

TASMANIAN PLANNING COMMISSION



DECISION

Local Provisions Schedule Tasman

Date of decision 15 October 2021

Under section 35K(1)(a) of *Land Use Planning and Approvals Act 1993* (the Act), the Commission directs the planning authority to modify the draft LPS in accordance with the notice at Attachment 2.

When the directed modifications have been undertaken under section 35K(2), the Commission is satisfied that the LPS meets the LPS criteria and is in order for approval under section 35L(1).

The Commission finds that the draft LPS requires substantial modification and accordingly, under section 35KB of the Act, the Commission directs the planning authority to prepare a draft amendment, under Part 3B, of the Tasman LPS and to submit the draft amendment to the Commission after the LPS comes into effect, in accordance with the notice in Attachment 3.

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Ann Cunningham
Delegate (Chair)

A handwritten signature in black ink, appearing to read 'Claire Hynes'.

Claire Hynes
Delegate

REASONS FOR DECISION

Background

The Tasman Planning Authority (the planning authority) exhibited the Tasman draft Local Provisions Schedule (the draft LPS), under section 35D of *Land Use Planning and Approvals Act 1993* (the Act), from 11 January 2021 to 13 March 2021.

On 30 June 2021, the planning authority provided the Commission with a report under section 35F(1) into 56 representations received on the draft LPS. A list of representations is at Attachment 1.

Parts of the Act relating to draft LPS assessment were amended on 14 July 2021. This enabled the Commission to direct that substantial modifications become draft amendments to an approved LPS.

Date and place of hearing

The Commission must hold a hearing in relation to representations to the draft LPS under section 35H of the Act.

A hearing was held at the Commission's office on Level 3, 144 Macquarie Street, Hobart on 3, 4 and 5 August 2021.

Consideration of the draft LPS

1. Under section 35J(1) of the Act the Commission must consider:
 - the planning authority section 35F(1) report and the draft LPS to which it relates;
 - the information obtained at the hearings;
 - whether it is satisfied that the draft LPS meets the LPS criteria under section 34; and
 - whether modifications ought to be made to the draft LPS.
2. Under section 35J(2) of the Act the Commission may also consider whether there are any matters that relate to issues of a technical nature or may be relevant to the implementation of the LPS if the LPS were approved.
3. The LPS criteria to be met by the draft LPS are:
 - (a) contains all the provisions that the State Planning Provisions (SPPs) specify must be contained in an LPS;
 - (b) is in accordance with section 32 of the Act;
 - (c) furthers the objectives set out in Schedule 1 of the Act;
 - (d) is consistent with each State policy;
 - (e) as far as practicable, is consistent with the regional land use strategy, if any, for the regional area in which is situated the land to which the relevant planning instrument relates;
 - (f) has regard to the strategic plan, prepared under section 66 of the Local Government Act 1993, that applies in relation to the land to which the relevant planning instrument relates;

- (g) as far as practicable, is consistent with and co-ordinated with any LPSs that apply to municipal areas that are adjacent to the municipal area to which the relevant planning instrument relates; and
 - (h) has regard to the safety requirements set out in the standards prescribed under the *Gas Pipelines Act 2000*.
4. The relevant regional land use strategy is the Southern Tasmanian Regional Land Use Strategy 2010-2035 (regional strategy).
 5. In addition to the LPS criteria, the Commission has considered Guideline No. 1 – Local Provisions Schedule (LPS): zone and code application (Guideline No. 1) issued under section 8A of the Act.
 6. Parts of the Act relating to draft LPS assessment were amended on 14 July 2021. The requirements for making modifications to the draft LPS are set out under section 35K of the Act. Sections 35K, 35L and 35KB of the Act (as amended) apply in relation to the draft LPS, allowing for substantial modifications, if suitable, to be made via draft amendments to the Tasman LPS after it comes into effect.
 7. Where the Commission has determined modifications ought be made, these are set out in a notice under 35K(1)(a) of the Act (see Attachment 2).
 8. Where the Commission has determined substantial modifications ought to be made to the draft LPS and such modifications are suitable to be made as an amendment, under Part 3B, to the LPS, it may direct the planning authority to prepare the amendment and submit to the Commission after the LPS comes into effect. These are set out in a notice under section 35KB(1) of the Act (see Attachment 3).

