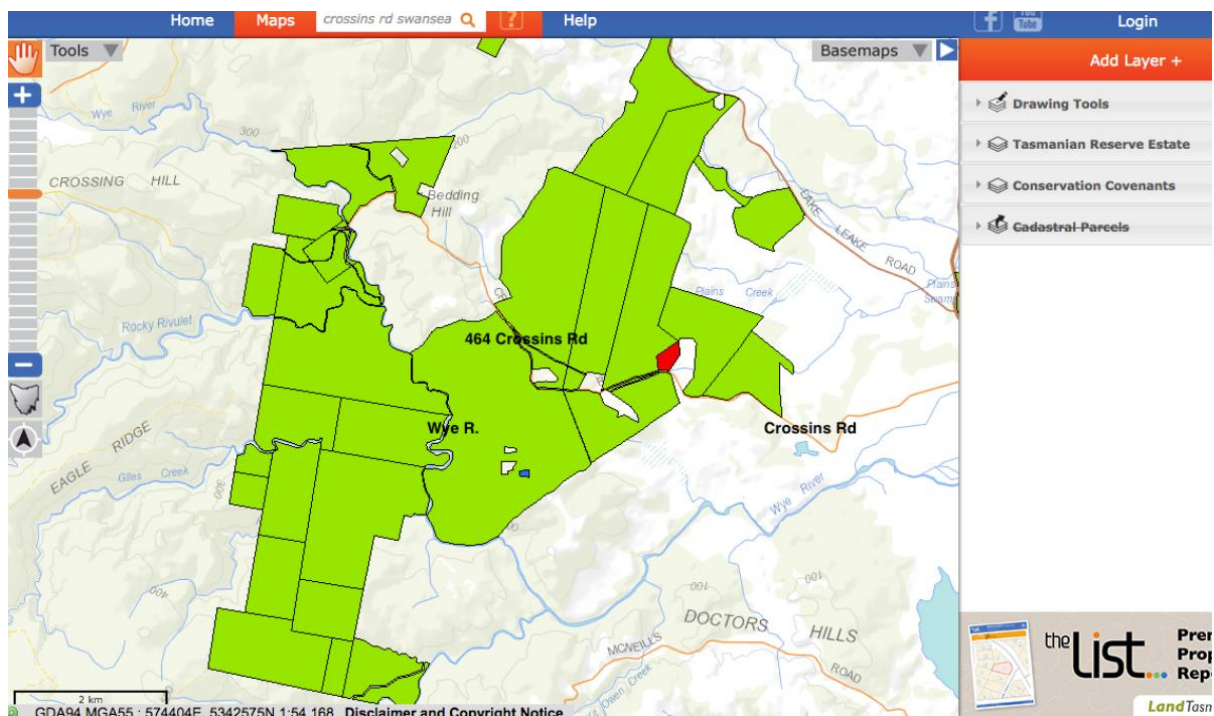


Figure 2 - Lands subject to Lindholm representation for Landscape Conservation zoning

**Recommendation for draft LPS:** No change at this point as a result of the representation.

**Effect on Draft LPS as a whole:** The potential for fragmentation of the zoning regime for implementation of the Landscape Conservation zone in this manner is the result of mandatory policies under the SPP's and is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

## 19. Police Fire & Emergency Management

Received 17 Jan 2020

Flooding, coastal inundation, zoning & emergency management

The representation provides supportive comments regarding coastal inundation hazards, zoning and emergency management at Dolphin Sands.

It also makes comment regarding the Flood-Prone Hazard Areas Code, identifying that the lack of flood-prone hazard area overlay mapping does not preclude application of the code. This is consistent with the definition of a flood-prone hazard area at clause C12.3.1, as follows:

*flood-prone hazard area*

*means land:*

- (a) shown on an overlay map in the relevant Local Provisions Schedule, as within a flood-prone hazard area; or*
- (b) identified in a report for the purposes of C12.2.3.*

Various sources are provided to determine whether land is potentially flood-prone, and therefore subject to the Code.

Council will, no doubt, be willing to pursue the inclusion of mapping when it becomes available.

The representation does not request any changes to be made to the LPS.

No changes are recommended as a result of this representation.

**Recommendation for draft LPS:** No changes are required from this representation.

**Effect on Draft LPS as a whole:** The representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the Guidelines and zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

## 20. Mark Pearce

Various issues

The representation identifies 5 key issues, as follows:

- 1. Development appears to be done in an ad hoc manner lacking appropriate guiding principles.*
- 2. Planning principles are often compromised leading to confusion and resentment (e.g. varied property setbacks on cliff walk East Shelly Beach to Spring Beach).*
- 3. There is little attention paid to the differences between village development and established rural/holiday development.*
- 4. Regulations are complex and long winded. Councillors, Developers and residents must be able to understand them, or else why have them?*
- 5. Unique features need protection.*

The summary comments of the representor provide what could be argued as a stunningly simple summary of the perceptions of the planning system.

The planning system has been reformed to provide flexibility in response to issues and allow alternative outcomes to the traditional single and perceived rigidity of previous styles of planning schemes. Similarly, many of the devices available to manage character and what makes places

special have been removed or made unworkable under the SPP's, as noted in other representations and the Council's own recommendations for the LPS. These reforms were in response to industry demands for more consistency in planning schemes and flexibility in outcomes.

These reforms resulted in the SPP's, which are managed by the State and must be used by Councils when developing planning schemes. The State would likely suggest that the SPP's provide simplicity and clarity.

The representation did not raise any issues that can be considered under the terms of the Act, as discussed in the summary of issues to this report.

**Recommendation for draft LPS:** no change as a result of the representation.

**Effect on Draft LPS as a whole:** The representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the requirements of the Act. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

## 21. Ross Irving

Received: 12 February 2020

Support for Agriculture zone

The representation provides support for the use of the Agriculture zone for the Swan Valley Irrigation Scheme and requests that it not be altered.

No changes are recommended as a result of this representation.

**Recommendation for draft LPS:** No changes as a result of the representation

**Effect on Draft LPS as a whole:** The representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

## 22. Andrew Wyminga

Received: 13 February 2020

Objection to GSB-S2.0 Bicheno Golf Course Specific Area Plan

The representation requests removal of the GSB-S2.0 Bicheno Golf Course Specific Area Plan, on the basis that the project stalled soon after commencement (2012) and has not been revived since then.

As noted in the supporting report, the SAP is a transitional provision from the Interim Scheme and cannot be changed without removing it from that status and arguing its merits as a new provision.

Absent a specific decision of the Council to remove the SAP from the transitional notice, no change is recommended.

**Recommendation for draft LPS:** no change as a result of the representation.



**Effect on Draft LPS as a whole:** The representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the requirements of the Act. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

### 23. Wallaroo Contracting Pty Ltd

Received: 13 February 2020

Rezoning to Rural for properties

The representation seeks to have CT14560/1 Tasman Highway, Bicheno (part of 17010 Tasman Highway) (PID 2181618) changed from Significant Agriculture to Rural, on the basis:

- it is a small lot of 3.795 hectares;
- the lot contains an existing house; and
- the land is of limited agricultural quality.

The State mapping of potentially suitable land for Agriculture Zone identified the subject title as potentially constrained (criteria 2a). The List confirms that the title is in separate ownership to adjoining titles and was identified as class 4 land in the State mapping.

The lot is within a much larger area of Agriculture zoning and for this reason, any proposal to change the zoning has limited prospects of success.

AZ6 of the Guidelines relevantly provides that land within the Agriculture suitability mapping may be considered for an alternative zone under guidelines AZ3 and AZ6e. No supporting information aside from the owner's statements were provided in the representation.

Council may wish to approach the representors, identifying the requirements of the Guidelines and zone purpose statements, and see if they are willing to provide expert evidence (agricultural analysis) to support their claim. Without such evidence, rezoning is practically guaranteed to fail.

It is recommended that the owners be approached to provide expert evidence and the representation reviewed following the outcome of that discussion.

Wallaroo provided further representation for parts of 17010 Tasman Highway (PID 2976701), seeking that the proposed agricultural zone be replaced with the Rural zone, on the basis:

- CT36272/1 contains a level 2 gravel quarry that supplies Department State Growth;
- CT205249/1 contains a level 2 quarry that supplies road base and provides crushing onsite, and supplies Council, DPIPW and a range of other bodies;
- CT133587/1 contains a concrete supplier and landscaping yard;
- CT122587/2 operates visitor accommodation;
- The Agriculture zone will change all activities from permitted to discretionary use class in the zones;
- The impact to the local communities if the existing operations were impeded as a result of the change of zoning; and
- The marginal nature of the land for agricultural operations.

The subject property includes four additional titles that were not listed in the representation.

As noted, the property was identified in the State Agricultural zone mapping. There is a clear lack of policy consistency across the guidelines to deal with this type of diversified activity. Guidance should be provided by the Planning Policy Unit.

No specific action is required as a result of this aspect of this representation, though it is noted that the representor may wish to consult with the State Growth to determine the best way forwards.

As with the previous representation, the Lynes will need to provide a detailed agricultural analysis if they wish to pursue rezoning of their property. Being a larger holding of multiple titles, this evidence is more significant to the outcome of this process.

#### Mining Lease 1551P/M

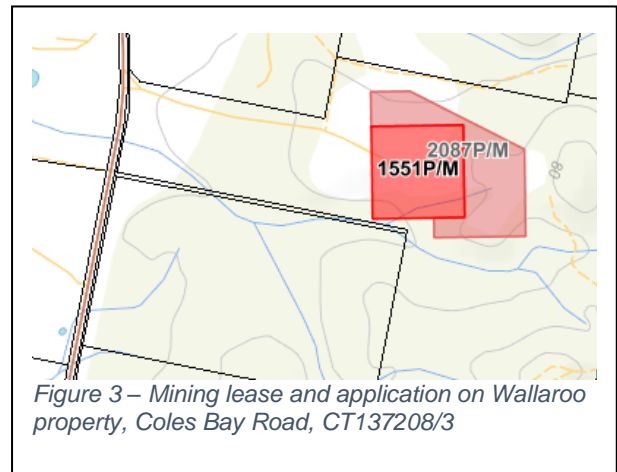
Received: 13 February 2020

A separate representation was lodged seeking rezoning of Mining lease 1551P/M, located on CT137208/3 PID 2100507 Coles Bay Road, Coles Bay from Landscape Conservation to Rural.

It is understood that planning approval has not been obtained for the application for the granite lease 2087P/M. These are shown in the following figures Figure 3.

The property contains an existing gravel quarry and has recently had an application lodged to establish a granite lease over a part of the property. The gravel lease is shown in red and the application for the granite lease is shown in pink as follows.

The property is located within the Rural Resource zone of the Interim Scheme and has a Scenic Corridor adjacent Coles Bay Road, Waterway and Coastal Protection areas over the waterways and drainage lines, landslide hazard areas over selected parts of the site and Biodiversity Protection Area over the entire site, excluding the quarry area. Mapping for these controls are shown in Figure 4 and Figure 5.



The LPS proposes that the site be within the Landscape Conservation zone, in recognition of the significance of the site in wider landscape of Mt Paul.

Threatened species issues also affect the site, which will require investigation and assessment with any planning applications on the lands.

The land is also located within an area of high tourist visitation. While the Rural zone allows for the existing use of the site and proposed granite lease, the landscape issues remain with the site.

This site may be appropriate to provide a split Rural/Landscape Conservation zoning to protect the higher elevations while allowing continued use of the 1551P/M. Lease application 2087P/M may become relevant, assuming planning and other approvals that are required for the operation are obtained.

This zoning should be further investigated through the hearings.

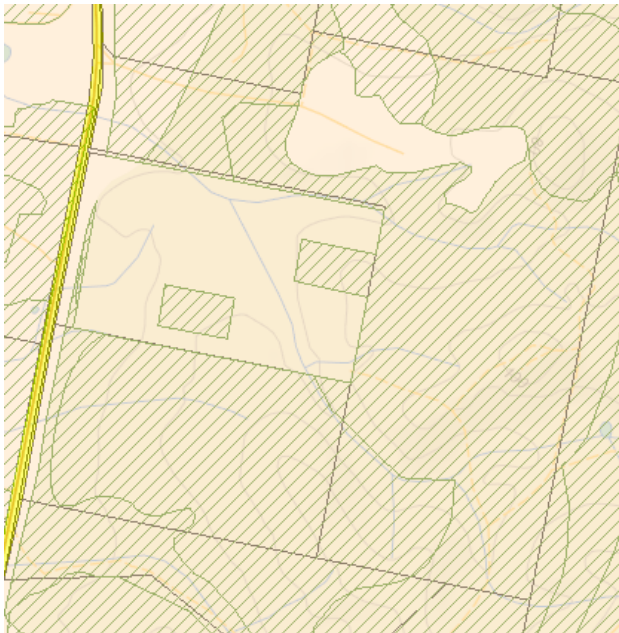


Figure 4 - Rural Resource zone, Biodiversity Protection Area

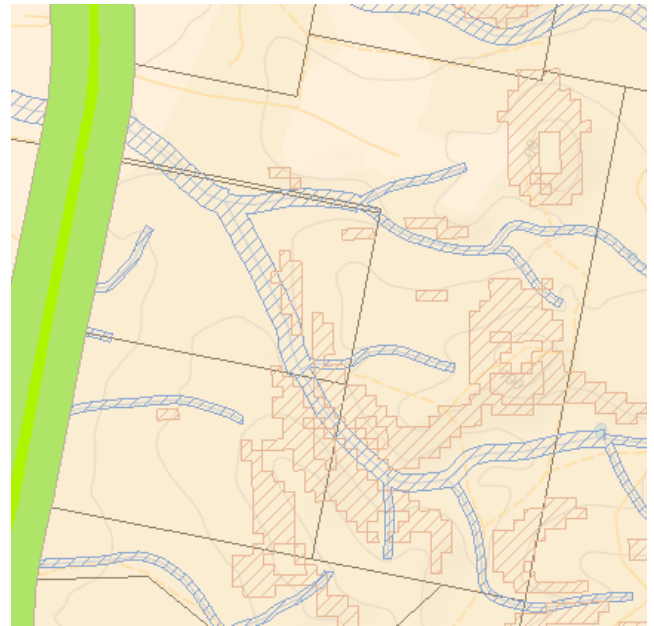


Figure 5 - Scenic Road Corridor, Waterway and Coastal Protection and landslide hazard overlays over the site

**Recommendation for draft LPS:** The zoning of CT137208/3PID 2100507 Coles Bay Road, Coles Bay be considered for a split between Rural and Landscape Conservation, as a result of the representations.

**Effect on Draft LPS as a whole:** The potential for fragmentation of the zoning regime for implementation of rural and agriculture zones in this manner is the result of mandatory policies under the SPP's and is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

## 24. Tasnetworks, Odin Kelly

Received: 13 February 2020

Electricity infrastructure

Section 4 of the representation identifies issues with the LPS and those that they seek change on.

**5.1 & 5.6.3** *Tasnetworks requests that the landscape conservation zone be removed from the Electricity Transmission Corridor for Triabunna 110kV spur.*

Landscape conservation zone was applied following the Guidelines and in accordance with the TPS regime. Tasnetworks do not identify what alternative zoning they seek, but it is noted that the subject infrastructure is reflected under the Electricity Transmission Protection Code Overlay. The corridor is not subject to a separate land title and crosses a number of privately owned titles.

While the potential for issues with the base zoning underlying the corridor is noted, the zoning is consistent with the Guidelines and the regulatory regime established under the TPS.

No change proposed.

**5.3 & 5.6.3** *Removal of Scenic Protection Code Overlay from Triabunna 110kV Spur.*

The subject code is a transitional provision under the Act. It cannot be altered without assessment of the entire mechanism as a new provision for the TPS. This is not considered a reasonable proposition for Council. This issue arose in other Council areas.

It is suggested that Tasnetworks should pursue a legislative amendment process to address this issue on a regional or state wide basis.

No alteration proposed.

*5.4 & 5.6.4 – alternations to PPZ and SAP's to reflect Tasnetworks preferred policy position.*

The PPZ are transitional provisions under the Act and as such cannot be altered without their justification as new provisions to the Scheme. This places an undue burden on Council for the benefit of one representor, particularly when it is highly likely that this issue has occurred in other LPS's across the State.

While the policy intent of the request is understood, this is a matter that requires a consistent response across the State and should be considered for a separate statutory approval pathway. Such a process is outside the Planning Authority's ambit.

Four of the five SAP's are similarly transition provisions and subject to the same limitations.

The new Coles Bay and Stanwick SAP was not identified as requiring any amendments.

No alterations proposed.

*SPP issues*

The representation identifies a series of matters at Appendix 2 that create the potential for conflict between matters that are exempt from the SPP's and developments that property owners can undertake without planning assessment that are likely to create detrimental outcomes.

