

Representation No. 25

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Subject: Representation to LPS
Importance: High

Attention planning department

Please find the attached representation to the Draft Local Provisions Schedule to the Tasmanian Planning Scheme.

The attached document relates to Rocky Cape Road, Rocky Cape.

Kind Regards



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Representation for Planning Scheme Amendment
Draft Local Provisions Schedule
PROPOSED REZONING OF LAND



CT: 131433/1

Rocky Cape Road, Rocky Cape

Supporting Documentation

April 2020



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Signature

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Date

18 March 2020

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1 Proposed Amendment

EnviroPlan Australia has been commissioned by R & S O'Reilly to prepare supporting documentation for an application to make a representation to the Council in accordance with the Tasmanian Planning Commission's directive for the public exhibition of the Draft Circular Head Local Provisions Schedule (LPS) under s. 35B of the *Land Use Planning and Approvals Act 1993 (the Act)*.

This representation for the proposed amendment seeks to rezone a portion of land located on current CT: 131433/1 from Rural Resource to Rural Living under the LPS. The subject land is approximately 14.94 ha and located at Rocky Cape Road, Rocky Cape.

The amendment to the proposed zoning of the land will enable the land to be utilised for future residential use and development within this plateaued area. The amended zoning of the subject land accommodates the expansion of Rural Living use and development in the Rocky Cape area that is consistent with an established settlement development pattern, provides for the appropriate arrangement and juxtaposition of zoning, and is consistent with guiding principles of the Cradle Coast Regional Land Use Strategy 2010 - 2030.

It is suggested that adjacent land to the west of the subject proposal that contains existing residential uses is likewise zoned to a Rural Living zone as these have no capability of rural resource development due to land size, position and lack of land capability.

This report provides an analysis of the site and the consideration of the statutory requirements and the Circular Head Council Corporate Strategic Plan 2017-2027 as well as the Cradle Coast Regional Land Use Strategy 2010 – 2030 against the merits of the proposed amendment.

2 Site Analysis

2.1 Title & Location

The Certificate of Title for the subject site is CT: 131433/1 (PID: 1901388). The approximately 14.94 ha area fronts onto Rocky Cape Road, Rocky Cape and R & S O'Reilly are the proponents of the amendment to the LPS.



Figure 1 – Location of land CT: 131433/1 Rocky Cape Road, Rocky Cape. (Source: www.thelist.tas.gov.au)

2.2 Existing Zoning and Overlays of the Site and Surrounds

The current zoning of the site under the Circular Head Interim Planning Scheme 2013 is Rural Resource (as identified by Figure 3 below). The zoning in this area is proposed to be retained whilst the land east of the site is to be designated as Environmental Management.

Land designated to the Rural Living zone is located to the south west on the southern side of the Bass Highway.



★ = Suggested titles to include in zone amendment that contain habitable buildings

Figure 3 – Zoning of Site under the *Circular Head Interim Planning Scheme 2013*. (Source: www.thelist.tas.gov.au)

Low and Medium risk landslip overlays are contained over the site as demonstrated in Figure 4 below.

No specific area provisions nominated under the Draft Circular Head Local Provisions Schedule or under the current Interim Scheme are observed for the subject land.

2.3 Topography

The subject site sits on a plateaued area that sits at the foot of a hillside to the east.

Land to the east is the Rocky Cape National Park whilst housing allotments abut the western and southern boundaries of the site.

2.4 Land Stability

It is understood that the landslide mapping incorporated into the Circular Head Interim Planning Scheme 2013 is based upon mapping produced by the Department of Premier and Cabinet (DPAC) in consultation with Mineral Resources Tasmania (MRT), and provides for the State land area to be mapped and categorised into four Landslide Hazard Bands. This is understood to be transferred through to the new LPS.

In accordance with Figure 4 below, low and medium landslide risks are present on the land within the site and are identified as being susceptible to landslide hazard.