Issues raised in the representations

Low Density Residential Zone – 378 Pirates Bay Drive, Eaglehawk Neck

Representation: Jacqueline Geale (7)

9. The representor requested that zoning of land at 378 Pirates Bay Drive be revised from the Rural Living Zone A to the Low Density Residential Zone. The reasons include that:
 - the land could be developed into three additional lots with an area of 1800m² each, which would provide for three additional dwellings;
 - the land is serviced with sealed roads;
 - the additional lots would allow population to be increased, therefore increasing rates for the Council and trade for the surrounding businesses; and
 - the application of the Rural Living Zone is not consistent with the zone purpose.
10. In the section 35F report, the planning authority responded with the following points:
 - the proposed Rural Living Zone is a translation of the zoning in the Tasman Interim Planning Scheme 2015 (the interim planning scheme);
 - the site appears suited to the Low Density Residential Zone, given the proximity to other properties zoned Low Density Residential, the good topography, and the absence of natural values and natural hazards; however no strategic planning work exists that supports application of the Zone. There is no basis on which to justify application of the Low Density Residential Zone under the LPS Zone and Code Application Guidelines (Guideline No. 1);

- the request is noted and should be reconsidered when undertaking future strategic planning work;
- no modification of the draft LPS is required; and
- the draft LPS satisfies the criteria at section 34(2) of the Act.

Commission consideration

11. The Commission accepts the planning authority's submission that there is no local strategic planning work to support application of the Low Density Residential Zone under Guideline No.1.
12. The Commission considers there is insufficient evidence to demonstrate how the proposed zoning to Low Density Residential meets the LPS criteria, including that it is as far as is practicable consistent with the regional strategy.
13. The Commission notes that the planning authority intends to reconsider the representor's request outside the draft LPS process when an opportunity to undertake future strategic planning of the Eaglehawk Neck area arises.

Commission decision

14. The Commission considers that no modifications are required.

Low Density Residential Zone – 301 and 309 White Beach Road, White Beach

Representations: Andrew Barwick (20), Leone Guthrie (55)

15. The representors requested that zoning of land at 301 and 309 White Beach Road be revised from the Rural Zone to the Low Density Residential Zone. The reasons include:
 - the land at 301 White Beach Road cannot be used for rural purposes due to potential land use conflict with surrounding dwellings and holiday units; and
 - the land at 309 White Beach Road contains an existing dwelling and holiday cabins that are intended to be rented as dwellings. The Low Density Residential Zone is a more appropriate zone for that use. The balance of the land is proposed to remain in the Rural Zone with the Priority Vegetation Area overlay applied as proposed to cover a threatened vegetation community of Tasmanian white gum (*Eucalyptus viminalis*) wet forest.
16. In the section 35F report, the planning authority responded with the following points:
17. the land is currently zoned Rural Resource in the interim planning scheme;
18. the Low Density Residential Zone is consistent with the Nubeena/White Beach Structure Plan and should be applied to 301 White Beach Road and partially to 309 White Beach Road in accordance with the diagram provided in the section 35F report;
19. there are no natural values or natural hazards that would prevent further development;
20. 301 White Beach Road contains native vegetation, but no areas of threatened vegetation;
21. 309 White Beach Road contains an area of Tasmanian white gum wet forest, one of four known areas of this community in the municipal area. The community is expected to be listed under the Federal *Environment Protection and Biodiversity Conservation Act 1993*. The proposal to leave the forest outside the Low Density Residential Zone would further a number of regional strategy policies that relate to protection and management of native vegetation. While the qualities of the vegetation could warrant the application of the Environmental Management Zone, the provisions of the Rural Zone and the Priority Vegetation Area would provide the necessary protection; and