A complex process allows for Council to issue a Notice to the Commission, identifying a range of matters it considers ought to be referred for consideration. These issues are addressed in a following section of the report.

**Recommendation for draft LPS:** No alterations as a result of the representation.

**Effect on Draft LPS as a whole:** The recommendation is the result of mandatory policies under the SPP's and is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

## 25. Page Seager, Anthony Spence

Received: 13 February 2020

Saffire, Freycinet

The representation applies to the Saffire Resort and seeks to:

- change the way that food services are addressed within the use table, by changing the existing use qualification to a use standard; and
- Change the spelling on the scheme maps from Sapphire to Saffire.

The Saffire PPZ was a transitional provision under the Act, as detailed on pages 51-53 of the supporting report.

The first alteration was discussed with the Commission, both during development of the LPS and in preparation of this report. Both the earlier and most recent discussions confirmed that the requested alteration cannot be supported under the transitional provisions within the Act.

The exhibited LPS provides a direct translation of the existing qualification for food services at clause 38.2 of the Interim Scheme. No change is recommended on this issue.

The second alteration corrects a typographical error on the maps and is supported.

**Recommendation for draft LPS:** That references be changed from Sapphire Freycinet to Saffire, Freycinet.

**Effect on Draft LPS as a whole:** The representation corrects a drafting error and is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides is not expected to impact the requirements of the Act or policies in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

## 26. Kelvedon Estate

Received: 13 February 2020

Objection to Agriculture zoning – Tempus site and Gala Vineyard

The representation seeks to have the agricultural zone removed from a portion of Kelvedon Estate, approximately 18 hectares bordering the intersection of Tasman Highway and Mount Pleasant Road and the Gala Estate vineyard. A draft plan of survey and an Agronomists report was provided in support of the request. It is noted that the subject land is part of a separate planning application for subdivision, rezoning and establishment of a lifestyle precinct with aged care facilities.

The zoning for the subject area is identified in the Figure 6

Lands to the north and east are within the Rural zone, and Agriculture to the south and west.

While the representation is supported by an Agronomists report, the area subject the representation is not part of a separate title.

Regardless of the relative merits of the particular situation, the lack of a separate title and the lodgement of a separate planning application do not support any change to the proposed zoning through the LPS process.

A detailed analysis of the merits of the proposal will be conducted when the future application is lodged for subdivision and development of the site.

No change recommended at this time.

**Recommendation for draft LPS:** no change as a result of the representation.

**Effect on Draft LPS as a whole:** The representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the Guidelines and zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

## 27. State Growth, Dixon, Selena

Received: 14 February 2020

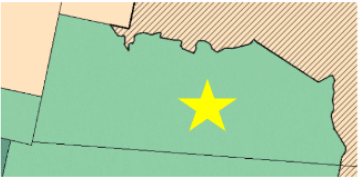
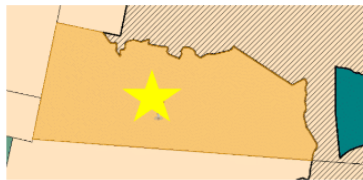
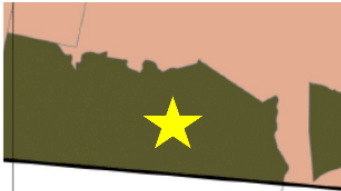


## Various issues

The representation raises a number of issues that State Growth consider significant, as follows.

### Zoning

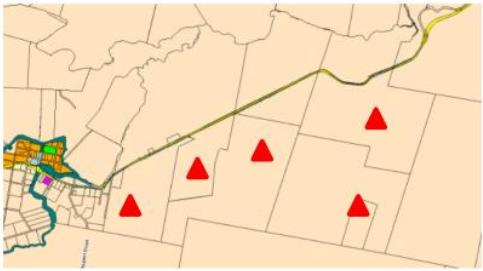
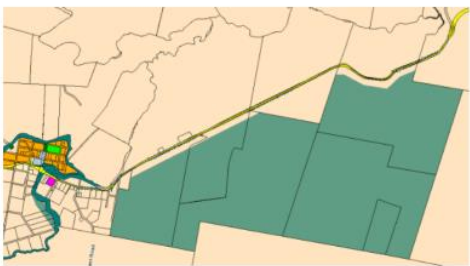
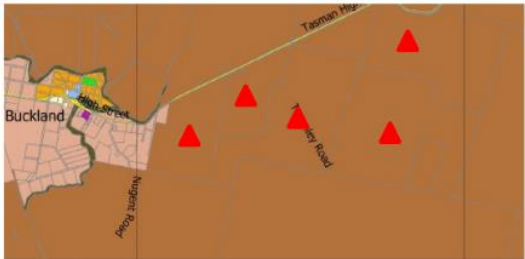
- Zoning of forest resources - PID 3392206 should transition to the Rural zone, not the Environmental Management zone.

IPS Zoning	Proposed LPS Zoning
 <p>Image above indicates PTPZL mapping.</p>  <p>Image above indicates location of PID 3392206 and Rural Resource zoning.</p>	 <p>Image above indicates application of the Environmental Management Zone.</p>

Notwithstanding the inherent conflict in the SPP's that require all land with any agricultural capacity to be located in the Agriculture Zone, the Rural zone specifically mentions forestry as a suitable activity.

This rezoning is supported, based on consistency with the zone purpose statements.

- A cluster of Private Timber Reserves (PTRs) on (CT162203/1, CT162203/4, CT162203/5, CT233658/1, CT100173/1 and CT162203/6) should be in the Rural zone per the existing Rural Resource zoning and as identified in the supporting report.


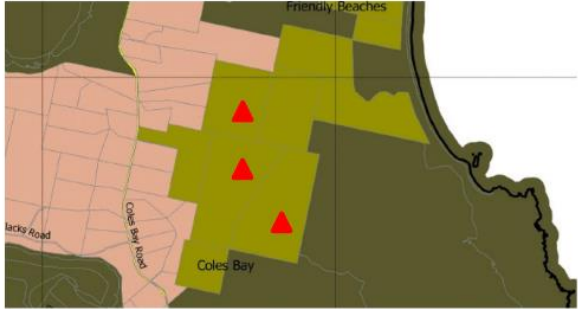
IPS Zoning	Proposed LPS Zoning
 <p>Image above indicates the Rural Resource zoning applicable to the CT numbers identified above.</p>  <p>Image above indicates presence of PTRs and the apparent cluster of like titles.</p>	 <p>Image above indicates the proposed Agriculture Zone.</p>

It is noted that PTR's operate outside the planning scheme and forestry of this type is specifically excluded from planning schemes under the terms of the Act. They are established under the Forest Practices Act by the Forest Practices Authority and exempted from the operation of planning schemes at Section 11(3) of the Act.

The Guideline identifies that the Agriculture zone should be used for land identified in the relevant State mapping. The subject lands were identified as suitable for agricultural use in the State mapping and the Agriculture zone was applied in accordance with the Guideline, as detailed in the Supporting Report. It is noted that this approach is consistent with the decisions provided by the Commission on the Burnie LPS.

No change is recommended.

- Application of the Agriculture zone to Private Timber Reserves and Mining lease 1551P/M.

IPS Zoning	Proposed LPS Zoning
 <p>Image above indicates the Rural Resource zoning applicable to the CT numbers identified above.</p>	 <p>Image above indicates the proposed Landscape Conservation Zone over PTRs.</p>

It is noted that two of the subject titles (CT166065/7 & 166065/8) contain Freycinet Lodge, which markets itself based on the bushland nature of the site, as was discussed in the recent planning appeal over the land.

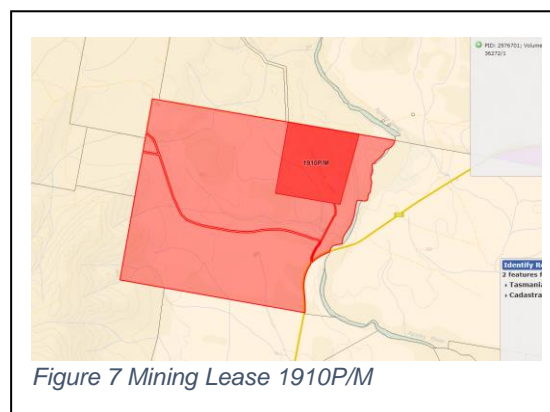
Guidance is provided on this issue by the decision on the Burnie LPS, which identifies that zoning is not relevant to the operation of the PTR.

No change is proposed for these titles.

### Mineral Leases

The representation seeks rezoning of Mining lease 1551P/M, located on CT137208/3, south of 1437 Coles Bay Road.

The Landscape conservation zone recognizes the significance of the site on the foothills of Mt Paul and split zoning may be appropriate for the site to protect the higher elevations while allowing continued use of the 1551P/M. Mining Lease 1910P/M is part of CT36272/1, which was subject to representation from the owners, Wallaroo Contracting (refer to representation ).



As noted, the property was identified in the State Agricultural zone mapping. There is a clear lack of policy consistency across the guidelines to deal with this type of diversified activity. Guidance should be provided by the Planning Policy Unit.

No specific action is required as a result of this aspect of this representation, though it is noted that the representor may wish to consult with the owners to determine the best way forwards.

Mining Lese 1979P/M is in the same situation and ownership.

More detail on these two issues can be obtained in the assessment of representation 23.



Mining lease 2004P/M suffers the same situation and forms a part of CT245072/1, 8311 Tasman Highway, Triabunna (Woodstock), as shown in Figure 8. While in different ownership to the previous, the outcome is the same.

Practice Note 7 – Draft LPS mapping discourages the use of zone boundaries that do not correspond to cadastral parcels or road centrelines.

Again, guidance is provided by the Burnie LPS decision for Mining leases, in that:

- Mining leases are limited in life to the subject resource or project; and
- Mining leases may not comprise the entire land title; and
- Mining leases are defined by resources below the surface and may not be identifiable by features on the ground.

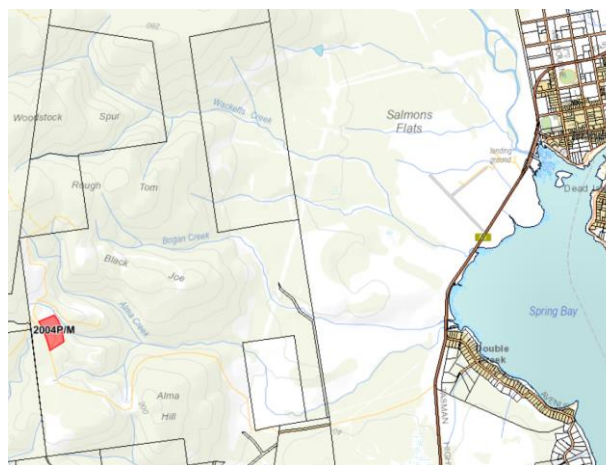


Figure 8 Mining Lease 1979P/M (shown in red)

It is noted that the relevant policies in respect of this issue may not be consistent with the objectives of the RMPS and Act. It is not the Council's role to undertake review and resolution of the relevant policy positions on behalf of the State.

In each case, no change is proposed.

### State Road casement

The representation makes statements supporting State Road casement within the LPS. No further response is required.

### State Road Open Space zoning

The subject casement at Bicheno is identified as a ROAD on theLIST, as shown in Figure 9.



Figure 9 - Bicheno road casement

Guideline UZ6 identifies that Utilities zone should not be applied to minor utility assets such as power lines, bike and walking tracks.

Council considers that the both the Open Space and Utilities zones are suitable for the subject land and will be pleased to receive the Commission decision on this issue. While the subject title

adjoins the Tasman Highway, it contains minor utility assets that UZ6 identifies are not suitable for the requested Utilities zone.

No change is proposed.

**Rheban Road Future Urban Zone:**

The representation identifies traffic congestion issues for existing road infrastructure with future development of the land. These comments are noted and typically addressed through a future application for rezoning and subdivision of the land.

The Future Urban Zone recognises the longer-term potential of the land while preventing inappropriate development that would compromise or sterilise the future development of suitable land for urban development. The required report can be obtained from a future proponent when a rezoning or subdivision application is being considered.

No change is required for the LPS.

**Road & Railway Asset Code overlay:**

The representation requests removal of the overlay from Tasman Highway, Coles Bay Road, Lake Leake Road and Freestone Point Road. The request is made on the basis of future changes to the road alignments and the subsequent requirement for planning scheme amendments to change the overlay alignments on the planning scheme maps.

Guideline RRAC1 provides discretion for the application of the overlay to existing roads as an alternative to the administrative 50m buffer under the Code at clause C3.3. While administrative processes are available for such changes, they are typically not used as a result of lack of resources and the potential for compliance with the requirements of the Act for impacts to property owners. It is noted that the decision on the Burnie LPS supports use of the administrative provision in place of showing the overlay on the LPS maps.

Use of the administrative overlay identified at C3.3 is preferred for these reasons.

**Recommendation for draft LPS:** that the following changes be made to the LPS:

- a. PID 3392206 transition to the Rural zone.
- b. the subject Road Attenuation Area Overlays be removed.

**Effect on Draft LPS as a whole:** The issues in the representation are largely operational and are not expected to impact on the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the Guidelines and zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

## 28. Hayden Dyke

Received: 14 February 2020

Planning scheme response to estuary management and shellfish industries

The representation seeks establishment of a Particular Purpose Zone and Specific Area Plan to support improvement of environmental outcomes from a range of human activities to maintain water quality for the Little Swanport Estuary. An example is provided of a recent development that is claimed to have had a negative impact of water quality and a comparison to regulatory processes for similar situations in New South Wales.

In response:

- Planning schemes are only one tool within the broader regulatory regime that deals with environmental management and regulatory assessment;
- State Policies and the Resource Management and Planning System objectives were used, amongst other things, to assess the SPP's
- The SPP's establish that zones are the primary controls for the use and development of land (clause 5.2.1), and that Codes address matters that may cross different zones and are not appropriately described in zones (clause 5.5.2);
- C7 Natural Assets Code is the primary tool for management of water quality and impacts to coastal and foreshore assets.
- The SPP's clearly provide a suite of tools to address the stated concerns of the representor.
- If there are gaps within the regulatory systems, it is not clear that the planning scheme is the most effective tool to use in response to this issue.

The SPP's contain clearly identified tools to assess this situation. Given this, it is unlikely that Council could propose either a Particular Purpose Zone or a Specific Area Plan to address the maintenance of water quality issues for development in areas that impact estuarine and coastal waters.

As this representation relates to matters contained in the SPP's, Council may wish to refer this matter to the Commission for consideration under s.35G of the Act. This would provide for review of the relevant tools within the SPP structure. A separate section of this overall report provides a description of this process and the issues being referred by Council.

**Recommendation for draft LPS:** No change to the LPS as a result of the representation.

**Effect on Draft LPS as a whole:** The representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the Guidelines and zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

## 29. Kym Achilles

Received: 14 February 2020

Changes to GSB-P2 PPZ – the Gulch

The representation seeks changes to zone purposes statements, use status, discretionary uses, use and development standards for GSB-P2 – the Gulch on the following basis:

The Gulch PPZ is a transition provision and cannot be altered without removing that status, as discussed at the start of this report.

No change proposed.

**Recommendation for draft LPS:** no changes as a result of the representation.

**Effect on Draft LPS as a whole:** The representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the Guidelines and zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

### 30. Kym & John Achilles

Received: 14 February 2020

Changes to GSB-P2.0 Particular Purpose Zone - The Gulch

Rejection of GSB-S2.0 Bicheno Golf Club Specific Area Plan

The representation requests changes to requests changes to P2.0 Particular Purpose Zone - The Gulch for the zone purpose statements, use table, use and development standards.

As noted with previous representations, GSB2.0 Bicheno Golf Club Specific Area Plan is a transitional provision under the Ministers Notice of Declaration. Any alteration to the transitioned provisions will require removal of this status.

A second representation by the Achilles' requests GSB-S2.0 Bicheno Golf Club Specific Area Plan be rejected in full on the following basis:

- The creation of a new residential enclave outside of the established Bicheno township;
- Issues with availability of potable water;
- Likely cost to the council
- Coastal inundation and flooding issues with the land;
- Detrimental impact on East Coast Tourism; and
- Detrimental impacts on the Denison Beach Shorebird Protection Zone.

As noted with previous representations, GSB-P2.0 Particular Purpose Zone - The Gulch and GSB2.0 Bicheno Golf Club Specific Area Plan are transitional provisions under the Ministers Notice of Declaration. Any alteration to the transitioned provisions will require removal of this status.

Given the likely impact to multiple property owners who did not make representation against the SAP and the requirement to use the Natural Assets Code for biodiversity protection, no changes are recommended.