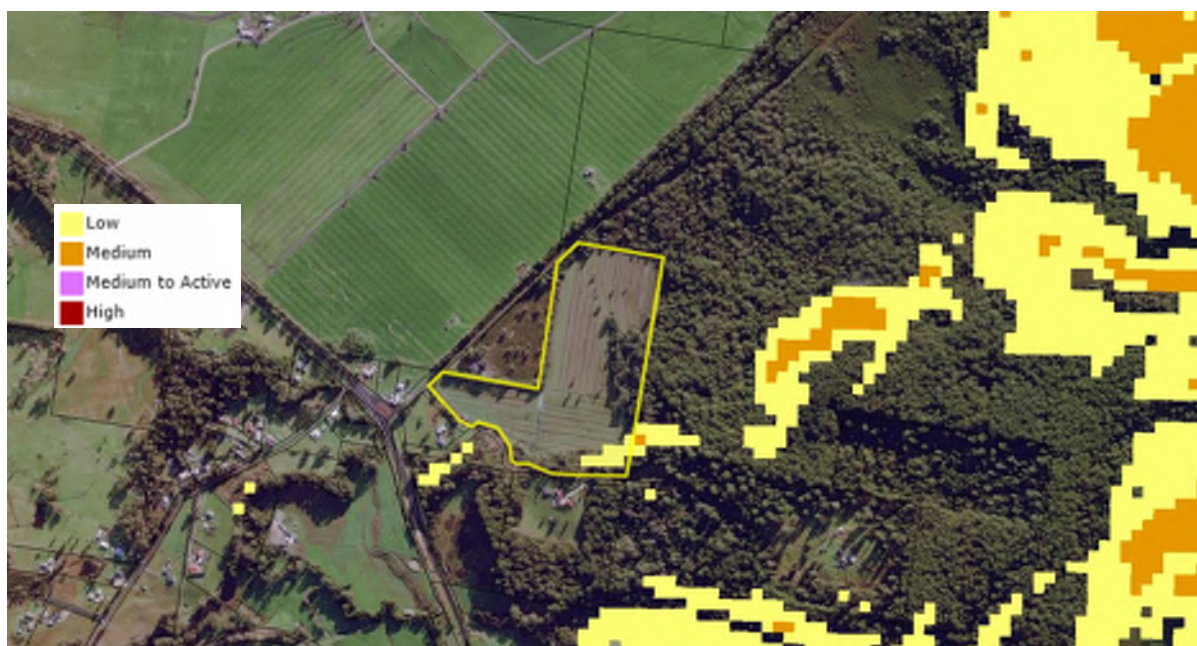


Figure 4 – Landslide Hazard susceptibility of Site. Source: www.thelist.tas.gov.au (Landslide Planning Map – Hazard Bands)

2.5 Infrastructure

2.5.1 Access and Connectivity

The site fronts onto Rocky Cape Road to the west of the allotment.

Access to and from the site is via a road, known as Port View Road (off Rocky Cape Road) which would require upgrades as part of any future development on the land as Council do not maintain the entirety of this road. The access onto Rocky Cape Road has good sight line distances to the north east and south west. The intersection is appropriately distanced from the Bass Highway intersection and therefore it is highly unlikely that there would be any problems dealing with traffic generated from any future residential development on the land.

2.5.2 Water Supply

Water reticulation is not available to the subject site.

2.5.3 Sewerage and Stormwater Disposal

Sewerage reticulation and Stormwater infrastructure is not available within the area and therefore onsite disposal is required for this area.

2.6 Existing Use and Development of the Site and Surrounds

The subject site is used for very low intensity grazing of the land located on CT: 131433/1 (PID: 1901388)

The site is observed to contain an existing shed with grassland located over the entirety of the site whilst native vegetation is located to the northern and eastern portions of the site.

Surrounding land to the west and south of the subject allotment is predominantly residential uses. Lands to the west across Rocky Cape Road is rural resource land used for commercial grazing.

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2.7 Land Capability

The site is identified as containing Class, 5 & 6 soils and contains hump and hollow drainage throughout the site.



Figure 5 – Land Capability - Site

2.8 Natural Values

Approximately 13.44 ha of the 14.94 ha site is cleared of native vegetation and may be characterised as rural use being low intensity grazing. The site does have native vegetation to the central eastern portion of the site.

3 Statutory and Circular Head Council Corporate Strategic Plan 2017-2027 Analysis

3.1 Land Use Planning and Approvals Act 1993 (the Act)

The *Land Use Planning and Approvals Act 1993* (the Act) provides transitional arrangements (as described in Schedule 6 of the Act) with respect to the commencement of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme) Act 2015* (the Amending Act).