22. with application of the Low Density Residential Zone, the draft LPS satisfies the criteria at section 34(2) of the Act.
23. Prior to the hearing, the planning authority provided a submission that stated its opinion that the lot yield potential for 301 and 309 White Beach Road would be 35 lots and 4 lots respectively. At the hearing, the planning authority submitted a draft subdivision plan prepared by a registered surveyor of 309 White Beach Road, which more accurately plotted the subdivision potential of the land with an additional 6 lots.
24. In their pre-hearing submission, the planning authority reiterated the figures supplied in section 6.3.3.2 of the draft LPS supporting report, confirming there were 479 dwellings in White Beach at the 2011 Census. This Census provides the data that was available closest to the time that the regional strategy was originally declared in October 2011.
25. The regional strategy gives direction about settlement and residential development in the region. Table 3 Growth Management Strategies for Settlements identifies Nubeena/White Beach as a township, having a moderate growth strategy and a mixed growth scenario, being both greenfield and infill circumstances. The footnote to the table states that 'for all settlements categorised as 'township' or lesser, the growth strategy indicated does not preclude growth possible under existing capacity'.
26. The regional growth management strategy in section 19.5.2 sets out that a moderate growth strategy allows between a 10-20% increase in the number of potential dwellings. The percentage growth is calculated as the increase that can occur across a 25 year planning period from the number of dwellings existing at the declaration date. The planning authority submitted the maximum number of additional dwellings provided for by the regional strategy (20% of 479) is 96.
27. However, the planning authority contended that the total number of dwellings allowable is calculated by adding the number of dwellings that potentially could have been constructed at White Beach at October 2011 to the baseline number of 479. This is the number of potential dwellings lost as a result of changes to zoning caused by the replacement of the Tasman Planning Scheme 1979 with the interim planning scheme. The planning authority held this opinion because section 19.5.2 of the regional strategy uses the term 'potential dwellings' in reference to the four growth strategies. It concludes the loss of potential dwellings as 744 dwellings. Therefore, any increase in dwelling potential created by additions to the Low Density Residential Zone is calculated as 20% of the baseline housing stock (96) plus the deficit of 744 potential dwellings.
28. At the hearing, the planning authority stated that it had calculated historic dwelling potential simply by dividing the area of the previously zoned residential land with the minimum lot size that applied at the time. It added that dwelling yield in the area would be compromised as some existing Low Density Residential zoned lots in the area, particularly 227 White Beach Road and White Beach Road folios of the Register 150286/2 and 128235/1, could not be subdivided as a result of being split-zoned with the Rural Zone (so the minimum lot size could not be met for that zone, which effectively prohibits the creation of new lots).
29. The representors and owners of 301 White Beach Road noted that they had previously lodged a draft amendment to apply a similar residential zone under the Tasman Planning Scheme 1979. They explained that the proposed Low Density Residential Zone is consistent with the Nubeena/White Beach Structure Plan, which provides for a more congruent zoning pattern across the area. The representors also noted that the land has a number of constraints, such as lack of reticulated sewer, presence of natural values, and bushfire management requirements, which would limit lot sizes to approximately 4000m².

30. The planning authority was generally in agreement, but stated that Low Density Residential zoned lots in the area usually had an area of approximately 2000m² - 2500m², meaning that lot yield would potentially be higher than that estimated by the representor.
31. The representor and owner of 309 White Beach Road explained that lot 7 on the draft subdivision plan would be covenanted to protect natural values and that the existing Visitor Accommodation on the land is no longer in use. The intended ongoing use of the land would be Residential. The proposed subdivision boundaries have been located to enable the existing buildings to be retained.
32. The planning authority reiterated that the land contains a significant tract of native vegetation and has received notification from the Federal government that the vegetation is expected to be listed under the *Environment Protection and Biodiversity Conservation Act 1993*. As a result, the Low Density Residential zoning identified in the Nubeena/White Beach Structure Plan cannot be applied to the whole of the land. The planning authority was of the opinion that protection of the native vegetation in return for a small increase in subdivision potential provided for by the regional strategy, would be a good planning outcome. It was supportive of alternative controls such as application of the Environmental Management Zone or a site-specific qualification applying to the balance of the land to guarantee protection of the vegetation. Recognition and protection of the natural values would be consistent with a significant number of policies of the regional strategy.

Commission consideration

33. In terms of residential supply and growth in the southern region, the intent of the regional strategy is to achieve a more sustainable approach to residential growth and to promote:
 - ...consolidation of existing settlements and minimisation of urban sprawl and lower density development (p. 84-85).
34. The regional strategy applies a mixed growth scenario to Nubeena/White Beach. The regional strategy states (emphasis added):
 - A mixed growth scenario indicates that residential growth should come from a mix of both greenfield and infill circumstances and that **expansion of the residential zone may be required dependent upon an assessment of the yield capacity and vacancy of existing zoned land** (p. 86).
35. Regional policies under chapter 19, Settlement and Residential Development (SRD), are particularly relevant to the draft amendment – SRD1; 1.1, 1.2, 1.5 and 1.6. The Commission finds that the overarching policy (SRD 1), which is to provide for sustainable and compact network of settlements, provides the context for applying SRD1.1, 1.2, 1.5 and 1.6.
36. The Commission accepts the planning authority's calculation of 96 as the maximum number of additional dwellings that can be constructed at White Beach over the 25 year planning period (20% increase from the baseline figure of 479).
37. However, the Commission does not accept that the amount of dwellings that potentially could have been constructed at White Beach at the regional strategy's declaration date (October 2011) can be added to the total number.
38. The planning authority calculates the loss of potential as 744 dwellings. Therefore, any increase in dwelling potential created by additions to the Low Density Residential Zone is calculated as 20% of the baseline housing stock (479) i.e. 96 plus the deficit of 744 potential dwellings. Following the planning authority's line of argument, the number of dwellings possible at White Beach would easily exceed twice its current number, and it is inconceivable that this is the policy intention of the regional strategy.