**Recommendation for draft LPS:** no change as a result of the representation.

**Effect on Draft LPS as a whole:** The representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the Act and zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

### 31. Alison Westwood

Received: 14 February 2020

Objection to future urban zone at Rheban Road, East Shelley Beach, Natural Assets zone mapping, Scenic Protection zone mapping and advertising process.

The representation seeks to have the rezoning of land at Rheban Road, East Shelley Beach, Orford, from Future Urban Zone to the current Rural Zone, Low Density Residential or Rural Living zone. Detailed analysis follows.

#### 1. Zoning Objection:

The representation states that the future urban zoning is inappropriate to the nature of the area (being more rural in character) and that it is unsupported by appropriate strategic planning.



The Guideline suggests that the Future Urban zone should be used for land which is identified for future urban development but requires further strategic or master planning prior to its development. Further, the guidelines clearly identify that General or Inner Residential are appropriate zones for the future development of the land.

The land subject to the representation is clearly identified for residential development at page 64 of the Orford and Triabunna Structure Plan, which is consistent with the statements provided at 3.1.1.12 Future Urban Zone of the Supporting Report (page 22).

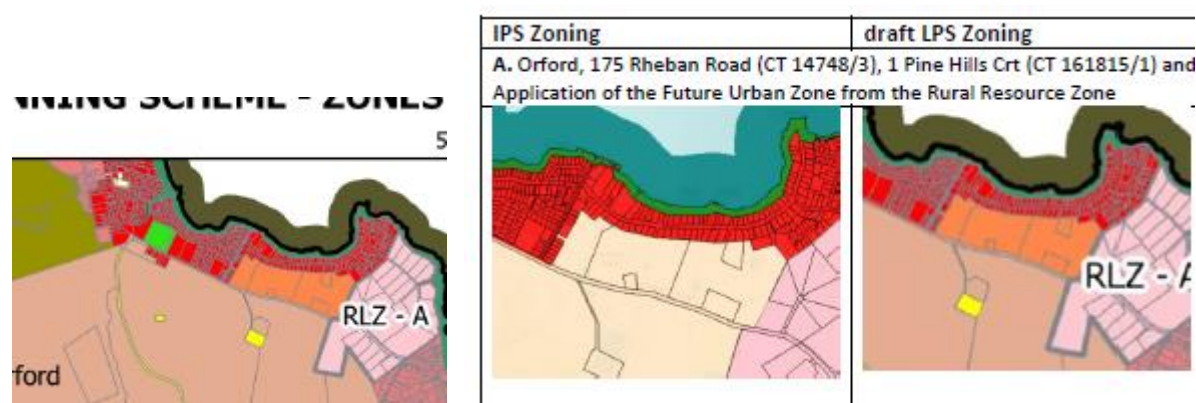
Within this context, there is sufficient information to support the use of the Future Urban zone under the LPS. This section of the representation is not supported.

### 1.1 Ambiguity as to which land is proposed to be subject to FUZ

The representation identifies an inconsistency between the description provided in the report and the FUZ applied to sheets 19 and 20 of the zoning maps.

The representor is correct that the listing of titles within the Supporting Report is not consistent with the areas shown on the same section of the Supporting Report and Map Sheet 20 of the LPS zoning maps.

It is noted that both the map sheets and the supporting report clearly show the same set of titles as proposed for the FUZ, as shown in the Structure Plan, as shown in Figure 10.



10 - LPS Zone map (LHS) and supporting report (RHS) extracts

Figure

Further, it is noted that application of the Future Urban zone is consistent with the extent of the settlement growth identified in the Triabunna Orford Structure Plan, refer Figure 11.

For clarity, the following zones were used in the LPS zone maps:

- |                                    |                          |
|------------------------------------|--------------------------|
| • titles fronting Jetty Road       | General Residential zone |
| • 42a East Shelley Road CT161815/2 | Future Urban             |
| • Rheban Road, CT117058/150        | Future Urban             |
| • Lot 2 Rheban Road CT149641/2     | Future Urban             |
| • 1 Pine Hills Ct CT161815/1       | Future Urban             |
| • 175 Rheban Road CT14748/3        | Future Urban             |

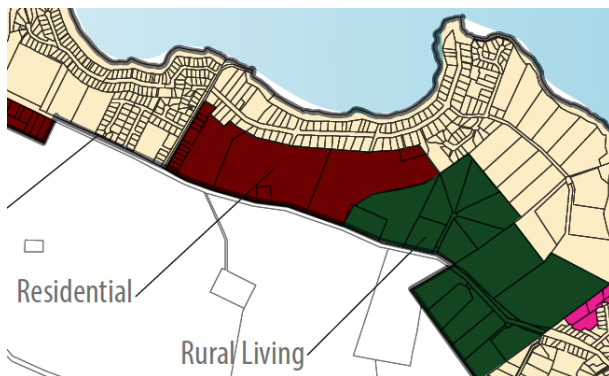


Figure 11 - Extract Proposed Settlement Limits and Zonal Recommendations<sup>8</sup>

As shown on Figure 10 and Figure 11 the LPS zone maps are consistent with this section of the Structure Plan.

It is recommended that the FUZ be clarified as applying to the listed titles.

### 1.2 Lots shaded as FUZ subject of recent rezoning refusal

The representation notes that three of the subject lots were recently refused rezoning to General Residential by the Commission, questioning how the decision is not relevant to the use of the Future Urban Zone.

The Commission decision on AM 2018-71 a & b provided the following justification in summary of the decision to refuse the General Residential zone:

*54. The Commission finds that the draft amendments:*

*are not, as far as is practicable, consistent with the Regional Settlement Strategy under the regional strategy, particularly in that the draft amendments are not consistent with the growth strategy and growth scenario for Orford; and*

*do not further Objective (b) of the Resource Management and Planning System in Schedule 1 because they do not represent an orderly release of land.*

The Structure Plan and RLUS identify a 15 year supply requirement, noting that 15 years from now is the conclusion of the planning horizon for the RLUS.

It is also quite common for planning schemes to run for extensive periods of time before being replaced with new schemes. There are a range of reasons why the FUZ remains an appropriate zone to use under the LPS:

- the data supporting the RLUS is widely acknowledged to be dated;
- the growth scenarios supporting the RLUS are similarly dated,
- the RLUS confuses how it accounts for tourism uses, saying that they both do and do not form part of other residential uses,
- the current regulatory regime provides equal use status to residential and visitor accommodation use within some types of residential accommodation;
- the RLUS identifies that local level planning is required for Orford but then makes no recognition of how that might be accommodated within the RLUS;
- The RLUS does not provide a clear strategy for dealing with future growth at Orford, contradicting statements regarding low growth scenarios with acceptance of infill and other development where it is within existing capacity; and

<sup>8</sup> P60, Triabunna Orford Structure Plan



- the Orford Structure Plan identifies the subject land as suitable for future residential development.

Further, the Commission identified that considerably more infill development would need to occur in Orford before the subject land would be considered to comply with the infill development scenario identified in the RLUS. The FUZ recognises the need to plan for the long term development of the subject land.

It is therefore considered reasonable for the current LPS to identify land that is targeted for future urban development as part of the zoning strategy for the LPS. No change in response to this issue.

### **1.3 Application of FUZ not in accordance with the Guidelines**

### **1.4 Application of FUZ not consistent with regional land use policy**

### **1.5 Application of FUZ not supported by strategic planning analysis**

### **1.6 Inconsistency with character of surrounding land**

These issues were grouped together as they revolve around a common interpretation of documents that can be argued from both sides.

The representation provides extensive commentary that the proposed FUZ does not meet the Guidelines, RLUS nor Council strategic plan.

With respect to the representor, Council contends that the FUZ complies with the same documents for many of the same reasons.

It is noted that statements under 1.6 rely on Strategic Direction 4 of Council's Strategic Plan, which was prepared when planning schemes could provide direction on local character through Desired Future Character Statements and Councils had greater input to the content of planning schemes through regionally based provisions.

The SPP's have significantly reduced Councils ability to reflect such desires in regulatory provision.

Council submits that the use of the FUZ is consistent with the Guidelines, the RLUS and section LP1 of the SPP's.

No change is proposed as a result of these sections of the representation.

### **1.7 Development and Infrastructure Constraints**

The representation cites the existence of class 3 watercourses, their lack of protection under the Waterway and Coastal Protection Overlay, existing road infrastructure and (then) current subdivision proposals as reasons why the FUZ is not appropriate for the lands.

The supporting report identifies that the Waterway and Coastal Protection Overlay was edited to remove watercourses managed as part of the Council Stormwater network, which explains why the overlay was not applied to the lands. A review of the overlay maps identified this appears to be consistent across the urban settlements.

The subdivision submitted with AM 2018-07 provides only one of multiple subdivision responses to the subject lands.

Use of the FUZ allows Council and other infrastructure bodies to negotiate the future provision of infrastructure as part of the rezoning of the land.

Use of the FUZ is considered consistent with the Guidelines. No change as a result of this issue.

### **1.8 Draft LPS inconsistent with SPP's Scenic Protection Code**

## 1.9 Draft LPS inconsistent with SPP's Natural Assets Code

### 2. Natural assets zone mapping objection

### 3. Scenic protection zone mapping objection

The Guidelines provide the following guidance at SPC2 that *areas should be justified as having significant scenic values requiring protection from inappropriate development that would or may diminish those values*. Further, the Guidelines for Scenic Values Assessment Methodology and Local Provisions Schedules for the Scenic Protection Code were prepared to assist Councils with application of the overlays.

Council does not have scenic management studies of the area to demonstrate the basis of inclusion or exclusion of areas for the overlays. Accordingly, the overlays were applied based on the known regulatory tools of a similar nature.

Separate recommendations are provided to deal with the Natural Assets Code mapping (Priority Vegetation) and Scenic Management Code issues under the 35G Notice later in this report.

No changes are proposed as a result of this issue.

### 4. Advertising of draft LPS

The representor claims that the notification was void because they could not access documents online on numerous occasions.

The representation was lodged near the end of the notification period. A review of Council records did not identify any complaints lodged by the representor to support this claim. It is understood that due to the nature of the notification process, complaints that were lodged were resolved as a priority.

Given the lack of available evidence to support the claim, this ground of the representation is not supported.

### Conclusion

While the representation raised extensive concerns, one matter was supported.

**Recommendation for draft LPS:** That the Future Urban Zone is confirmed as applying to the following titles at Orford:

- 42a East Shelley Road CT161815/2 Future Urban
- Rheban Road, CT117058/150 Future Urban
- Lot 2 Rheban Road CT149641/2 Future Urban
- 1 Pine Hills Ct CT161815/1 Future Urban
- 175 Rheban Road CT14748/3 Future Urban

**Effect on Draft LPS as a whole:** The use of the Future Urban zone in this manner is the result of mandatory policies under the SPP's and is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the requirements of the Act and policies of the zone purpose statements in the SPP's and Guidelines. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

## 32. Dark Sky Tasmania

Received: 14 February 2020

Request for lighting management plans under planning scheme

The representation seeks to have a Lighting Management Policy introduced to the LPS to address issues of light pollution. The representation identifies a range of impacts and reasons why this initiative should be supported.

The LPS has some provisions that deal with lighting in sensitive areas. Recent planning appeals have also identified the issue of night lighting impacts in additional areas not covered by those provisions.

It is noted that a Policy, as requested, will have no impact on the regulatory regime under the SPP's and a LPS.

If supported, the proposal would need to be managed through a Specific Area Plan, which would need to identify and map the areas where it applies. Such assessments could not be managed through site specific qualifications or any of the lists available to Council under the SPP's.

While the merits of the issue are recognised, it is noted that this issue would apply to a range of locations across the state that remain either untouched or relatively intact from development and night-light impacts. The Scenic Management code may provide a suitable base for operation of such measures, but would require additional provisions to be inserted to enable assessment of the issue. It is not clear that there is a sufficient policy basis for this intervention.

Council may wish to list this issue for consideration under its Section 35G notice to the Commission.

**Recommendation for draft LPS:** No change to the LPS as a result of the representation.

**Effect on Draft LPS as a whole:** The representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the Guidelines and SPP zone purpose statements. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

### 33. Indra Boss, JMG

Received: 14 February 2020

Changes to GSB-S3.0 Louisville Road Specific Area Plan

The representation seeks minor alterations to the provisions of the GSB-S3.0 Louisville Road Specific Area Plan.

GSB-S3.0 was declared as a transitional provision, which precludes alterations under the Statutory Exhibition of the LPS.

Specific changes are sought as follows:

GSB-S3.6.1 A1 ought to be clarified to refer to qualified use, with P1 changed to clarify the intent of the word predominantly;

GSB-S3.7.6 A1 ought to be updated to improve the requirements of the standard and better reflect the ability of the site to meet the mandatory requirements of the standard.

The issues raised within the representation have merit and identify some of the operational issues with the SAP.

Issues identified with GSB-S3.6.1 are supported, the drafting of the subject provision is unclear and relies on terms that are not consistent with the function of the equivalent clause of the Interim Scheme. This aspect of the representation is supported, for resolution during the hearings.

The representor confirmed that their client does not wish to have the transitional status of the SAP revoked, which prevents consideration of GSB-S3.7.6.

**Recommendation for draft LPS:** that the drafting and interpretation of GSB-S3.6.1 be revised to clarify intent/meaning and consistency with the equivalent provision of the Interim Scheme.

**Effect on Draft LPS as a whole:** The translation of this provision is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the Act, Guidelines and zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

### 34. Page Seager Lawyers for Saltwater Lagoon

Received: 14 February 2020

Support for Landscape Conservation and Environmental Management zone at Freycinet

The representation provides support for the change from the Rural Resource zone under the IPS to the Landscape Conservation/Environmental Management zones affecting their client's property and those adjoining the Freycinet National Park.

The support is noted.

**Recommendation for draft LPS:** no changes are required as a result of the representation.

**Effect on Draft LPS as a whole:** The representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

### 35. Helen Preston

Received: 14 February 2020

Changes to transitional provisions

The representation seeks the following:

- Removal of GSB-S2.0 Bicheno Golf Club Special Area Plan
- Substantial modification of GSB-P5.0 Particular Purpose Zone – North Bicheno Future Urban, to improve development outcomes; and
- Substantial modification of GSB-P2.0 Particular Purpose Zone – the Gulch, to improve development outcomes.

As noted in the summary at the start of this report and response to previous representations, the subject provisions within this representation have transitional status and cannot be altered without removal of that status.

No change is recommended as a result of this status.

**Recommendation for draft LPS:** no change as a result of the representation.

**Effect on Draft LPS as a whole:** The representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the requirements of the Act. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

### 36. John Heck

Received: 14 February 2020

Various matters

The representation claims that the LPS documents lack the required information to allow proper assessment of map overlays, non-existing sites, incomplete listings, proper adjustment/alteration to the interim scheme and fails the intent of the Tasmanian Planning Scheme.

In response:

- Map overlays and adjustments/alterations to the Interim Scheme are provided and based on the relevant guidelines, transitional notices and supporting report.
- Non existing sites are not clear what is intended or sought.
- Incomplete listings is also unclear what it refers to.

No change is proposed as a result of the representation.

The representation is not considered to have any impact to the operation of the LPS or the SPP's as a whole or in part.

**Recommendation for draft LPS:** no change as a result of the representation.

**Effect on Draft LPS as a whole:** The representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the requirements of the Act and policies of the zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

### 37. Mark Peacock

Received: 14 February 2020

Rezoning to Rural, Bolton's Beach

The representation seeks to have the subject property rezoned from Agriculture to Rural, on the basis that it has limited agricultural capacity across a range of criteria, including reliable water supply, the conservative nature of the relevant State mapping, inconsistency with recommended zoning on nearby and adjoining land, incompatibility with the stated zone intent and classification by the State Revenue Office. The State Revenue Office classification of the land is not relevant to land use zoning.

The subject title adjoins a small cluster of Rural zoned properties near Bolton's Beach. There may be opportunity for rezoning through the LPS process.

If the stated claims of lack of ability to sustain any agriculture are accurate, rezoning may be sought through the LPS process or a separate rezoning proposal. It is unclear what information requirements the Commission may have for changes of this type. Should the owners provide an agricultural assessment to substantiate their claims, rezoning may be able to be supported.

Council has no strategic studies of the area that support the expansion of the existing residential area in this location.

To enable proper assessment of the relative merits of the subject request, the representor should pursue a separate rezoning application either under the current Interim Scheme or the pending LPS (once declared).

**Recommendation for draft LPS:** No change as a result of the representation

**Effect on Draft LPS as a whole:** The representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the requirements of the Act and policies of the Guidelines and SPP zone purpose statements. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

### 38. Charles Morgan

Received: 15 February 2020

Subdivision prohibition at The Fisheries, Coles Bay

The representation seeks reinstatement of a provision from the 1994 Scheme that prohibited further subdivision, and which was not translated into the Interim Scheme. The prohibition is sought on behalf of 39 listed residents (note, they are not signatories to the representation but listed parties).