These transitional arrangements being - that Parts 2A and 3 of the former provisions (i.e. those existing prior to 17 December 2015) of the Act remain in force for an interim planning scheme that was in effect before the commencement day of the Amending Act (being 17 December 2015) until a Local Provisions Schedule (made under the Tasmanian Planning Scheme) comes into effect for a municipal area.

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However, for the purposes of this proposed amendment to the draft zoning; the Act prescribes the requirements for the preparation of an amendment to a planning scheme which is carried forward for consideration for the amendment to the draft LPS. Specifically, section 32 of the Act provides:

- (e) An LPS is to consist of provisions that apply only to a single municipal area specified in the LPS.
- (ea) must not contain a provision that is inconsistent with a provision of section 11 or 12 ; and
- (3) Without limiting subsection (2) but subject to subsection (4), an LPS may, if permitted to do so by the SPPs, include –
 - (c) a site-specific qualification, being a provision, or provisions, in relation to a particular area of land, that modify, are in substitution for, or are in addition to, a provision, or provisions, of the SPPs.
- (4) An LPS may only include a provision referred to in subsection (3) in relation to an area of land if –
 - (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.

In addition to the above requirements any amendment to the draft LPS must have further regard to:

- *The furtherance of the objectives set out in Schedule 1 of the Act;*
- *State Policies made under the section 11 of the State Policies and Projects Act 1993;*
- *The strategic plan of a council referred to in Division 2 of Part 7 of the Local Government Act 1993; and*
- *Safety requirements set out in the standards prescribed under the Gas Pipelines Act 2000;*

3.1.2 Land Use Planning and Approvals Act 1993 - Schedule 1 Objectives

Part 1 – Objectives of the Resource Management and Planning System of Tasmania

- (a) *to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity; and*

Comment:

The rezoning of the subject land accommodates the expansion of Rural Living zone for use and development in the Rocky Cape area that is consistent with an established settlement development pattern, consistent with the zoning within the immediate area, use and development of adjacent land. The proposed amendment seeks to zone land appropriately for the existing infrastructure and

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physical resources of the site to promote sustainable development within the Rocky Cape area.

- (b) *to provide for the fair, orderly and sustainable use and development of air, land and water; and*

Comment:

The proposed rezoning of the land comprising CT: 131433/1 (PID: 1901388) is identified as an area appropriate from the Draft LPS zoning from Rural to Rural Living. The proposed amendment to the LPS is consistent with the *Circular Head Council Corporate Strategic Plan 2017-2027* which serves as a master plan for the designation of proposed use and development (including expansion) of land within the defined master plan area.

The rezoning of the subject land accommodates the expansion of sustainable residential use and development in the Rocky Cape area that is consistent with Councils key focus areas for leadership, support, community, recreation, economic prosperity, transport and access and environment and is informed by the visions and preferred future values of the Sustainable Murchison 2040.

- (c) *to encourage public involvement in resource management and planning; and*

Comment:

The proposed amendment is consistent with the *Circular Head Council Corporate Strategic Plan 2017-2027* and for a site planned for the expansion of residential use and development in the Rocky Cape area. This *Circular Head Council Corporate Strategic Plan 2017-2027* Plan was developed in accordance with public consultation. Should the planning authority determine to initiate the draft amendment of the LPS presented through this representation; the planning authority must make available all representations for public viewing when a report is prepared for the Council.

- (d) *to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b), and (c); and*

Comment:

The Cradle Coast Regional Land Use Strategy features “all other settlements” in its growth scenarios and lists it a ‘Low Growth’ scenario with a ‘Stable Settlement Strategy’.

This proposed amendment via representation to the Draft LPS seeks to facilitate economic development within the area and is consistent with the objectives set out in the paragraphs (a), (b), and (c).

- (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.*

Comment:

The proposed amendment to the Draft LPS facilitates the rezoning of the subject

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land from Rural to Rural Living zone is consistent with the *Circular Head Council Corporate Strategic Plan 2017-2027*.