39. The Commission acknowledges that current growth possible under the regional strategy at White Beach is currently consumed by existing Low Density Residential zoned land, which contains a number of properties with significant subdivision potential. These lots are located in Skeggs Road, Noyes Road, and along White Beach Road. Additionally, there are a number of smaller lots that have the capacity for infill development, or vacant lots where new single dwellings could be constructed. The Commission considers the existing potential for construction of dwellings at White Beach, combined with the proposed increase in subdivision potential at 301 and 309 White Beach Road, would already either meet or exceed the 20% growth provided for by the regional strategy.
40. The Commission is not persuaded that the Nubeena/White Beach Structure Plan supports an alternate interpretation of the regional strategy. It recognises the large amounts of vacant land mentioned above and states a long-term objective that future residential development occurs within a more structured and consolidated urban form. However, it pre-dates the regional strategy, which caps growth at 20% within the identified township boundary.
41. The Commission notes that 309 White Beach Road may contain a threatened vegetation community (*Eucalyptus viminalis*), however considers the existence of the vegetation is not sufficient justification for the remainder of the site to be zoned Low Density Residential. The Rural Zone and priority vegetation area overlay are proposed to apply to this part of the site, irrespective of the zoning of the existing holiday cabins and dwelling.
42. Equally, the existing and intended uses of the land for Residential or Visitor Accommodation uses are not persuasive. The Commission notes Residential and Visitor Accommodation uses are allowable uses in the Rural Zone Use Table.
43. In summary, the Commission notes the evidence provided by the parties, however does not consider application of the Low Density Residential Zone to either of the properties meets relevant settlement and residential development policies under the regional strategy. The Commission acknowledges that constraints on existing residential zoned land in the Nubeena/White Beach area may prevent the full subdivision potential of the area being realised for further residential use and development. However, considering the particular circumstances of the case, any meaningful expansion of the Low Density Residential Zone over land that is not identified for urban development in the Nubeena/White Beach area, is not consistent with the moderate growth strategy and mixed growth scenario for Nubeena/White Beach under the regional strategy.
44. The Commission finds that application of the Low Density Residential Zone to these properties is not as far as is practicable consistent with the regional strategy.

Commission decision

45. The Commission considers that no modifications are required.

Low Density Residential Zone – 4015 Arthur Highway, Murdunna

Representation: Patrick Beveridge (40)

46. The representor requested that the zoning of land at 4015 Arthur Highway, Murdunna be revised from the Rural Living Zone A to the Low Density Residential Zone, in order to allow the land to be subdivided into ‘two or three’ titles. The representor submitted a natural values assessment in support of the zoning.
47. In the section 35F report, the planning authority responded with the following points:
 - the land is currently zoned Rural Resource under the interim planning scheme;
 - an approval has been granted for a dwelling to be constructed on the land;

- the land is zoned Rural Living A under the draft LPS, which has a minimum lot size of 1ha, and the lot has an area of approximately 1.4ha. Therefore no subdivision of the land would be possible;
- the land on the opposite side of the Arthur Highway is zoned Low Density Residential, however this does not extend to the eastern side of the highway;
- there is no local strategic planning work available that would support application of the Low Density Residential Zone;
- the request is noted and should be reconsidered when undertaking future strategic planning work for the settlement;
- no modification of the draft LPS is required; and
- the draft LPS satisfies the criteria at section 34(2) of the Act.