Concern was identified at the subdivision opportunity provided by the SPP's (minimum lot size 1500 m<sup>2</sup> or 1200 m<sup>2</sup> on discretion), which is less than the Interim scheme provides (minimum lot size 1000 m<sup>2</sup> maximum 2500 m<sup>2</sup> with no discretion). The suitability of the area for further subdivision was questioned, noting its environmental, scenic and infrastructure qualities.

The Interim Scheme was never formally assessed and therefore, issues such as this were never raised for consideration by the Commission through the assessment process.

The Fisheries is unique, within Freycinet National Park, and in a sensitive location. Use of the Low Density Residential zone was based on the suite of zones within the Interim Schemes, which created the ability for further subdivision in the area and with the transition to the SPP provisions, development of multiple dwellings.

It is also noted that of the four titles that have subdivision potential, three have been subject to recent applications or investigations for subdivision.

The Glamorgan Spring Bay Planning Scheme 1994 Scheme contained provisions that recognised the Fisheries as a particularly unique area and provided specific objectives to reflect this and the following restriction on use and development at clause 8.1.3:

*Notwithstanding the provisions of the above, any use or development other than that identified as either exempt or permitted shall be prohibited in the area known as "The Fisheries" at Coles Bay.*

The following provides the permitted and discretionary entitlements within the Village zone of the 1994 Scheme:

Permitted	Discretionary
<i>Dwelling</i>	<i>Active Recreation</i>
<i>Home Business</i>	<i>Child Care Centre</i>
<i>Public Utility (minor)</i>	<i>Civic Building/Centre Communal Dwelling</i>
<i>Outbuilding</i>	<i>Educational Establishment</i>
<i>Passive Recreation</i>	<i>Local Shop</i>
<i>Public Park</i>	<i>Miscellaneous</i>
	<i>Multiple Dwelling Units</i>
	<i>Subdivision</i>



*Telecommunications  
Infrastructure  
Visitor Accommodation*

This clearly demonstrates that Subdivision and a range of other uses were prohibited at the Fisheries, in addition to all other discretionary uses under that planning scheme.

The uses allowed under the Low Density Residential zone are substantially similar to those permitted at the Fisheries under clause 8.3.1 of the 1994 Scheme.

The representation seeks reinstatement of the subdivision prohibition, which was supported by the Council in workshops on the representations.

Under the terms of the SPP's, this may be by preparation of a Particular Purpose zone, Specific Area Plan or a Site Specific Qualification.

While the latter achieves the intent of the representations, it is noted that the suitability of the area is questionable for the range of discretionary uses available under the Low Density Residential zone.

Assessment against the Guidelines is mixed, with a clear path provided for areas already under the zoning within interim schemes. LDRZ 1 and 2 clearly support use of the zone in this location.

LDRZ 3 specifically identifies that the zone is not consistent with areas of important natural or landscape values, which suggests an alternative zoning may be appropriate. Suitability for this location is therefore questionable.

While the Landscape Conservation zone provides a superficial compatibility, further assessment identified that the requirements of the zone are not compatible with the lot sizes and development densities at the Fisheries. To reasonably accommodate the Fisheries area, the following standards of the Landscape Conservation zone would need to be modified:

- 22.2 Use Table to provide permitted status to residential use and potentially remove discretionary uses from the area; and
- 22.4.2 to provide similar requirements under acceptable solutions for site coverage, height, setback to the Low Density Residential zone at clause 10.4 of the SPP's, with discretions provided based on the Low Density Residential and Landscape Conservation zones.

These changes provide substantive modification to the provisions of the zone under the SPP's and represent a significant modification. On balance of the issues presented, modification of the Low Density Residential zone standards through Site Specific Qualifications is not considered consistent with Council's statutory obligation at 32(4) of the Act and therefore, unlikely to succeed.

The most appropriate method to deal with this range of issues and meet the requirements of 32(4) for consistency with the SPP's is to propose a Particular Purpose zone. A draft Particular Purpose zone was prepared in response to these issues and is provided as part of the Planning Authorities recommendations on the LPS for this issue.

Further discussion on this issue continues under Council's recommendations in response to the LPS.

**Recommendation for draft LPS:** that a Particular Purpose Zone be prepared for the Fisheries, as discussed in the response to this representation.

**Effect on Draft LPS as a whole:** The potential for fragmentation of the zoning regime for implementation of the Landscape Conservation zone in this manner is the result of mandatory policies under the SPP's and is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the requirements of the Guidelines and policies of the SPP zone purpose statements. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

### 39. Phil & Elizabeth Cooper

Received: 15 February 2020

Support for representations

The representation provides support for other representations by:

RA & MF Ibbot (SPP content, scenic values, zoning of land SAP, heritage, fencing, scenic protection) and

Alison Westwood (objection to future urban zone at Rheban Road, East Shelley Beach, Natural Assets zone mapping, Scenic Protection zone mapping and advertising process).

The support is noted.

**Recommendation for draft LPS:** no change as a result of the representation.

**Effect on Draft LPS as a whole:** The representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

### 40. Lynette Taylor

Received: 15 February 2020

Changes to transitional provisions

The representation seeks to make changes to GSB-P2 – Particular Purpose Zone - the Gulch, GSB-P5 Particular Purpose Zone - North Bicheno Future Urban, GGSB-S2 Bicheno Golf Club Specific Area Plan.

All of the provisions listed for alteration were declared by the Minister as transitional provisions under the Act. Any alterations to these will require the removal of that status and their justification as new provisions.

As discussed in response to other representations, absent specific direction by Council the transitional status of the provisions is supported and no changes are proposed.

Comments regarding issues with accessing the LPS documents on the IPlan website, range of regulatory requirements to the planning process, future development requirements for the Bicheno area and changing climate on the east coast are noted.

No changes are recommended as a result of the representation.

**Recommendation for draft LPS:** no change as a result of the representation.

**Effect on Draft LPS as a whole:** The representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the requirements of the Act and policies of the Guidelines and SPP zone purpose statements. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

#### 41. Bayport, Daniel Petroni

Received: 15 February 2020

Changes to transitional provisions for GSB-S3 Louisville Road Specific Area Plan

The representation is from the owner of the Spring Bay P/L project site, formerly Solis and seeks various changes to GSB-S3 Louisville Road Specific Area Plan.

The representation seeks to have the precinct boundaries shown in the plan approved under subdivision application SU07001 reflected in the LPS; and clause F3.2.3 of the Interim Scheme reintroduced, changes to GSB-S3.4 Definitions of Terms and alterations to GSBS3.5 Use Table.

GSB-S3 Louisville Road Specific Area Plan was declared as a transitional provision, which precludes alterations without removal of the transitional status. A separate representation was lodged by JMG seeking alterations to the SAP.

Removal of transitional status would require the entire SAP to be argued as new provisions, running the risk they may be refused by the Commission.

The representor has provided written confirmation that they do not wish the transitional status to be rescinded, through their consultant, JMG. JMG raised a translation issue for GSB-S3.7.6 A1, which was supported.

**Recommendation for draft LPS:** No alterations as a result of the representation.

**Effect on Draft LPS as a whole:** The representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

#### 42. Donnalee Young

Received: 15 February 2020

Various zoning issues.

The representation seeks modification of the LPS to better reflect a range of issues around the Swansea area.

##### **Foreshore**

The representation seeks to have the foreshore areas from Aqua Sands Drive to Croswell Beach zoned Environmental Management, rather than the proposed Open Space zone.

The use of Open Space zone for foreshore reserves to the high water mark and then environmental Management to the Municipal boundary is consistent across the waterfront settlements within the Municipality and represents a direct translation of the current zoning regime.

It is also noted that the Environmental Management zone of the SPP's provide approval pathways under acceptable solutions with no consideration of the impact to native or threatened species.

Zoning is not the appropriate tool to manage threatened species. The Natural Values Code provides the appropriate tool, which is reflected through the Priority Vegetation overlay. Statement LP1.7.5(c) (iii) of the SPP's clearly identifies that Fauna habitats inform the overlay. Guideline 8A

also identifies that the overlay should not be used in zones that would normally apply to the Gulch foreshore: Light Industrial, General Industrial, Port and Marine

Regardless, controls under State and Federal legislation remain in force and operate independently of the land use planning system. Council often refers such applications to the regulatory agency, Environment Australia, as part of processing. The EPBC protections apply to both the Little Penguins and Hooded Plovers.

No changes are proposed as a result of this section of the representation.

#### **Waterloo Point, Swansea**

The representation seeks rezoning of the crown reservation to protect the Short Tailed Shearwater population and an Aboriginal midden site.

The proposed recreation zone is a direct translation of the existing Recreation zone, which reflects the existing lease over the lands.

Aboriginal heritage sites are managed outside of planning schemes under the Aboriginal Heritage Act 1975.

Rezoning of the site to Environmental Management will not affect existing use rights that protect the walking track nor impact the management of the midden.

No change is required to address this section of the representation.

#### **Scout Hall, Bridge / Julia Sts / Esplanade**

The representation objects to the rezoning of the site from Community Purposes under the Interim Scheme to General Residential under the LPS, based on loss of amenity, the changing character of the area and connection to the esplanade and associated public space.

The subject property comprises a freehold title in non-public ownership. Workshops identified that the zoning of the property should revert to Community Purpose.

Statements regarding the future purchase of the land are not relevant to the current assessment of the LPS.

#### **Town Hall and original SES building**

The representation objects to the Local Business zoning of these properties in place of the Community Purposes zone.

The Town Hall, corner Noyes and Franklin Streets, is zoned Local Business under the Interim Scheme. The LPS continues that zoning. The SES building was addressed under a separate representation from the owner, which determined to retain the Community Purpose zoning.

No change is proposed.

#### **Kennedia Place**

The representation seeks rezoning from General Residential to Low Density Residential.

The Low Density Residential Zone is consistent with the lot size and layout. Lots range from 1200-6750+ m<sup>2</sup>, so units and subdivision are possible under both the proposed General Residential zone and the requested Low Density Residential zone.

It is noted that the representor is not a resident of the subject area and is seeking to have property rezoned that they do not own.

Review of the zone purpose statements and the Guidelines identifies that the Low Density Residential zone is for areas with limited services, as follows:

*10.1.1 To provide for residential use and development in residential areas where there are infrastructure or environmental constraints that limit the density, location or form of development.*

*LDRZ 1 The Low Density Residential Zone should be applied to residential areas where one of the following conditions exist:*

- (a) residential areas with large lots that cannot be developed to higher densities due to any of the following constraints:
  - (i) lack of availability or capacity of reticulated infrastructure services, unless the constraint is intended to be resolved prior to development of the land; and*
  - (ii) environmental constraints that limit development (e.g. land hazards, topography or slope); or**
- (b) small, residential settlements without the full range of infrastructure services, or constrained by the capacity of existing or planned infrastructure services; or*
- (c) existing low density residential areas characterised by a pattern of subdivision specifically planned to provide for such development, and where there is justification for a strategic intention not to support development at higher densities.*

Review of services availability confirms that reticulated services for both water and sewer are available, refer Figure 12.



Figure 12 - Reticulated Water and Sewer Services

While Guideline LDRZ1(c) provides for application in other areas to retain a planned subdivision character, the required strategic analysis and supporting information have not been prepared and are not available.

As a result of these issues, no change is proposed on this issue.

**Recommendation for draft LPS:** that the Scout Hall, 12 Bridge St, Swansea, 230096/1, be zoned Community Purpose

**Effect on Draft LPS as a whole:** The changes to the zoning regime are the result of mandatory policies under the SPP's and are not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.



#### 43. Peter Wall

Changes to transitional provisions

Received: 15 February 2020

The representation makes comment on and seeks changes to transitional provisions for the following:

GSB-S2.0 Special Area Plan for the Bicheno Golf Club

GSB-P5.0 Particular Purpose Zone – North Bicheno Future Urban

GSB-P2.0 The Gulch

As noted in the summary to this report, transitional provisions are subject to limitations that prevent alterations with loss of that status.

**Recommendation for draft LPS:** no change as a result of the representation.

**Effect on Draft LPS as a whole:** The representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the requirements of the Act. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

#### 44. Jenifer Crawford

Received: 15 February 2020

The representation seeks changes to GSB – P1.0 Particular Purpose Zone – Dolphin Sands.

As noted in the summary to this report, transitional provisions are subject to limitations that prevent alterations with loss of that status.

**Recommendation for draft LPS:** no change.

**Effect on Draft LPS as a whole:** The representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

#### 45. Freycinet Action Network, S Underwood, A Ascui

Received: February 15, 2020

Various matters

The representation seeks removal of the Coles Bay and Swanwick SAP, prohibition of subdivision at the Fisheries, expansion of the Landscape Conservation zone and scenic protection areas and revision of the scenic protection code controls.

**Removal of the Coles Bay and Swanwick Specific Area Plan from the draft LPS instrument and map books;**

The representation provides extensive arguments and reasons for removal of GSB-S4.0 Coles Bay and Swanwick Specific Area Plan.

GSB-S4 is a new Specific Area Plan. Specific issues raised in the representation include the following:

- additional uses are inconsistent with the local area and the construction of the SPP's;
- the additional opportunity for operating hours, commercial vehicle movements and floor area of non-residential uses
- supporting report is devoid of evidence to justify the departure from the SPP LDRZ provisions
- implementation of the SAP is likely to diminish residential amenity and development patterns,
- implementation of the SAP is likely to compromise the inclusion and spatial application of the LBZ in the area through the ad-hoc proliferation of non-residential uses and developments
- relate to Guidelines for LBZ and justification of unstructured mix of residential, commercial and community services with strategic intent to maintain this mix

Discussion of the issues with the Council identified questions regarding support for this SAP. As a result, a recommendation is provided to withdraw the SAP from the current process and review the intended outcomes in a separate planning scheme amendment once the LPS is approved.

**Introduce a Specific Area Plan over the Low Density Residential Zone at The Fisheries, reinstating the previous subdivision provisions of the Glamorgan Spring Bay Planning Scheme 1994;**

The representation seeks reinstatement of a provision from the 1994 Scheme that effectively prohibited further subdivision at the Fisheries, which was not carried forward into the Interim Scheme and not assessed by the Commission.

The same issue was examined at representation 38, which concluded that the issue had merit and should be supported by a new Particular Purpose zone. Further discussion and recommendations on this issue are provided in the Planning Authority response to the LPS.

**Spatially applying the 22.0 Landscape Conservation Zone to additional properties to protect important landscape values within the municipal area that have not been captured by the draft LPS**

The representation seeks to have landscape conservation zoning applied to the following:

1. CT 167856/1 Flacks Road, Coles Bay (Tas Land Conservancy)
2. CT 52694/7 Flacks Road, Coles Bay (CM & DJ Nunn)
3. CT 13015/4 65 Flacks Rd Coles Bay (Tas Land Conservancy)
4. CT 108848/2 Coles Bay Rd Coles Bay (MR Legg & MJ Bramley)

It is confirmed that the subject properties are under conservation covenants. The representation is consistent with other submissions seeking the Landscape Conservation zone for land subject to conservation covenants.

5. CT 40678/1 477 Coles Bay Rd Friendly Beaches (GT & CGM Matthews, covenant confirmed over part of the property).
6. Other vegetated lands

TheList identifies that the western portion of the title (approximately 6.6 ha of 40 hectares) is within a conservation covenant and that the eastern portion of the site includes a cleared and grassed area of approximately 10 hectares. Other vegetated lands is unclear.

It is recommended that this aspect of the representation not be supported, as it is seeking to rezone properties that the representor does not own. Otherwise, the Council position on Landscape Conservation zoning of properties subject to conservation covenants will dictate this response.

**Applying the C8.0 Scenic Protection Code to the Freycinet Peninsula, and other areas across the Glamorgan Spring Bay Municipality, including identification of a scenic protection area on the overlay maps.**

The representation seeks application of the overlay and code to:

- a) all areas of the Freycinet National Park and Coles Bay Conservation Area; and
- b) all areas seen from the Great Eastern Drive.

While the relative merits are apparent for the Freycinet National Park and Coles Bay Conservation Area, it is not quite so clear how the requirements of table C8.1 can be listed to provide for future management of the respective values.

It is noted that these areas form significant economic, scenic and ecological resources for the region and State. It is not clear that Council has the resources or authority to develop the Scenic Values and Management Objectives in isolation and under a short order for submission to the Commission.

While the merits of this request are apparent and appear to be consistent with the guidelines for use of a Scenic Protection Area under the Guidelines, National Parks and Conservation areas are subject to a separate assessment process, including a Reserve Activity Assessment, that provide for detailed assessment against specific criteria for each area. Development within those areas requires assessment under those processes.