The *Circular Head Council Corporate Strategic Plan 2017-2027* provides for the guidance of appropriate future use and development of the settlement areas of the entire municipal area governed by the Circular Head Council.

The above-mentioned Circular Head Council Corporate Strategic Plan 2017-2027 planning documents, and recommendation/guiding principles contained therein, have been developed in accordance with public and community consultation.

The statutory processes associated with the making of an application for a planning scheme amendment further provide for public consultation, and local and state government involvement in the process.

Part 2 – Objectives of the Planning Process Established by this Act

It is considered that the prescribed Part 2 objectives are furthered predominantly by the statutory processes associated with the assessment of the merits of representations received in the exhibition of the Draft LPS and for any future use and development of the subject land under a revised zoning as proposed through this representation. Such processes include the planning authority's assessment of the proposed amendment, public consultation (if the amendment is initiated), environmental considerations, and the final determination of an initiated amendment by the Tasmanian Planning Commission.

This representation has provided appropriate rationale that the proposed amendment to the LPS and is consistent with the *Cradle Coast Regional Land Use Strategy 2010 – 2030*, and further consistent with the *Circular Head Council Corporate Strategic Plan 2017-2027*.

3.1.3 State Policies

3.1.3.1 State Policy on the Protection of Agricultural Land 2009

As the proposed amendment involves the rezoning of the subject land from Rural to Rural Living zone, the consideration of the *State Policy on the Protection of Agricultural Land 2009* (the PAL Policy) is applicable and relevant. The purpose of the PAL Policy is to conserve and protect agricultural land so that it remains available for the sustainable development of agriculture, recognising the particular importance of prime agricultural land.

The land is mapped as class 5 & 6 soils and is used for low intensity grazing with minor bulk water storages located on the land.

The site abuts rural zoned land to the south which forms part of a larger section of rural zoned land which is designated to be rezoned as Agriculture zone beyond the existing dwellings located within this area.

Accordingly, the amendment to the Draft LPS of the subject land accommodates the expansion of residential use and development in the Rocky Cape area that is not only consistent with an established settlement development pattern and provides for the appropriate arrangement and juxtaposition of zoning.

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Given the existing land use and zonings; the proposed amendment to the Draft LPS is not considered to result in the unnecessary or unreasonable loss of locally or regionally significant agricultural land, and is therefore considered to be appropriately consistent with the PAL Policy.

3.1.3.2 State Coastal Policy 1996

The State Coastal Policy 1996 (the Coastal Policy) is applicable to the proposed amendment as the subject land is identified as being outside the coastal zone (including State Waters) and all land to a distance of 1km from the high-water mark.

The proposed amendment to the Draft LPS seeks to rezone the land comprising CT: 131433/1 (PID: 1901388) from Rural Resource to a Rural Living zoning under the Draft Circular Head Local Provisions Schedule. The subject site is approximately 1.6km south of the high tide water mark.

Accordingly, the rezoning is considered to be appropriately consistent with the Coastal Policy.

3.1.3.3 State Policy on Water Quality Management 1997

The State Policy for Water Quality Management 1997 (the Water Quality Policy) applies to all surface waters, including coastal waters and ground waters.

The proposed amendment to the Draft LPS seeks to rezone the land comprising CT: 131433/1 from Rural Resource to a Rural Living zoning under the Draft Circular Head Local Provisions Schedule. The revised rezoning of the land will enable the land to be utilised for existing and future residential use and development.

The declaration of the Draft Circular Head Local Provisions Schedule in accordance with section 35(B) of the Act provides that it has been prepared in accordance with State Policies. Accordingly, any future use and development will be assessed against the applicable provisions of the LPS, which reflect the requirements of the Water Quality Policy. With respect to future residential use and development (including subdivision) of the site, the LPS provides appropriate provisions to ensure that adequate arrangements are made for water quality management including requirements for the management and disposal of sewerage and stormwater.

Accordingly, the representation for the amendment to zoning is considered to be appropriately consistent with the Water Quality Policy.

3.1.3.4 National Environment Protection Measures

National Environment Protection Measures (NEPMs) are developed under the *National Environmental Protection Council (Tasmania) Act 1995*, and outline common national objectives for the protection or management of particular aspects of the environment. In accordance with section 12A of the *State Policies and Projects Act 1993*, an NEPM is taken to be a State Policy.