Commission consideration

48. The Commission acknowledges the natural values assessment submitted, however application of the Low Density Residential Zone to the site is not considered to be compliant with Guideline No. 1 or as far as practicable consistent with the regional strategy. The Commission considers that the Rural Living A Zone recognises current use and development on the land without significantly increasing subdivision potential, and is a continuation of the zoning of adjoining and nearby land to the south with similar lot size and characteristics.
49. The Commission accepts the planning authority's opinion that there is currently insufficient strategic evidence to justify application of the Low Density Residential Zone to this site. The Commission notes that the planning authority advised it will reconsider the request outside the draft LPS process when an opportunity to undertake future strategic planning of the Murdunna area arises.

Commission decision

50. The Commission considers that no modifications are required.

Low Density Residential Zone – 4, 16, 30, 31, 32, 33, 34, 37, 39, 41, 42, 43, 46, and 47 Waterfall Bay Road, 178 Blowhole Road, 9 Olsons Road, Eaglehawk Neck

Representation: Tasman Council (56)

51. The representor requested that zoning of land at Waterfall Bay Road, Blowhole Road, and Olsons Road, Eaglehawk Neck be revised from the Rural Living Zone A to the Low Density Residential Zone. The reason is that the Low Density Residential Zone satisfies the growth scenarios of the regional strategy.
52. In the section 35F report, the planning authority was in support of the request and stated that with application of the Low Density Residential Zone to the land, the draft LPS would satisfy the criteria at section 34(2) of the Act.
53. At the hearing, the planning authority confirmed that the regional strategy identifies Eaglehawk Neck as a village, having a low growth strategy and a mixed growth scenario, being both greenfield and infill circumstances. The regional growth management strategy in section 19.5.2 sets out that a low growth strategy allows less than 10% increase in the number of potential dwellings. The percentage growth is calculated as the increase that can occur across a 25 year planning period from the number of dwellings existing at the declaration date.
54. The planning authority noted that the Low Density Residential Zone would allow the land to be further developed and would also provide a more suitable use table for the area. The planning authority also observed that the land is already residential, and contains no significant natural values or watercourses on the land. The planning authority was of the view

that due to constraints, such as existing shape, vehicle access and frontage limitations, there would only be a minor increase in yield potential of approximately 10 lots.

55. Following the hearing, the planning authority was directed to submit evidence that the increase in subdivision potential was supported by the regional strategy. The planning authority was also required to include a calculation estimating the subdivision potential of each property if zoned Low Density Residential.
56. The planning authority's further submission confirmed the maximum number of additional dwellings provided for by the regional strategy (10% of 404) to the locality of Eaglehawk Neck is up to 41.
57. It reiterated that the theoretical yield for Eaglehawk Neck has been reduced since the adoption of the regional strategy through the adoption of larger minimum lot sizes. After the regional strategy was adopted, the zoning of the locality was rationalised with the interim planning scheme.
58. The planning authority's submission contended that spatially up to 76 new lots could be created, however once constraints were factored in, particularly vehicle access and bushfire management constraints, the likely lot yield would be 21. The submission indicated that 31, 33, 37, 39, 41, 43 and 47 Waterfall Bay Road, on the southern side of Waterfall Road would have no lot yield if zoned Low Density Residential due to their limited size and constraints.

Commission consideration

59. The Commission notes the evidence provided by the planning authority, but does not accept that application of the Low Density Residential Zone to all the land would meet relevant settlement and residential development policies under the regional land use strategy.
60. As discussed above in relation to 301 and 309 White Beach Road, White Beach, the regional strategy gives direction about settlement and residential development in the region. Table 3 identifies Eaglehawk Neck as a village, and a low growth strategy (10% increase in the number of potential dwellings) and a mixed growth scenario apply. There were 408 dwellings in Eaglehawk Neck Beach at the 2011 Census, therefore the maximum number of additional dwellings under the regional strategy is 41.
61. Eaglehawk Neck features a number of properties already zoned Low Density Residential that have significant potential for subdivision of additional lots and/or construction of new dwellings. These lots are located in Old Jetty Road, Lyne Street, Albert Street, Ferntree Road, Havelock Road, and Blowhole Road. Additionally, there are a number of smaller lots that have the capacity for infill development, or vacant lots where new single dwellings could be constructed. In fact, the number of vacant lots existing at this time appears to exceed 41. Consequently, the existing potential for construction of dwellings at Eaglehawk Neck, would already either meet or exceed the 10% growth provided for by the regional strategy.
62. The Commission notes the planning authority's evidence relating to 31, 33, 37, 39, 41, 43 and 47 Waterfall Bay Road, Eaglehawk Neck, including that there is limited subdivision potential due to lot size and constraints on development. However, the Commission is not satisfied that it is appropriate for these properties, or the remaining properties comprising 9 Olsons Road, 4, 16, 30, 32, 34, 42 and 46 Waterfall Bay Road, and 178 Blowhole Road which are all larger in size and have subdivision potential, to be revised to Low Density Residential Zone. Support from relevant owners of the land for the zoning to be modified has not been submitted, which presents an issue of natural justice for these affected land owners. Further, the range of allowable uses in the Low Density Residential Zone differs to the Rural Living Zone.