Typically, many other councils have left land within National Parks to the assessment process administered by Parks and Wildlife. Application of the Scenic Management Code would duplicate that assessment process.

The Guidelines provide the following guidance:

Guidelines for applying the Scenic Protection Code overlays

*SPC 1 The scenic protection area overlay and the scenic road corridor overlay may be applied to land identified at the local or regional level as important for the protection of scenic values. These may include areas:*

- (a) containing significant native vegetation or bushland areas with important scenic values (such as skyline areas); or*
- (b) identified for their significant scenic views.*

*SPC 2 The scenic protection area overlay and the scenic road corridor overlay should be justified as having significant scenic values requiring protection from inappropriate development that would or may diminish those values.*

Information was sought from the Commission regarding the approach to other similar areas across the state to inform Council's position.

This work can continue following submission of the 35F report. Extensive work is likely to be required to populate the required descriptions, scenic values and management objectives to populate the SPP fields at Table C8.1 Scenic Protection Areas.

It is recommended that if the initiative is supported, further work be completed on these tasks.

Application of the Scenic Protection Overlay to all areas visible from the Great Eastern Drive is similarly problematic. The nature of the subject controls appears to undermine the intent of the

Code and ability to deliver the intended outcome. It is also questioned whether the Scenic Protection Overlay is capable of being effectively used in this manner.

It is noted that support for this section of the representation must be considered in light of the following ground of the representation, which identifies a conflict between the exemptions and development standards with the intent of the Code.

It is noted that Council is prohibited from considering this issue as a representation to the LPS, as it relates to the content and function of provisions of the SPP's and is prohibited under the terms of the Act. The earlier discussion identified the issue should be listed for the 35G Notice.

**Review C8 Scenic Protection Code of the SPP's, fine-tuning the use and development controls (including exemptions) with respect to assessment development to areas where this Code applies, especially if it is to be an effective planning tool to manage landscape values.**

The representation seeks review of the provisions on the basis that the exemptions to the code undermine the ability to achieve the stated outcomes and the impacts of use and development controls further frustrates this problem.

Review of the three (3) acceptable solutions within the Code identifies the representation is likely correct. This issue was discussed earlier in the report and requires changes to the SPP to affect change. This issue cannot be considered a valid matter under the Act. The discussion provided a recommendation that the issue be raised in the 35G notice.

**Recommendation for draft LPS:** As a result of this representation:

- a) Council withdraws the GSB-S4.0 Coles Bay and Swanwick Specific Area Plan; and
- b) Council proposes a new Particular Purpose zone for the Fisheries at Freycinet.

**Effect on Draft LPS as a whole:** The recommended changes are structured to provide local context within the structure of the SPP's and therefore increase consistency with them. This change is not expected to have any significant impact the operation of the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the statutory requirements of the Act and zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

46. John and Elizabeth Whinnen

Received: 16 February 2020

### Support for zoning, Swansea

The representation provides support for the rural zoning regime to the southern boundary of the Swansea settlement (refer map sheet 11 of 22, as shown in Figure 13).

No changes are proposed as a result of the representation.

**Recommendation for draft LPS:** No change as a result of the representation.

**Effect on Draft LPS as a whole:** The representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.



Figure 13 - zoning regime - southern Swansea

## 47. Orford Golf Club (John Smith)

Received: 16 February 2020

Request for partial rezoning to Rural

The subject title has an overall area of some 70.74 hectares, of which approximately 20% is used for the golf course.

The Interim Scheme provides a Rural Resource zone to the balance of the lands, which is not an unreasonable response. It is recommended that the representation is supported.

**Recommendation for draft LPS:** rezone balance of title to Rural as a result of the representation.

**Effect on Draft LPS as a whole:** The representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

## 48. Tasmanian Land Conservancy (James Hattam)

Received: 17 February 2020

The representation seeks a range of changes to the LPS and SPP's.

### a) Environmental Management zoning

The representation seeks the Environmental Management zone for their reserves at The Big Punchbowl (PID 3321029), Long Point (PID 2666631), and Little Swanport (PID 7533133), on the basis of compliance with the zone purpose statements and their status as reserves.

Map sheet 7 of 24 shows Long Point within the Environmental Management zone. Little Swanport as Agriculture (sheet 13 of 24) and Big Punchbowl as Rural (sheet 7 of 24).

Rezoning of Little Punchbowl and Little Swanport as Environmental Management is supported.

**b) Landscape Conservation zoning for conservation covenanted lands**

This issue is subject to the discussion at the start of this report. The representation seeks a universal response without reference to specific properties. This submission should be subjected to the same response as other representations. Consistent with the earlier discussion, no change is proposed as this representation seeks changes to the zoning of land not owned by the representor.

**c) Mapping natural assets**

The representation seeks revision of the LPS mapping to include all species and vegetation communities listed under the Threatened Species Protection Act, Nature Conservation Act and Environment Protection and Biodiversity Conservation Act to recognise important cross tenure landscape linkages and corridors in the context of increasing biodiversity issues and climate change.

The Priority Vegetation layer was prepared in accordance with the Regional Ecosystem Model (REM) development by Natural Resource Planning, which is understood to have been adopted by the overwhelming majority of Council's in preparing the Priority Vegetation overlay.

The REM essentially represents an industry based response to the lack of policy, inconsistencies and dysfunctions of the requirements for compilation of the Priority Vegetation overlay. Changes and revisions to the REM must be completed in a coordinated manner across industry. At this point, there is no clear avenue for this to occur.

In terms of the mapping sources listed, it is preferred that the REM informs the mapping and that where relevant values are located or identified, they are then mapped under that process. Historical approaches to adopting mapping from external sources has typically resulted in unnecessary administrative burdens and inconsistencies for the Council and opportunity for conflict between different approvals.

The simplest mechanism for achieving this outcome would be for review of the REM and its adoption by the State as the relevant Guideline for preparation of the overlay.

Council is prevented from dealing with this matter through the representations as it relates to changes to the SPP's. The matter is raised in the 35G Notice.

There are merits to this proposal

**d) Reducing landscape fragmentation**

The representation seeks to limit fragmentation of the landscape for ecological and biodiversity outcomes, including the types of land use allowed in zones/locations and their status and the approach taken to vegetation management across the landscape. As an example, it is suggested that all vegetated land west of Coles Bay Road be within the Landscape Conservation zone to protect vegetation connectivity and extent.

There are two responses to this issue. If Council supports it, then Council could obtain additional mapping to support the issue and then commit to increasing resources for the Biodiversity Officer to provide advice and initial assessment of sites for applications and review of proposal reports once prepared. It would be unsustainable to achieve this outcome through external consultancy.

Secondly, the representation identifies matters that ought properly be addressed consistently across broader landscapes and regions. The examples cited are not isolated to the Glamorgan Spring Bay municipality. There is considerable merit in considering this issue as part of the SPP's for these reasons.

There are merits to this proposal.

The matter is listed for consideration in Council's 35G Notice to the Commission.



**e) Consistent application of the natural assets code**

The representation seeks changes to the code to remove exemptions, omissions and terminology vagaries that are within the SPP's.

This issue cannot be considered as a representation under the terms of the Act, as identified in the opening to this report.

There are merits to this proposal. Council may wish to defer consideration until the LPS is operational or alternatively, list this issue in its 35G Notice to the Commission.

**f) Future Conservation Covenants**

The representation seeks to clarify the residential entitlement provided to properties subject to conservation covenants.

This issue arises principally for properties in the Landscape Conservation zone and was raised in the opening summary for this issue. The outcome must be clarified to enable proper consideration of the concept by affected land owners, as identified in the original summary.

**g) Application of the Precautionary Principle**

The representation identifies that the RMPS and the Act support use of the precautionary principle and that in the absence of the most up to date information to inform decisions on sustainable development, it should be applied.

The generalised nature of the issue makes it difficult to determine whether a response is required by Council. To the extent that the principle applies in the approach and content of the SPP's, it is void due to the statutory limitations of the assessment process identified in the start of this report.

**Recommendation for draft LPS:** As a result of the representation:

- a. rezone the Big Punchbowl (PID3321029) and Little Swanport (PID 753133) Environmental Management;
- b. f. seek PPU confirmation of the residential entitlement under the Landscape Conservation zoning permit status at clause 22.2 of the SPP's;
- c, d, e, g, no change as a result of the representation

**Effect on Draft LPS as a whole:** The representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the requirements of the Act and policies of the Guidelines and SPP zone purpose statements. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

**49. Nigel and Barbara Bentley.**

Received: Friday, 14 February 2020

SPP content, scenic values, zoning of land SAP, heritage, fencing, scenic protection

The representation provides support for the representation lodged by RA & MF Ibbot (refer representation 52).

No further response is required.

**Recommendation for draft LPS:** No change.

**Effect on Draft LPS as a whole:** The representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the requirements of the Act and policies of the Guidelines and SPP zone purpose statements. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

## 50. Rob & Annie Browning

Received: 15 February 2020

Rezoning 13593 Tasman Highway, Swansea

The representation seeks rezoning of their property at 13593 Tasman Highway, Swansea from Agriculture to Rural, based on the poor soil quality and agricultural capability of the site and zoning to the south.

The representation also seeks review of the Priority Vegetation overlay to reflect poor quality vegetation on the site.

A land capability and biodiversity assessment report will likely be required by the Commission to assess the respective concerns of the site. If they have merit, the claims may be supported.

Until these documents are provided, no change should be made.

**Recommendation for draft LPS:** No change at this time.

**Effect on Draft LPS as a whole:** The representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the requirements of the Act and policies of the Guidelines and SPP zone purpose statements. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

## 51. Tasmania Fire Service, Tom O'Connor

Received: 14 February 2020

Changes to transitional provisions

The representation seeks changes to transitional provisions under the Act for GSB-S3 Louisville Road SAP, GSB-P5 North Bicheno Future Urban Particular Purpose zone and GSB-P2 The Gulch Particular Purpose zone.

As the identified provisions are subject to transitional declaration under the Act, changes cannot be considered for them without removing the transitional status and arguing all of the provisions as if new. Given the risk to the affected properties, this is not supported. Other representations have raised issues with the provisions, as has operational review. The transitional status prevents such changes.

No change is recommended as a result of the representation.

**Recommendation for draft LPS:** No change as a result of the representation.

**Effect on Draft LPS as a whole:** The representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the requirements of the Act. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

## 52. R.A. & M.F. Ibbott

Received: 14 February, 2020

SPP content, scenic values, zoning of land SAP, heritage, fencing, scenic protection

The representation contains extensive submissions. Following review against the tests at 35F, the following responses are provided.

1. statements respond to the SPP's and are therefore cannot be considered.
- 2.1 noted. No response required.
- 2.2 noted and disagree. Rezoning to enable subdivision and development would be premature absent response to and coordination of relevant infrastructure. Designation as future urban recognises future development potential while allowing limited development under the SPP regime. No change required.
- 2.3 Zoning of Orford Golf Club was a translation of the existing Recreation/Rural Resource zone, as addressed in a previous representation. Allocation of a zoning that allows increased development opportunities requires detailed analysis and assessment. This is best addressed through provision of the required supporting information through either this process or a separate rezoning process. No change recommended.
- 3.1 The existing Specific Area Plans were translated from the current Scheme under the Act and cannot be altered without their assessment as new provisions against the Act. No change recommended.
- 4.1 Noted. No response required.
- 4.2 The heritage list at table GSB-C6.1 is a transitional provision. As discussed at the start of this report and with other representations, changes cannot be made without removal of that status. No response required.
- 4.3 Support for code noted. No changes recommended.
- 4.4 Inclusion of Spring Beach to the Scenic Protection Code and its application to front fences along scenic corridors. Scenic Protection areas were applied based on the approach outlined in the supporting report. This has not included application of the Scenic Protection Areas to individual beaches. No change is proposed to the use of the areas. Application of the code to front fences would require modification of the SPP's which is not possible under the terms of the Act. No changes required.
- 4.5 As with the Heritage Code, the planning scheme provides regulatory controls for assessment of projects. It is not a register that proscribes specific projects and or responses. Areas identified and mapped under this code are based on a specialist assessment identified through a State mapping project. No change recommended.
- 4.6 Comments noted. No response required.
- 4.7 Clause 4.6.3 of the SPP's provides for a series of exemptions for frontage fences in a range of zones. This is one 'approval' pathway, as are the acceptable solutions and performance criteria of the zones. Compliance with exemptions cannot be mandated while other approval pathways are available. No change required.

**Recommendation for draft LPS:** no change as a result of the representation.

**Effect on Draft LPS as a whole:** The representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the requirements of the Act and policies of the Guidelines and SPP zone purpose statements. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

### 53. Johannes and Sarah Ambrose

Received: 18/02/20

Rezone 370 Crossin's Road to Landscape Conservation

The representation seeks rezoning of their property at 370 Crossin's Road, Swansea to Landscape Conservation as approximately 95% of it is subject to a conservation covenant. The representation also suggests that the entire Blueman's Run subdivision should be rezoned to Landscape Conservation for the same reasons.

The representation is subject to the discussion at the start of the report and it is recommended that the subject property is treated in the same manner:

- Ensure that the priority vegetation overlay covers the areas protected by Conservation Covenants under the Nature Conservation Act;
- Seek confirmation from Planning Policy Unit of State that the exclusion areas under conservation covenants under the Nature Conservation Act comply with the defined term of building area at Table 3.1 and therefore enable residential use to comply with the permitted use qualification (b) at clause 22.2 of the SPP's; and
- Determine the requested change of zoning following the previous as follows:
  - Support the change for where the subject property owners confirm their wish; and
  - Do not support for property owners who do not request the change or withdraw their support through the process.

The rezoning of properties that are not subject to representation by the owners on this issue is not supported.

**Recommendation for draft LPS:** No change as a result of the representation.

**Effect on Draft LPS as a whole:** The representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

### 54. Rodger Bartlett

Received: 14 February 2020

Flooding, various zoning requests, heritage code

The representation raises a number of issues, as follows. Comments at the start of the representation are taken as comments and no response is provided.

Flood prone code: the relevant code provides alternative identification triggers, as discussed in response to representation 19. Local knowledge can be used where mapping is not available. No change recommended.

Maria/Wellington Sts & River Road – illegal work is outside the scope of this assessment and was referred for investigation. No change required.

General Residential zone at Tasman Highway/Cathcart St, Swansea: rezoning from General Residential is sought on the basis there is no demand for urban residential land a lack of storm water infrastructure. Provision of infrastructure forms part of any subdivision process. The SPP's provide for this outcome. No change required.

6 & 8 Noyes St, Swansea, objection to General Residential zone. 6 Noyes St was recommended to revert to Community Purpose zone in response to representation 3. 8 Noyes St is supported for the Community Purposes zone. Community Purpose zone recommended for both.

12 Bridge Street, Swansea. CT 230096/1, objection to General Residential zone. Council now considers that the Scout Hall provides a key community facility and therefore complies with CPZ1(d). Recommended to rezone to Community Purposes.

Zoning differences for holiday parks at Shaw (General Residential Zone) and Bridge Street (Local Business). The LPS zoning regime at these sites represents a translation of the Interim Scheme. Shaw St site is located on an internal site and surrounded by residential use, where introduction of Local Business zoning would provide opportunity for additional uses beyond visitor accommodation to establish and therefore potentially create land use conflicts. The owners did not make representation to the same effect. Bridge St site is located in an area that has a wider range of uses, its own road frontage and adjoining residential use is limited to the south eastern side. No change is proposed.

LPS heritage listing for 21 Julia St, Swansea, with the representation arguing that the property must be listed to protect the height and bulk of their property, ensure fences match the original and manage development on 23 Julia St to minimise impacts to the heritage values of 21 Julia St from development allowable under the State Housing Provisions in the General Residential zone.

Clause 6.2.3 of the SPP's specifically identifies that the Local Historic Heritage Code does not apply to registered places on the Tasmanian Heritage Register. Listing 21 Julia St would have no impact on heritage management. Modification of clause C6.2.3 is not possible under the requirements for representations under the Act. The Heritage list at table GSB-C6.1 is a transitional provision. No change.

**Recommendation for draft LPS:** Rezone 6 & 8 Noyes St and 12 Bridge St, Swansea, from General Residential to Community Purpose.

**Effect on Draft LPS as a whole:** The rezoning identified in the representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the requirements of the Act and policies of the Guidelines and SPP zone purpose statements. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

## 55. Esther Catchpoole

Received: 2 April, 2020

Rezone 7308 Tasman Highway Orford.

The representation opposes the Landscape Conservation zoning applied under the LPS and seeks rezoning of the property to rural residential to enable development for units, commercial and community facilities.