The NEPMs adopted as Tasmanian State Policies are:

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- National Environment Protection (Used Packaging Materials) Measure;
- National Environment Protection (Ambient Air Quality) Measure;
- National Environment Protection (Movement of Controlled Waste Between States and Territories) Measure;
- National Environment Protection (National Pollutant Inventory) Measure;
- National Environment Protection (Assessment of Site Contamination) Measure;
- National Environment Protection (Diesel Vehicle Emissions) Measure; and
- National Environment Protection (Air Toxics) Measure

The proposed amendment seeks to rezone the land comprising CT's: 131433/1 from Rural Resource to a Rural Living zoning under the Draft LPS. The proposed amendment to zoning of the land will enable the land to be utilised for future residential use and development.

It is considered that the representation for the amendment to zoning is not directly relevant to the NEPMs.

3.1.4 Circular Head Council Corporate Strategic Plan 2017-2027

The Circular Head Council Corporate Strategic Plan 2017-2027 provides a framework to inform the Council's decision making into the future.

The representation for the amendment to zoning of the land comprising CT's: 131433/1 is consistent with the *Circular Head Council Corporate Strategic Plan 2017-2027* where it contributes toward the Council's key focus areas and accordingly is considered consistent with the Circular Head Council Corporate Strategic Plan 2017-2027.

Given the broad nature of policy direction established by the Strategic Plan; it is perhaps difficult to reconcile that one particular principle (or policy statement) should be read in isolation from the others to imply a particular action or consequence.

Notwithstanding the above comment, the Act provides for any person to make request upon a planning authority (local council) to amend a planning scheme which it administers including for representations to draft planning schemes. This representation provides an analysis of the site and the considerations of statutory requirements and strategic merits of the amendment to proposed zoning. The use of the site as a Rural Living area enables the consolidation and co-location of similar use and development, and utilises the locational advantages for the site with respect to proximity and access to established transport routes and linkages as well as established municipal infrastructure.

Accordingly, the proposed draft amendment to the Draft LPS and the development of a Rural Living zoning within the site is not considered to conflict with the Circular Head Council Corporate Strategic Plan 2017-2027.

3.1.5 Gas Pipelines Act 2000

The subject land is not identified as being within the vicinity of the gas pipeline infrastructure corridor.

3.2 Cradle Coast Regional Land Use Strategy 2010 – 2030

The Cradle Coast Regional Land Use Strategy 2010 – 2030 (the Regional Strategy) provides the Circular Head Council policy foundation for the preparation of planning schemes under the Regional Planning Initiative. The Regional Strategy is given effect as a statutory instrument under the Act, which provides that planning schemes must be consistent with, and further the objectives and outcomes of the Regional Strategy.

The Regional Strategy outlines the Circular Head Council Corporate Strategic Plan 2017-2027 directions and desired outcomes for land use planning, and is intended to guide the land use planning process within the Cradle Coast Region through to 2030¹.

3.2.1 Settlement Management Strategies

The Cradle Coast Settlement Management Strategy² details growth scenarios and settlement strategies for the major settlement areas of the Cradle Coast Region. Rocky Cape (being classified as “all other settlements”) is described under a low growth scenario which provides that *demand is driven largely by internal population change and very low rates of inward migration. Growth relies on existing land supply (including vacant zoned land) and available infrastructure within the designated urban boundary without need for intensification*³.

The management strategy prescribed for the Rocky Cape settlement area is a *stable* strategy which *restricts new development to existing land supply within the designated urban boundary without priority for intensification. The strategy is appropriate for low growth settlements*⁴. A stable growth strategy is not considered to exclude the release of new land, but provide for the appropriate expansion and development of land in settlement areas that provides for development and that is further appropriately consistent with defined local settlement strategies and boundaries⁵.

The proposed amendment to the zoning contained within the Draft LPS of the land comprising CT's: 131433/1 is identified as an area appropriate for rezoning from Rural Resource to Rural Living zone. The proposed amendment to the Draft LPS is further consistent with the Circular Head Council Corporate Strategic Plan 2017-2027 (as well as the Sustainable Murchison Community Plan 2040) which serves as a master plan for the designation of proposed use and development (including expansion) of land within the defined master plan area.