Commission decision

63. The Commission considers that no modifications are required.

Rural Living Zone – Noyes Road, White Beach folios of the Register 144778/1 and 175928/1

Representation: Andrew Barwick (20)

64. The representor requested that zoning of land at White Beach Road folio of the Register 175928/1 be revised from the Rural Zone to the Rural Living Zone. The representor also requested that the zoning of the whole of the land at White Beach Road folio of the Register 144778/1 be revised to Rural Living Zone A from split zoning of Rural and Rural Living Zone A. The reasons include that the land cannot be used for rural purposes, particularly due to historic land use conflicts, and that the Rural Living Zone would provide a buffer between rural uses and residential areas.
65. In the section 35F report, the planning authority made the following comments:
- the planning authority included folio of the Register 144778/1 in the Rural Living Zone for the draft interim scheme and for the draft planning scheme developed in 2008; however the land is not identified in the Nubeena/White Beach Structure Plan as Rural Living land;
 - folio of the Register 175928/1 is part Rural Living Zone and part Rural Zone in the draft LPS. The Rural Living section is located on the western part, directly north of the quarry and has no practical road access. The split in the zoning is identical to the interim planning scheme;
 - the draft LPS originally included all of this title in the Rural Living Zone as part of a ‘swap’ with the adjacent quarry site (folio of the Register 144284/3), however the area of the land zoned Rural Living was reduced back to the same area as the interim planning scheme as noise and other impacts on residential use and development caused by the quarry have not been assessed in a noise report. In the absence of an available noise assessment, the request is not supported;
 - the request is noted and should be reconsidered when undertaking future strategic planning work for the area;
 - no modification of the draft LPS is required; and
 - the draft LPS satisfies the criteria at section 34(2) of the Act.
66. At the hearing, the planning authority explained that it was unsure why the adjacent quarry was zoned Rural Living in the interim planning scheme and noted that the regional strategy, clause SRD 1.3(b) provides for Rural Living land to be ‘swapped’ with other land if it can be demonstrated that the land is more suitable for Rural Living use and development. The planning authority also noted that while the quarry is currently operating without all necessary environmental approvals, the assessment of the application for a ‘level 2 activity’ permit under the *Environmental Management and Pollution Control Act 1993* would require the proponents to produce a noise assessment to establish the noise impact on the surrounding area. Notwithstanding, the Attenuation Code in the State Planning Provisions (SPPs) would apply a 750m buffer to this use to manage any land use conflict.
67. The planning authority maintained its view that the Rural Living Zone should not be applied to folio of the Register 144778/1 as the land is not identified in the Nubeena/White Beach Structure Plan as intended for that zone.

Commission consideration

68. The Commission notes the evidence provided by the parties and is satisfied that the Rural Living Zone A is consistent with SRD 1.3(b) of the regional strategy as it would replace a similar

amount of zoning lost through application of the Rural Zone to the quarry. Any potential land use conflicts would be managed through the conditions of the level 2 activity permit and the Attenuation Code of the SPPs.

69. The Commission finds that application of the Rural Living Zone A is as far as is practicable consistent with the regional strategy and Guideline No. 1.

Commission decision

70. Modification:

- Revise the zoning of Noyes Road, White Beach (folio of the Register 175928/1) from Rural Zone to Rural Living Zone A.

71. Reason:

- To apply the Rural Living Zone consistent with Guideline No. 1 and the regional strategy.

Rural Living Zone and Village Zone – 4051 Arthur Highway and 10 Hylands Road, Murdunna

Representation: Southern Planning for David Reinbold (18)

72. The representor requested that the zoning of land at 4051 Arthur Highway be revised from the Rural Zone to the Rural Living B and Village zones. The Village Zone boundary would be delineated by the point on the northern corner of the adjacent lot at 4055 Arthur Highway connected with the boundary of the lot approximately 75m to the north. The Village Zone would have an area of approximately 2850m² and the land contain an existing dwelling. The area of the Rural Living Zone would measure 14.47ha.