The subject property has an area of some 244 hectares and is physically separated from the existing Orford settlement by approximately 2 kilometres. It is zoned Rural Resource under the Interim Scheme. The Landscape Conservation zone was applied as part of a wider response to manage impacts within the Paradise Gorge, as detailed on page 40 of the supporting report.

Rezoning of the subject land would require extensive reports and investigations to support the request. In addition, the location of the land remote from the Orford settlement, does not support its rezoning for more intensive urban style development. The nature of the current process is

unlikely to allow for the appropriate review and consideration of such a proposal. A rezoning application is the appropriate tool.

Even if the required supporting information was provided for a rezoning, it is unlikely that rezoning of the subject property could be supported as it is inconsistent with the RLUS and Orford-Triabunna Structure Plan.

**Recommendation for draft LPS:** No change to the LPS.

**Effect on Draft LPS as a whole:** The representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the requirements of the Act and policies contained in the Guidelines and zone purpose statements in the SPP's. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

## 56. Peter Timms

Received: Friday, 1 May 2020

Rezoning 300 Alma Road, Orford to Landscape Conservation

The representation strenuously objects to the rural zoning of the property and requests rezoning to Landscape Conservation to reflect the conservation covenants over the land.

The representor is of the view that the rural zone over the land breaches the conservation covenants, which seems to follow advice from Conservation Landholders Tasmania.

The representation is subject to the summary at the start of this report and should be treated accordingly, as follows:

- Ensure that the priority vegetation overlay covers the areas protected by Conservation Covenants under the Nature Conservation Act;
- Seek confirmation from Planning Policy Unit of State that the exclusion areas under conservation covenants under the Nature Conservation Act comply with the defined term of building area at Table 3.1 and therefore enable residential use to comply with the permitted use qualification (b) at clause 22.2 of the SPP's; and
- Determine the requested change of zoning following the previous as follows:
  - Support the change for where the subject property owners confirm their wish; and
  - Do not support for property owners who do not request the change or withdraw their support through the process.

**Recommendation for draft LPS:** No change as a result of the representation at this point.

**Effect on Draft LPS as a whole:** The representation is not expected to impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the Guidelines and SPP zone purpose statements. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

## 57. Ted & Jayne Pretty

Received: 1 July 2020



#### Support for GSB-S4.0 Coles Bay Swanwick SAP

The representation was submitted late and provides support for GSB-S4.0 Coles Bay Swanwick SAP.

The SAP proposed to allow a range of commercial uses within the SAP to accommodate tourism and visitor experiences at Coles Bay and Swanwick.

Support for the SAP is noted; however, it was determined that the proposal would be withdrawn from the LPS and subject to further work following approval of the LPS. This will allow a more considered response to the issues raised in the representations and clarity over what the proposal will deliver for the local community.

**Recommendation for draft LPS:** No change to the LPS as a result of the representation.

**Effect on Draft LPS as a whole:** The representation is not expected to have any substantive impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the Guidelines and SPP zone purpose statements. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

## 58. Leanne Woods

Received: 31 July 2020

#### Reinstatement of Light Industrial zone

The representation seeks to have the Light Industrial zoning of the property reinstated at 29 Tasman Street, Triabunna. The zoning was changed from Light Industrial to Rural Resource with proclamation of the Interim Scheme. The land was originally rezoned from Rural to Light Industrial in 2007.

Available records confirm that this change was made without the knowledge of the land owner. Council has previously agreed to correct this change. An application was made to the Commission for an urgent amendment for the rezoning in July 2019, which was refused (Commission reference DOC/19/103321).

Zoning of the subject area was translated from the Interim Scheme to the LPS. The land owner requested this change be reversed in February 2019 and again in July 2020, complete with a copy of the decision on the previous rezoning application Amendment 03/06.

Figure 14 **Error! Reference source not found.** shows the zoning regime of the area under the Interim Scheme and LPS.



Figure 14 - LPS zoning 29 Tasman Highway

Council supports the request that the zoning of 29 Tasman Street, Triabunna be changed from Rural Resource to Light Industrial.

**Recommendation for draft LPS:** That 29 Tasman Highway, Triabunna, be rezoned from Rural to Light Industrial, a result of the representation.

**Effect on Draft LPS as a whole:** The change in zoning as a result of the representation is not expected to have any substantive impact the LPS as a whole.

**LPS Criteria:** The recommendation provides effect to the policies of the Guidelines and SPP zone purpose statements. The Planning Authority is satisfied that the recommendation meets the LPS criteria under the Act.

## Response to outstanding issues notice:

An outstanding issues notice was issued by the delegates on 4 December 2019, which identified the following matters:

No.	LPS criterion	Issue	Information needed
1	34(2)(a)	Incomplete data in new heritage place listings (clauses GSB-C6.1.1, GSB-C6.1.2, GSB-C6.1.11)	Descriptions, and statements of local historic heritage significance and historic heritage values, as required by LP1.8.1 of the State Planning Provisions.
2	34(2)(a)	Mapping of specific area plan local area objectives (clauses GSB S1.0 and S3.0)	A revised GIS layer showing the local area objectives on overlay maps as required by clause LP1.3.3 of the State Planning Provisions, noting that this information is available on Figures GSB-S1.1 and GSB-S3.1.

The following response is provided to these matters:

1. as noted in the Supporting Report, the Heritage Place Listings are transitional provisions and therefore subject to the restrictions of that process. As a result, no alterations are proposed to the Heritage Place Listings.
2. provide a map layer showing the local area objectives.

## Recommendations in relation to the LPS

Section 35F (2)(e) requires the planning authority to provide its recommendations in relation to the LPS. This section can include matters that the Council has identified as relevant to the operation of the LPS that were not raised in representations.

### Planning Scheme Amendments

#### Harveys Farm Road rezoning

Council initiated a planning scheme amendment to rezone 11, 17, 17A, 19 & 23 Harveys Farm Road, Bicheno from Light Industrial to the Rural Living zone. This was approved by the Commission on 17 June, which became effective on 23 June 2020.

This application was determined after the LPS was approved for and completed public exhibition. The decision was not incorporated into the LPS, nor was a representation made on this issue.

The Act does not establish a clear process for these circumstances. Put simply, Council must request that the decision on AM2019-02 is subject to a decision so that the rezoning of the subject properties is carried across into the LPS.

**Recommendation: that the Commission rezones 11, 17, 17A, 19 & 23 Harveys Farm Road, Bicheno from Light Industrial to the Rural Living zone, per the recent decision on AM2019-02.**

#### Other Amendment applications

Council currently has at least one other amendment application for the Interim Scheme.

The Act establishes statutory deadlines for Council to determine requests to the Interim Scheme, which do not reflect the LPS process. Other amendments may be lodged for processing, which creates a complication with the future decision on the LPS and the process that is required for them to be included within a final LPS.

**Recommendation: that any current planning scheme amendments be recognised with the decision on the LPS.**

### Biodiversity offsets

Council's position is that the opportunity for biodiversity offsets is deficient and unclear in the SPPs and needs to be revised to:

- Provide for offsets through on-site or off-site reservations, or contributions towards an Biodiversity Offset Fund; and
- Provide guidance through inclusion of an incorporated document.

GSB currently provides for offsets through the planning application process under the Guidelines. This tool is used frequently through the assessment process and often requires offsets as part of conditions on a planning permit. The mechanism is supported by the Councillors, staff and sectors of the community.

Council considers that biodiversity offsets must be able to consider onsite and offsite options, be able to be recognised by formal agreement and provide the option for financial contributions in place of physical.

The SPP's provide mention of on-site biodiversity offsets at clauses C7.6.2 and C7.7.2, P1.2 criterion (e), as follows.

*C7.6.2 Clearance within a priority vegetation area*

*Objective: That clearance of native vegetation within a priority vegetation area:*

- (a) does not result in unreasonable loss of priority vegetation;*
- (b) is appropriately managed to adequately protect identified priority vegetation; and*
- (c) minimises and appropriately manages impacts from construction and development activities.*

*Acceptable Solutions*

*A1*

*Clearance of native vegetation within a priority vegetation area must be within a building area on a sealed plan approved under this planning scheme.*

*Performance Criteria*

*P1.1*

*Clearance of native vegetation within a priority vegetation area must be for:*

*...*

*P1.2*

*Clearance of native vegetation within a priority vegetation area must minimise adverse impacts on priority vegetation, having regard to:*

- (a) the design and location of buildings and works and any constraints such as topography or land hazards;*
- (b) any particular requirements for the buildings and works;*
- (c) minimising impacts resulting from bushfire hazard management measures through siting and fire-resistant design of habitable buildings;*
- (d) any mitigation measures implemented to minimise the residual impacts on priority vegetation;*
- (e) **any on-site biodiversity offsets**; and*
- (f) any existing cleared areas on the site.*

*C7.7.2 Subdivision within a priority vegetation area*

*Objective: That:*

- (a) works associated with subdivision will not have an unnecessary or unacceptable impact on priority vegetation; and*
- (b) future development likely to be facilitated by subdivision is unlikely to lead to an unnecessary or unacceptable impact on priority vegetation.*

*A1*

*Each lot, or a lot proposed in a plan of subdivision, within a priority vegetation area must:*

- (a) be for the purposes of creating separate lots for existing buildings;*
- (b) be required for public use by the Crown, a council, or a State authority;*
- (c) be required for the provision of Utilities;*
- (d) be for the consolidation of a lot; or*
- (e) not include any works (excluding boundary fencing), building area, bushfire hazard management area, services or vehicular access within a priority vegetation area.*

*P1.1*

*Each lot, or a lot proposed in a plan of subdivision, within a priority vegetation area must be for:*

*...*

*P1.2*

*Works associated with subdivision within a priority vegetation area must minimise adverse impacts on priority vegetation, having regard to:*

- (a) the design and location of any works, future development likely to be facilitated by the subdivision, and any constraints such as topography or land hazards;*

- (b) any particular requirements for the works and future development likely to be facilitated by the subdivision;*
- (c) the need to minimise impacts resulting from bushfire hazard management measures through siting and fire-resistant design of any future habitable buildings;*
- (d) any mitigation measures implemented to minimise the residual impacts on priority vegetation;*
- (e) **any on-site biodiversity offsets**; and*
- (f) any existing cleared areas on the site.*

## Objectives

Each clause provides a different statement to the objective for assessment against performance criteria, pursuant to clause 6.10.1(a). Objectives for standards therefore inform assessment against acceptable solutions and performance criteria.

C6.7.2 requires proposals to

### *C7.6.2 Clearance within a priority vegetation area*

*Objective: That clearance of native vegetation within a priority vegetation area:*

- (a) does not result in unreasonable loss of priority vegetation;*
- (b) is appropriately managed to adequately protect identified priority vegetation; and*
- (c) minimises and appropriately manages impacts from construction and development activities.*

Objective (a) is unclear in use of the term *unreasonable*, a term which is in common use through the SPP's but is open to liberal interpretation absent any guidance. Inclusion of Guidelines as an applied, adopted or incorporated document is expected to provide a framework for such guidance.

### *C7.7.2 Subdivision within a priority vegetation area*

*Objective: That:*

- (a) works associated with subdivision will not have an unnecessary or unacceptable impact on priority vegetation; and*
- (b) future development likely to be facilitated by subdivision is unlikely to lead to an unnecessary or unacceptable impact on priority vegetation.*

Objective (a) suffers a similar problem to the previous issue, with the statement unnecessary or unacceptable impact... It is anticipated that the inclusion of Guidelines would also assist interpretation of this clause.

**Recommendation: that offset guidelines be incorporated to the SPP's Appendix A as an Applied, Adopted or Incorporated document.**

## Definition

Biodiversity Offset is not defined in the scheme. Council considers that the definition provided under the Interim Scheme provides clear guidance for the intended mechanism and assists with its use through the application process. The Interim Scheme defines the term as follows:



*means measures that compensate for the residual adverse impacts of an action on the environment, when:*

- (a) alternatives and options to avoid those impacts have been exhausted;*
- (b) it is still considered desirable for other economic, social or environmental reasons for the action to proceed.*

The lack of a clear meaning of the term within the SPP's is expected to frustrate their operation and provide for ineffective or inconsistent operation. To assist with the clear function of the priority vegetation provisions within the SPP's, it is considered appropriate to include such a definition.

Where relevant Council Policies are relied upon, they must also be listed in the LPS Appendix A as an Applied, Adopted or Incorporated document.

**Recommendation: include the following definition of Biodiversity offsets:**

***means an offset proposal prepared in accordance with the guidelines or relevant Council policy, that compensate for the residual adverse impacts of an action on the environment, when:***

- (a) alternatives and options to avoid those impacts have been exhausted; or***
- (b) it is still considered desirable for other economic, social or environmental reasons for the action to proceed.***

#### Revision of offset mechanism

Provision (e) currently requires that offsets must be provided onsite. Wording of the provision clearly restricts consideration of other options. Previous discussion on this issue provides clarity to the intent and improved operation of the overall suite of mechanisms.

The operative SPP provisions then require relatively minor amendment to enable a broader consideration of offset proposals at clauses C7.6.2 and C7.7.2, P1.2 criterion (e).

**Recommendation: that the reference to offset proposals be revised at clauses C7.6.2 and C7.7.2, P1.2 criterion (e), as follows:**

- (e) any biodiversity offset proposal; and***

#### Waterfront building height and setback

Council expressed its ongoing concern at the impacts that development have on coastal locations, principally in terms of height and setback.

The SPP's provide assessment of use and development impacts through standards that make some reference to visual impact in the relevant zones (residential, commercial suite, rural and environmental suites) and codes.

As previously noted, the SPP Code for Scenic Protection, which can logically provide for consideration of this issue, does not allow for its effective use in these areas. The SPP's make no provision to enable consideration of this issue, except where viewed from a road.

Under the current SPP's, the appropriate tool for management of building height and setback in coastal locations is the development of a Specific Area Plan. It is understood at least one other Council is seeking to use Specific Area Plans to address similar issues. In addition, Council is

seeking review of the Scenic Protection Code to allow consideration of this issue under within that mechanism.

Council has significant concerns on the lack of consideration of this issue and it is listed within the 35G notice. Further, it is recommended that Council consider progressing a planning scheme amendment once the LPS is made. This will allow consideration of the response to the 35G notice.

Regardless, the issue is of significance to the Council and community and is therefore provided with a recommendation.

**Recommendation: That C8 Scenic Protection Code be urgently reviewed for the following:**

- **expand the operation of the Code to consider broader scenic landscapes, such as coastal locations and rural areas and the impacts of development on their scenic quality;**
- **improve the ability of the code to comply with strategies identified in the Regional Land Use Strategies for management of scenic resources and the Objectives of the Resource Management and Planning System and Land Use Planning and Approvals Act 1993 for sustainable development, management of resources and consideration of intergenerational impacts;**
- **consider the impacts of the exemptions on the function and purpose of the Code;**
- **provide recognition for the significance of scenic values (such as national state and local) and the impacts of development on them; and**
- **Establish specific guidelines for the identification of scenic values and management objectives for use in developing the provisions.**

#### Light Reflectance Value tests

Standards in the Low Density Residential and Landscape Conservation Zones of the SPP's set a threshold for exterior building finishes of 40%, yet provide no definition of the term nor process to measure the value.

The relevant standards invoke discretion when reflectance values exceed 40% and are likely become contested at some point, due to the locations where the subject zones can be used and the nature of proposals that are received.

The uncertainty created by the lack of a definition and setting the assessment standard for light reflectance is not a reasonable position for the SPP's to adopt. It is also likely to result in arguments in appeal proceedings that will increase the cost of those processes for affected parties.

It is expected that this omission was an oversight in preparation of the SPP's and subject to an easy remedy.

**Recommendation: that the SPP's be modified to define the term Light Reflectance Value at Table 3.1, which refers to the relevant Australian Standard, with the Australian Standard included as an incorporated document.**

#### Planning provisions at The Fisheries, Freycinet

Representations 38 and 45 raised the loss of the subdivision prohibition at the Fisheries in Coles Bay. Both representations were supported for creation of a new Particular Purpose zone at the Fisheries.

Review of the representations and the 1994 Scheme identified that the previous provisions that restricted development in that area were lost with introduction of the Interim Scheme and application of the full ambit of the Low Density Residential zone.