The proposed amendment to the Draft LPS zoning of the subject land accommodates the expansion of residential use and development in the Rocky Cape area that is consistent with an established settlement development pattern, consistent with the zoning, use and development of adjacent land, and in accordance with the defined local settlement strategy.

¹ *Cradle Coast Regional Land Use Strategy 2010 – 2030*, Cradle Coast Regional Planning Initiative (2011).

² *Ibid.*

³ *Ibid.*

⁴ *Ibid.*

⁵ *Ibid.*

3.2.2 Regional Protection of Agricultural Land

As the proposed amendment of the Draft LPS involves the rezoning of the subject land from Rural Resource to Rural Living zones; it is relevant to consider the value of the land as an agricultural land resource both in a local and regional context.

As detailed under section 2.7 of this Report; the area has been assessed as containing class 5 & 6 soils and the land abuts existing residential uses to the south and west of the site. Further the land was determined as containing constraints for agricultural use (being areas of class 6 land in the south eastern corner of the site) and it is therefore not considered to have a negative impact on regional agricultural land.

The rezoning of the subject land accommodates the expansion of established residential use and development in the Rocky Cape area that is consistent with an established settlement development pattern, provides for the appropriate arrangement and juxtaposition of zoning.

3.3 Demand and Supply Considerations

The *Circular Head Council Corporate Strategic Plan 2017-2027* provides for the guidance of appropriate future use and development of the settlement areas of land throughout the municipal area and is a master planning document, which prescribes key focus areas of the plan in the use and development of land within the identified master plan area.

Access to the proposed amended zone area is accessible from the Bass Highway and provides an opportunity of connectivity to settlements to the east (Wynyard direction) and Stanley (west).

3.4 Demand Considerations

The local government area of Circular Head comprises two major settlement areas located at Smithton and Stanley. Circular Head is projected to be a low growing local government area in percentage terms from 2017 – 2042, with a projected average growth rate of -0.60 per cent per annum under a medium growth scenario⁶. This compares to an estimated State average growth rate of 0.2 per cent per annum in the same period⁷.

Rural Living use and development in the Rocky Cape area is the predominant zoning and has an inherent attraction for such residential lifestyle and housing opportunity. It seems further reasonable to expect that demand for such opportunity would increase with an increasing population.

The market for the development of Rural Living zoned land has been identified as a continuing pattern associated with the preference to build upon vacant land, rather than purchase established Rural Living properties. Rural Living use and development presents as a legitimate housing option, and given the predicted growth prospects for the Rocky Cape area under the current and un-forecasted population increases it is considered to be a reasonable justification for an increase in fully reticulated serviced residential land to be made available for such housing options, and particularly in such areas that have been identified as appropriate for such residential expansion.

It should be noted that the *Sustainable Murchison Community Plan 2040* does not provide land supply vs take up calculations for any council area relying upon the document. It is the responsibility of the Council's to make this data publicly available; however, no works have been done in this critical area and private developers should not be penalised for municipal deficiencies.

⁶ 2019 Population Projections – Tasmania and Local Government Areas, Department of Treasury and Finance (April, 2019)

⁷ *Ibid.*

4 Conclusion

The subject land is within the *Rocky Cape* area and is appropriate for the amendment of zoning through representation to Council of the Draft LPS to a Rural Living zone. The amendment of the zoning contained within the Draft LPS of the subject land accommodates the expansion of residential land use and development in the Rocky Cape area and is consistent with an established settlement development pattern, consistent with the zoning, use and development of adjacent land.

The amended zoning of the land located on current CT: 131433/1 (PID: 1901388) is a logical utilisation of land as the land has limited agricultural use or ability due to access, existing Rural Living land, surrounding land use, topography and soil qualities.

It is further considered commensurate with the anticipated growth of the settlement area of Rocky Cape and surrounds whilst providing the subject title with an appropriate zoning for the future use of land.

Accordingly, it is submitted through representation that the proposed amendment to Draft LPS zoning of land comprising CT: 131433/1 (PID: 1901388) Rocky Cape Road, Rocky Cape can be supported by the planning authority.



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