The Glamorgan Spring Bay Planning Scheme 1994 Scheme contained provisions that recognised the Fisheries as a particularly unique area and provided specific objectives to reflect this and the following restriction on use and development at clause 8.1.3:

*Notwithstanding the provisions of the above, any use or development other than that identified as either exempt or permitted shall be prohibited in the area known as “The Fisheries” at Coles Bay.*

The following provides the permitted and discretionary entitlements within the Village zone of the 1994 Scheme:

Permitted	Discretionary
<i>Dwelling</i>	<i>Active Recreation</i>
<i>Home Business</i>	<i>Child Care Centre</i>
<i>Public Utility (minor)</i>	<i>Civic Building/Centre</i>
<i>Outbuilding</i>	<i>Communal Dwelling</i>
<i>Passive Recreation</i>	<i>Educational Establishment</i>
<i>Public Park</i>	<i>Local Shop</i>
	<i>Miscellaneous</i>
	<i>Multiple Dwelling Units</i>
	<i>Subdivision</i>
	<i>Telecommunications</i>
	<i>Infrastructure</i>
	<i>Visitor Accommodation</i>

This clearly demonstrates that Subdivision and a range of other uses were prohibited at the Fisheries.

The uses allowed under the Low Density Residential zone are substantially similar to those permitted at the Fisheries under clause 8.3.1 of the 1994 Scheme.

The area was proposed to retain the Low Density Residential zone under the LPS.

Review of the use table under the Low Density identifies a significant difference with the nature of the area and the uses that are possible under the SPP's.

In addition to the use issues, there are location and infrastructure issues. The area was subdivided decades ago and does not have access to infrastructure that is typically required for similar styles of subdivision under recent times.

Access is significantly constrained, with the location in Freycinet National Park and the nature of the roads in the local area.

Suitability of the area for the discretionary uses is not clear. The SPP's assume that the road infrastructure is suitable for the intended zoning and that the range of discretionary uses can be accommodated under a Planning Scheme.

The environmental sensitivities of the area also question the suitability of the zoning for the area, which was never reviewed as part of the assessment of the Interim scheme (the process was terminated by State upon commencement of the current reform agenda).

It is noted that the character and limitations of the area raise significant questions over its suitability for commercial and other non-residential uses. Access to the Fisheries is limited through both location (within the Freycinet National Park) and physical infrastructure. Roads are provided by Parks to the area generally and then of limited quality to individual properties. Their capacity to sustain traffic for the range of discretionary uses within the Low Density Residential zone is questionable.

#### Draft PPZ

The draft PPZ is provided as part of the recommendation. Generally, the PPZ standards are an amalgam of the Low Density Residential and Landscape Conservation zones.

Local Area Objectives were not used, due to the requirement that they must apply to part of a zone and cannot be used across the entire area. The proposed zone is small, which is not conducive to this mechanism.

GSB-P6.4 provides no permit required and permitted uses for the area based on the Low Density Residential zone. Discussion with Council determined multiple dwellings were not to be supported in the area. They are not allowed under the Interim Scheme but are available under the Low Density Residential zone of the SPP's. Not including them in the PPZ will not remove any existing development opportunity that property owners already have.

Visitor Accommodation retains permitted status from the current Interim Scheme and retains the use standard at A1 and P1 of clause 10.3.2 of the SPP's.

Given the limited use table, other use standards of the zone were limited to external lighting. This was considered appropriate to the nature of the area.

Standards for site coverage were obtained from the Rural Living and Landscape Conservation zones. A test on Development Area was included to reflect the sensitivities of the location and its visually prominent location. This was sourced from the Environmental Management zone, which covers the adjoining Freycinet National Park.

Acceptable solutions for buildings, access and landscape protection were sourced from the Low Density Residential zone, with performance criteria sourced from the Landscape Conservation zone of the SPP's. Both were modified to include consideration of the impacts of vegetation removal for Bushfire hazard management.

Standards for frontage fences were sourced from the Low Density Residential zone for A1 and Landscape Conservation zone for P1.

Subdivision standards at A1 are based on the Low Density Residential zone requirements. P1 provides a test of discretion based on the zone purpose and requirements of the Road Authority (being Council and Parks). Given the limited nature of subdivisions under A1, the general suitability tests of both the Low Density Residential and Landscape Conservation zones were not considered necessary. Frontage standards at A3/P3 reflect the requirements of both the Low Density Residential and Landscape Conservation zones.

Tables were not considered necessary for the PPZ.

## Mapping

The PPZ requires identification on the zoning maps of the LPS to define the extent of the provisions.

The following titles reflect the privately owned land at the Fisheries, which provides the base for this mapping. The following titles comprise the area in Figure 15.

Folio of the Register
143508/1, 23771/1 & 23771/9, 23771/2 & 23771/10, 23772/4, 23772/5, 23772/6, 23772/7, 48967/1, 48967/2, 178683/1, 120121/1 & 120121/2, 111118/1, 108884/35, 108884/34, 145308/1, 145308/2, 108884/33, 18122/27, 18122/28, 119455/1 & 119455/2, 18122/18, 18122/19, 18122/20, 18122/21, 18122/22, 18122/23, 18122/24, 18122/25, 145281/26, 53307/2, 53307/1, 53307/3, 24253/5, 114818/32, 114818/31, 18122/30, 18122/29, 148180/1 PID 5291142

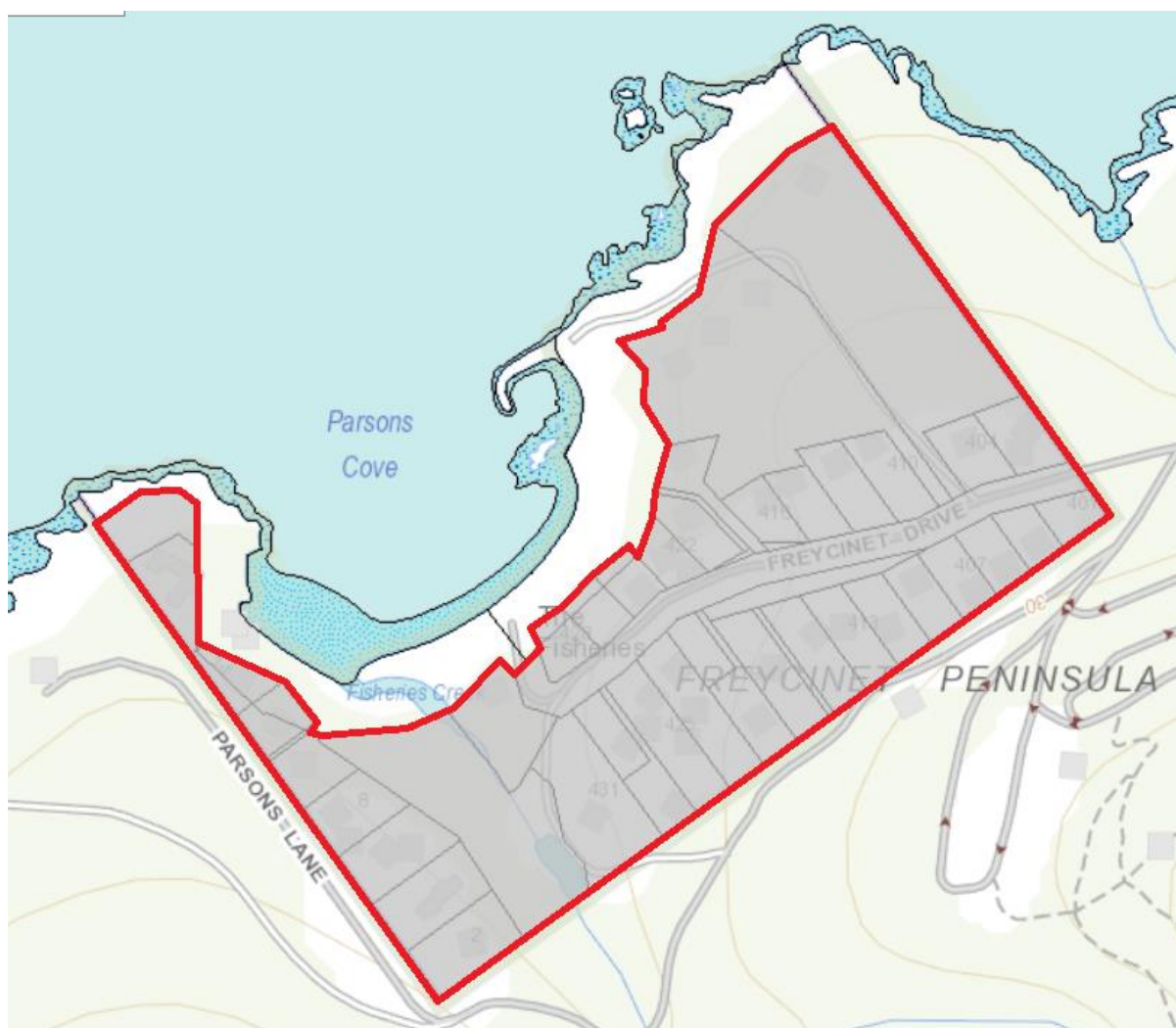


Figure 15 - proposed Particular Purpose Zone at the Fisheries



### Assessment against the Act

The Act requires that local provisions meet a range of tests, specifically including the following at section 32(4):

- (4) *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.*

The scenic and landscape values of the Freycinet Peninsula are recognised nationally, if not globally, and considered to contribute to the desirable nature of the area as a tourism destination at all levels from the local area to global markets. The contribution of the tourism industry to the economy of the east coast was well documented in 'Regional Tourism Satellite Account – East Coast 2015-16' prepared by Deloitte Access Economics and as noted in response to other issues in the supporting report. The East Coast was ranked first overall in the overall comparative importance of tourism across Tasmania's regions, contributing an output of \$241.5 million and \$185.4 million in direct and indirect tourism outputs and has a total contribution of employing 77.2% of employed people, with 44.3% being employed directly.

As discussed in response to other representations, there are strategic and policy responses to the significance of landscape and scenic qualities of the Southern region and east coast. Use of a Particular Purpose zone for the Fisheries is consistent with those strategies and policies, as much as is reasonably possible within the constraints of the SPP's.

The policy basis as a result of the Particular Purpose zone has been limited as much as possible and is considered to meet the LPS criteria.

The SSQs further the objectives in Schedule 1 of the Act by providing for the fair, orderly and sustainable development of land that is already developed for the purpose of residential accommodation, while recognising the extremely sensitive location and qualities of the area. This allows reasonable development of the existing lots without compromising other objectives.

It is considered that the tourism and scenic values of the Freycinet Peninsula and specifically, the Fisheries, are significant to the local, regional and state economic, social and environmental values.

It is also considered that the particular environmental and spatial values of the Fisheries area within Freycinet National Park, are of such unique circumstance and significance to that area of land within the State, that substitution of subdivision controls that apply under the Low Density Residential zone under the SPP is necessary.

The PPZ is therefore considered to meet the requirements of the Act.

**Recommendation: That GSB-P6.0 Particular Purpose Zone – The Fisheries, as follows, be included in the LPS.**



## GSB-P6.0 Particular Purpose Zone – The Fisheries

### GSB-P6.1 Zone Purpose

The purpose of the Particular Purpose Zone – The Fisheries is:

- GSB-P6.1.1 To provide for residential use within the Fisheries.
- GSB-P6.1.2 To provide for use that is of a scale and intensity that minimises impact to the scenic, environmental and landscape values of the area and location within the Freycinet National Park.
- GSB-P6.1.3 To manage impacts on the scenic, environmental and landscape values of the Fisheries and impacts are not obtrusive on the amenity of the Fisheries.

### GSB-P6.2 Local Area Objectives

This sub-clause is not used in this particular purpose zone.

### GSB-P6.3 Definition of Terms

This sub-clause is not used in this particular purpose zone.

### GSB-P6.4 Use Table

Use Class	Qualification
<b>No Permit Required</b>	
Natural and Cultural Values Management	
Passive Recreation	
Residential	If for single dwelling
Utilities	If for minor utilities.
<b>Permitted</b>	
Residential	If for home-based business
Utilities	If not listed as No Permit Required.
Visitor Accommodation	
<b>Discretionary</b>	

Not used in this zone	
<b>Prohibited</b>	
All other uses	

## GSB-P6.5 Use Standards

### GSB-P6.5.1 Visitor Accommodation

Objective:	That Visitor Accommodation is of a scale that is: (a) compatible with the scenic, environmental and landscape values of the site and surrounding area; and (b) does not impact the safety and efficiency of local roads or private rights of way.
Acceptable Solutions	Performance Criteria
<b>A1</b> Visitor Accommodation: (a) guests are accommodated in existing buildings; and (b) has a gross floor area of no more than 200m <sup>2</sup> .	<b>P1</b> Visitor Accommodation must minimise impacts on the scenic, environmental and landscape values of the Fisheries, having regard to: (a) the nature, scale and extent of accommodation uses in the Fisheries; (b) the impact of the use on the values of the site; (c) any adverse impacts on the safety and efficiency of the local road network or owners and users of rights of carriageway; (d) the scenic, environmental and landscape value of the surrounding area; and (e) measures to minimise or mitigate impacts.

### GSB-P6.5.3 External lighting

Objective:	That external lighting does not have an unreasonable impact on the landscape and scenic values of the Fisheries.
Acceptable Solutions	Performance Criteria

<p><b>A1</b></p> <p>External lighting must comply with all of the following:</p> <ul style="list-style-type: none"> <li>(a) be turned off between 10:00pm and 6:00am, except for security lighting; and</li> <li>(b) security lighting must be baffled to ensure that direct light does not extend beyond the property boundary.</li> </ul>	<p><b>P1</b></p> <p>External lighting must not be obtrusive on the scenic, environmental and landscape values of the site and surrounding area, having regard to:</p> <ul style="list-style-type: none"> <li>(a) the number of proposed light sources and their intensity;</li> <li>(b) the location of the proposed light sources;</li> <li>(c) the topography of the site; and</li> <li>(d) any existing light sources.</li> </ul>
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## GSB-P6.6 Development Standards for Buildings and Works

GSB-P6.6.1 Site coverage and development area

Objective:	That the site coverage is compatible with the protection, conservation and management of the scenic, environmental and landscape values of the site and surrounding area.
Acceptable Solutions	Performance Criteria
<p><b>A1</b></p> <p>Site coverage must be not more than 30%.</p>	<p><b>P1</b></p> <p>Site coverage must not be obtrusive on the scenic, environmental and landscape values of the site and surrounding area, having regard to:</p> <ul style="list-style-type: none"> <li>(a) the topography of the site;</li> <li>(b) the capacity of the site to absorb run-off and waste water;</li> <li>(c) the size and shape of the site;</li> <li>(d) the existing buildings and any constraints imposed by existing development;</li> <li>(e) the need to remove vegetation;</li> <li>(f) the location of development in relation to cleared areas; and</li> <li>(g) the location of development in relation to natural hazards.</li> </ul>
<b>A2</b>	<b>P2</b>

Development area must be not more than 500m <sup>2</sup> .	<p>The development area must not cause an unreasonable impact on the scenic, environmental and landscape values of the site and surrounding area, having regard to:</p> <ul style="list-style-type: none"> <li>(a) the design, siting, scale and type of development;</li> <li>(b) the operation of the use;</li> <li>(d) the need for the development to be located on the site;</li> <li>(e) how any significant values on the site are managed; and</li> <li>(f) any protection, conservation, remediation or mitigation works.</li> </ul>
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GSB-P6.6.2 Building height, siting and exterior finishes

Objective:	<p>That building height, siting and exterior finishes:</p> <ul style="list-style-type: none"> <li>(a) protects the amenity of adjoining properties;</li> <li>(b) minimises the impact on the scenic, environmental and landscape values of the area; and</li> <li>(c) minimises the impact on adjoining agricultural uses.</li> </ul>
Acceptable Solutions	Performance Criteria
<p><b>A1</b></p> <p>Building height must be not more than 6m.</p>	<p><b>P1</b></p> <p>Building height must be compatible with the scenic, environmental and landscape values of the Fisheries, having regard to:</p> <ul style="list-style-type: none"> <li>(a) the height, bulk and form of proposed buildings;</li> <li>(b) the height, bulk and form of existing buildings;</li> <li>(c) the topography of the site;</li> <li>(d) the visual impact of the buildings when viewed from roads and public places; and</li> <li>(e) the landscape values of the surrounding area.</li> </ul>
<b>A2</b>	<b>P2</b>

<p>Buildings must have a setback from a frontage not less than 8m.</p>	<p>Building setback from a frontage must be compatible with the scenic, environmental and landscape values of the surrounding area, having regard to:</p> <ul style="list-style-type: none"> <li>(a) the topography of the site;</li> <li>(b) the frontage setbacks of adjacent buildings;</li> <li>(c) the height, bulk and form of existing and proposed buildings;</li> <li>(d) the appearance when viewed from roads and public places;</li> <li>(e) the safety of road users; and</li> <li>(f) the retention of vegetation.</li> </ul>
<p><b>A3</b></p> <p>Buildings must have a setback from side and rear boundaries not less than 5m.</p>	<p><b>P3</b></p> <p>Buildings must be sited to not cause an unreasonable loss of amenity, or have an obtrusive impact on the scenic, environmental and landscape values of the site or area, having regard to:</p> <ul style="list-style-type: none"> <li>(a) the topography of the site;</li> <li>(b) the size, shape and orientation of the site;</li> <li>(c) the side and rear setbacks of adjacent buildings;</li> <li>(d) the height, bulk and form of existing and proposed buildings;</li> <li>(e) the need to remove vegetation as part of the development;</li> <li>(f) the appearance when viewed from roads and public places; and</li> <li>(g) the scenic, environmental and landscape values of the surrounding area.</li> </ul>
<p><b>A4</b></p> <p>Exterior building finishes must have a light reflectance value not more than 40%, in dark natural tones of grey, green or brown.</p>	<p><b>P4</b></p> <p>Exterior building finishes must not have an obtrusive impact on the scenic, environmental and landscape values of the site or surrounding area, having regard to:</p>

	<ul style="list-style-type: none"> <li>(a) the appearance of the building when viewed from roads or public places in the surrounding area;</li> <li>(b) any screening vegetation;</li> <li>(c) the nature of the exterior finishes; and</li> <li>(d) any other measures to mitigate impacts to the landscape values of the surrounding area.</li> </ul>
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GSB-P6.6.3 Access to a road

Objective:	That new dwellings have appropriate vehicular access to a road maintained by a road authority.	
<b>Acceptable Solutions</b>		<b>Performance Criteria</b>
<b>A1</b> New buildings must be located on lots that have frontage with access to a road maintained by a road authority.		<b>P1</b> New dwellings must have legal access, by right of carriageway, to a road maintained by a road authority that is sufficient for the intended use, having regard to: <ul style="list-style-type: none"> <li>(a) the number of users of the access;</li> <li>(b) the length of the access;</li> <li>(c) the suitability of the access for use by the occupants of the dwelling;</li> <li>(d) the suitability of the access for emergency services vehicles;</li> <li>(e) the topography of the site;</li> <li>(f) the construction and maintenance of the access; and</li> <li>(g) the construction, maintenance and usage of the road.</li> </ul>

GSB-P6.6.4 Landscape protection

Objective:	That the landscape values of the site and surrounding area are protected or managed to minimise adverse impacts.	
<b>Acceptable Solutions</b>		<b>Performance Criteria</b>



<p><b>A1</b></p> <p>Buildings and works must:</p> <ul style="list-style-type: none"> <li>(a) be an alteration or extension to an existing building providing it is not more than the existing building height; and</li> <li>(b) not include cut and fill greater than 1m; and</li> <li>(c) be not less than 10m in elevation below a skyline or ridgeline.</li> </ul>	<p><b>P1</b></p> <p>Buildings and works must be located to minimise impacts on landscape values, having regard to:</p> <ul style="list-style-type: none"> <li>(a) the topography of the site;</li> <li>(b) the size and shape of the site;</li> <li>(c) the proposed building height, size and bulk;</li> <li>(d) any constraints imposed by existing development;</li> <li>(e) visual impact when viewed from roads and public places;</li> <li>(f) any vegetation removal required for the construction of the proposal or as a result of a Bushfire Hazard Management Plan; and</li> <li>(g) any existing or proposed screening vegetation.</li> </ul> <p><b>P1.2</b></p> <p>If the building and works are less than 10m in elevation below a skyline or ridgeline, there are no other suitable building areas.</p>
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GSB-P6.6.5 Frontage fences

Objective:	That fencing does not detract from the appearance of the site or the locality and provides for passive surveillance.
Acceptable Solutions	Performance Criteria
<p><b>A1</b></p> <p>No Acceptable Solution.<sup>9</sup></p>	<p><b>P1</b></p> <p>Fencing must not have an obtrusive impact on the scenic, environmental and landscape values of the area and streetscape, having regard to:</p> <ul style="list-style-type: none"> <li>(a) the location and extent of the fence;</li> <li>(b) the height of the fence;</li> <li>(c) the transparency of the fence;</li> </ul>

<sup>9</sup> An exemption applies for fences in this zone – see Table 4.6.

	<p>(d) the design, material, colour of the fence and its method of construction; and</p> <p>(e) the requirements of the use.</p>
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## GSB-P6.7 Development Standards for Subdivision

### GSB-P6.7.1 Subdivision

Objective:	That subdivision is for the creation of lots for public purposes.	
Acceptable Solutions	Performance Criteria	
<p><b>A1</b></p> <p>Each lot, or a lot proposed in a plan of subdivision, must:</p> <ul style="list-style-type: none"> <li>(a) be required for public use by the Crown, a council or a State authority;</li> <li>(b) be required for the provision of Utilities; or</li> <li>(c) be for the consolidation of a lot with another lot provided each lot is within the same zone.</li> </ul>	<p><b>P1</b></p> <p>No Performance Criterion.</p>	
<p><b>A2</b></p> <p>Each lot, or a lot proposed in a plan of subdivision, excluding for public open space, a riparian or littoral reserve or Utilities, must have a frontage not less than 20m.</p>	<p><b>P2</b></p> <p>Each lot, or a lot proposed in a plan of subdivision, must be provided with reasonable frontage, sufficient to accommodate development consistent with the Zone Purpose and the requirements of the Road Authority.</p>	
<p><b>A3</b></p> <p>Each lot, or a lot proposed in a plan of subdivision, must be provided with a vehicular access from the boundary of the lot to a road in accordance with the requirements of the road authority.</p>	<p><b>P3</b></p> <p>Each lot, or a lot proposed in a plan of subdivision, must be provided with reasonable vehicular access to a boundary of a lot or building area on the lot, if any, having regard to:</p> <ul style="list-style-type: none"> <li>(a) the topography of the site;</li> <li>(b) the distance between the lot or building area and the carriageway;</li> <li>(c) the nature of the road and the traffic;</li> </ul>	

	<ul style="list-style-type: none"><li>(d) the anticipated nature of vehicles likely to access the site; and</li><li>(e) the ability for emergency services to access the site.</li></ul>
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#### **GSB-P6.8 Tables**

This sub-clause is not used in this particular purpose zone.

## 2. Section 35G LUPAA – Planning Authority Notice - Recommended Amendments to the State Planning Provisions

The Act provides the following with respect to alterations of the SPP's:

**35G. Planning authority may notify Minister as to whether amendment of SPPs is required**

- (1) *A planning authority, by notice to the Commission, may advise the Commission that, having considered –*
- (a) a draft LPS, in relation to the municipal area of the planning authority, that has been made available for viewing by the public under section 35D(1)(b)(i) ; and*
  - (b) representations made under section 35E(1) in relation to the relevant exhibition documents in relation to the draft LPS –*
- the planning authority is of the opinion that the content of a provision of the SPPs should be altered*

The Planning Authority may issue a notice to the Minister where it has the opinion that a provision of the SPP's should be altered, following exhibition and assessment of representations.

That notice is issued to the Commission, who must then consider the merits of the notice and may then forward the notice to the Minister for Planning, together with its opinion of the advice. The Minister is then required to consider these documents.

There is no statutory timeframe for the consideration of matters raised in 35G Notices.

Assessment of the LPS and representations submitted to it identified the following matters that require consideration.

### Tasnetworks:

Appendix 2 of the representation identifies a range of circumstances where conflicts occur between the exemptions within the SPP's and statutory easement rights that exist for Tasnetworks. These conflicts are presented as either being manageable through the development process or resulting in a safety and operational hazard. .

Planning response: The identified issues were assessed as relevant and worthy of support. They are therefore considered to have merit to the functional operation of the SPP's. A recommendation is provided to address these concerns.

**Recommendation: Include a qualification in section 4.0 Exemptions for the development listed at Section 6 Appendix 2 Table 11 of the TasNetworks representation as follows:**

***“unless the Electricity Transmission Corridor or an Inner Protection Area of the Electricity Transmission Infrastructure Protection Code applies and requires a permit for the use and development”.***

### Scenic management Code

Various representations

45, 48,

Representation 45 promotes application of the Scenic Management Code to the Freycinet Peninsula.

Review of the Code itself identifies that the standards do not provide for protection of broad landscapes, but rather it 'protects' skylines, ridgelines and scenic road corridors. This is confirmed by the *Guidelines for Scenic Values Assessment methodology and local provisions schedule for the Scenic Protection Code*.

The code purpose is defined at clause C8.1.1 as *To recognise and protect landscapes that are identified as important for their scenic values*. The following standards at clauses C8.6.1 and C8.6.2 then set standards that remove consideration of all scenic values aside from vegetation removal affecting skylines or projects under 500m<sup>2</sup> or scenic road corridors.

The ability of the code to deliver the stated intent is not clear. The ability of these standards to comply with the objectives of the RMPS and Act is similarly vague.

As noted in representation 45, the scenic qualities of the Freycinet Peninsula form a significant resource for the east coast region, underpin the amenity of the area to locals and visitors alike and arguably form an iconic representation of the Tasmanian identity both within and outside of Tasmania.

Representation 45 also identifies that the Great Eastern Drive has landscapes that are worthy of protection that are not provided for within the Scenic Protection code. The subject landscapes fall outside the 200 or 240 metre scenic road corridor and the scenic protection areas.

Logically, there are a range of such landscapes across the state that comprise iconic representations of the Tasmanian identity that cannot be managed under the Code. Discussions with Council identified that these landscapes ought to be prioritised, with scenic values and management objectives prepared by the State for iconic landscapes.

The only mechanism to provide for assessment of those landscapes is through the wide scale application of the Scenic Road Corridor overlay under definition a) at clause C8.3.1. This creates an issue in that the broad scale areas that would be necessary to manage these landscapes then become the only effective scenic protection area. The definition at clause a) does not require frontage for the corridor, unlike b). This is somewhat limited in that the performance criterion require assessment of the impact on scenic values of the road corridor and do not allow consideration of other significant viewing points such as public spaces, lookouts, beaches and so forth.

It is clear that there are sufficient questions over the ability of the code provisions to deliver its stated intent and the identified strategic objectives in the RLUS. Further, compliance with the objectives of the RMPS and Act is at best questionable.

**Recommendation: That C8 Scenic Protection Code be urgently reviewed for the following:**

- **expand the operation of the Code to consider broader scenic landscapes, such as coastal locations and rural areas and the impacts of development on their scenic quality;**
- **improve the ability of the code to comply with strategies identified in the Regional Land Use Strategies for management of scenic resources and the Objectives of the Resource Management and Planning System and Land Use Planning and Approvals Act 1993 for sustainable development, management of resources and consideration of intergenerational impacts;**
- **consider the impacts of the exemptions on the function and purpose of the Code;**
- **provide recognition for the significance of scenic values (such as national, state and local) and the impacts of development on them; and**

- **Establish specific guidelines for the identification of scenic values and management objectives for use in developing the provisions.**

### Priority vegetation

Reps 2, 48 TLC

Representation 48 seeks revision of the LPS mapping to include all species and vegetation communities listed under the Threatened Species Protection Act, Nature Conservation Act and Environment Protection and Biodiversity Conservation Act to recognise important cross tenure landscape linkages and corridors in the context of increasing biodiversity issues and climate change. Other representations make reference to the issue.

The Priority Vegetation layer was prepared in accordance with the Regional Ecosystem Model (REM) development by Natural Resource Planning, which is understood to have been adopted by the overwhelming majority of Council's in preparing the Priority Vegetation overlay.

For representation 48 to be actioned, it is necessary for the Priority Vegetation mapping requirements to be revised to reflect industry practice. The issue goes to the core of compliance with the objectives of the RMPS and Act. It was also subject to extensive and eloquent examination in the Meander Valley s.35G Notice, summarised as follows:

- the specified data sources to compose the priority vegetation layer at section LP1.7.5(c) of the SPP's are dysfunctional;
- the REM was developed to overcome the evident failures of the prescribed data sources;
- the REM, as adopted by 28 of 29 Councils, provides the functional basis for delivery of information suitable to compose the Priority Vegetation overlay.

In this respect, revision of the Priority Vegetation mapping to reflect the REM and its review is considered necessary. Review of the REM is expected to occur as part of the incorporation into the SPP's, which will then deliver the mechanism across municipal boundaries.

The request also identifies that the following should be included within the mapping: *all species and vegetation communities listed under the Threatened Species Protection Act, Nature Conservation Act and Environment Protection and Biodiversity Conservation Act to recognise important cross tenure landscape linkages and corridors in the context of increasing biodiversity issues and climate change.*

In this respect, the simple incorporation of external data sets is not supported, because it recreates the SPP listing problem at LP1.7.5(c), without providing the integrity of data accommodation to support the REM and ongoing use of the overlay. It is expected that the revisions to the SPP's will consider these sources as part of the composition of the REM.

It is also noted that Meander Valley Council provided extensive submissions on the integrity of the code provisions compared to the statutory obligations provided under the Act, RLUS, SPP's generally and specifically the Natural Assets Code. These submissions are supported.

**Recommendation: that the SPP's be revised to:**

- **recognise the Regional Ecosystem Model as the basis for the Priority Vegetation overlay;**
- **review the composition of the Regional Ecosystem Model to ensure it provides a suitable data base to deliver the functions and protections of the Natural Assets Code, RMPS and the Act; and**
- **have State take on ownership and maintenance of the REM as part of the Natural Assets Code.**



### Water quality management

Representation 28 raised the issue of impacts from development affecting water quality in estuarine areas and the shellfish industries located in them.

Council supported the intent of the representation, while noting that the regulatory systems that manage this issue through the planning process are embedded within the SPP's and therefore beyond the scope of Council to manage or improve. The issue is listed for consideration in the Notice.

It is noted that this issue has significant implications for compliance with the objectives of the Resource Management and Planning System, in addition to the Act. Specific considerations include 1.1 (a), (b) and (e), and 2 (b), (c), (d) and (g). Compliance with the State Policy for Water Quality Management must also be questioned.

The nature of the concerns do not allow for Council to prepare a proposed remedy, as they affect the highest level of compliance with the RMPS and Act.

**Recommendation: That the SPP's be reviewed to improve water quality management outcomes from development and the subsequent impacts that land development have on nearby aquatic environments.**

### Light impacts

Representation 32 raised the need to manage light impacts at night from development on landscapes with significant perceived natural or undisturbed values.

The representation raised the matter in the context of the LPS. Council can see that the issue has merits within the landscapes that comprise significant parts of the Glamorgan area and further, across other landscapes with limited development that form significant or iconic landscapes within Tasmania.

The available tools under the SPP's do not appear to provide mechanisms that can provide for the management of this issue within the broader landscape context. Some transitional provisions within the LPS provide for local management of this issue through SAP's. Management of wider areas, such as the Freycinet Peninsula and parts of the surrounding landscape, do not lend themselves to this type of control.

Given that the issue exists across the State and the lack of suitable tools under the SPP's, the only option for Council is to list the matter for consideration by the Commission in the 35G Notice.

No remedy is provided for this issue, as the required policy framework does not yet exist and the alterations to then deliver those policies through the Scenic Protection Code or other tools under the SPP's would be extensive.

It is considered that the appropriate management of lighting impacts on sensitive landscapes is consistent with the Schedule 1 Objectives for the planning system and the Act, in particular 1.1 and 2 (b), (c), (d) and (g) (please refer to Attachment 1 for a full set of objectives).

**Recommendation: That the SPP's be reviewed to manage lighting impacts to significant or iconic landscapes.**

## Attachment 1 - RMPS & LUPAA Objectives

### Part 1 - Objectives of the Resource Management and Planning System of Tasmania

1. *The objectives of the resource management and planning system of Tasmania are –*
  - (a) *to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity; and*
  - (b) *to provide for the fair, orderly and sustainable use and development of air, land and water; and*
  - (c) *to encourage public involvement in resource management and planning; and*
  - (d) *to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c); and*
  - (e) *to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State.*
2. *In clause 1 (a) , sustainable development means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural well-being and for their health and safety while –*
  - (a) *sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations; and*
  - (b) *safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
  - (c) *avoiding, remedying or mitigating any adverse effects of activities on the environment.*

### Schedule 1 Part 2 - Objectives of the Planning Process

*The objectives of the planning process established by this Act are, in support of the objectives set out in Part 1 of this Schedule –*

- (a) *to require sound strategic planning and co-ordinated action by State and local government; and*
- (b) *to establish a system of planning instruments to be the principal way of setting objectives, policies and controls for the use, development and protection of land; and*
- (c) *to ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land; and*
- (d) *to require land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels; and*
- (e) *to provide for the consolidation of approvals for land use or development and related matters, and to co-ordinate planning approvals with related approvals; and*

- (f) to secure a pleasant, efficient and safe working, living and recreational environment for all Tasmanians and visitors to Tasmania; and*
- (g) to conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value; and*
- (h) to protect public infrastructure and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community; and*
- (i) to provide a planning framework which fully considers land capability.*