73. The reasons include that:

- the land would allow the settlement to be consolidated around a central Village Zone containing local services;
- the land has limited potential for resource development as it is covered in native vegetation and is fettered by surrounding dwellings in the Low Density Residential and Rural Living zones; and
- subdivision potential would be minor, likely limited to three additional lots.

74. The representor provided a natural values assessment in support of the proposal.

75. In the section 35F report, the planning authority responded with the following points:

- the proposed Rural Living Zone can be viewed as infill of two areas of Rural Living Zone to the south of Hylands Road and along Arthur Highway;
- the request for a Rural Living Zone is logical given the location, size and characteristics of the site;
- the draft LPS increases the extent of the Rural Living Zone in Murdunna without significantly increasing subdivision potential. A number of smaller titles in the area that contain Rural Living use and development have been recognised with the Rural Living Zone. This land was previously zoned Rural Resource under the interim planning scheme;
- the natural values assessment submitted by the representor confirms that a threatened vegetation community occurs along the rivulet located on the site. The rivulet is subject to the Waterway and Coastal Protection Area overlay in the draft LPS. The remainder of the site is native vegetation, but otherwise not threatened. The Priority Vegetation Area overlay is proposed for the site in full. The natural values assessment indicates that some clearance within the site for future house sites could be made to satisfy the requirements of the Natural Assets Code of the SPPs;

- the requested Rural Living Zone is consistent with the regional strategy, in particular SRD 1.3 (a) (i) and (ii), as well as SRD 1.3 (c) (i)-(iv). The site is small, adjoins land zoned Rural Living A, is not suitable for other residential purposes, and would not cause land use conflict. The Rural Living B sub-zone would be applied, meaning that the minimum lot size would be limited to 2ha. Subdivision potential would therefore be restrained to a small number of lots;
 - the proposed Village Zone applies to an existing dwelling opposite the Murdunna Road House. Many southbound vehicles park in front of this dwelling to purchase food and services available in the roadhouse. Because of this, both sides of the Highway are now incorporated into the small-scale activity hub centred around the road house. The phone box in front of the site is one small example of this. The structure of the settlement and infrastructure is such that both sides of the Highway form part of the pattern of land use and the movement of vehicles and pedestrians;
 - the Village Zone combines existing properties in the Low Density Residential, Local Business, and Recreation zones into a single Village Zone, which is a strategic shift from the interim planning scheme, the justification for which was detailed in the draft LPS supporting report;
 - the Village Zone in the draft LPS is consistent with the VZ1 of Guideline No. 1, which states that the Village Zone should be applied in rural settlements where there is an unstructured mix of residential, commercial and community uses. The rationale provided in the supporting report applies equally to this site as it does to the properties included in the Village Zone;
 - the proposed Village Zone is a logical expansion. Practically, the existing house is within an unstructured mix of uses. The full frontage of the site is used for parking associated with the road house. As noted in the LPS supporting report, the Village Zone provides for a wide range of land uses. An assessment of potential uses in the Village Zone has been undertaken and it is considered that the permitted and discretionary uses are no less suitable on this side of the Highway relative to the other;
 - no new demand on infrastructure would be generated. Pedestrian safety, car parking and access issues already exist at the intersection, and some infrastructure upgrades are required in any case;
 - application of the Rural Living B Zone and the Village Zone is supported, and it is recommended that 10 Hylands Road also be included in the Rural Living Zone A Zone to ensure that the application of the zones does not result in a spot-zoning of that land. The zoning of the land would be consistent with the zoning of the property in the interim planning scheme; and
 - the draft LPS with the application of these zones satisfies the criteria at section 34(2) of the Act.
76. Prior to the hearing, the representor provided a submission outlining how the proposed Rural Living B and Village zones are consistent with the regional strategy, in particular SRD 1.3 in relation to the Rural Living Zone, and AC 1, AC 2 and AC 3 in relation to the Village Zone. The response to SRD 1.3 contended that the additional yield currently provided for under the draft LPS represents an 8.9% increase in the growth potential of the Murdunna settlement. The submission also outlined how the proposal complies with RLZ 1(a), RLZ 2(a), and RLZ 3, and VZ 1 of Guideline No. 1.
77. Prior to the hearing, the planning authority also submitted advice from the owner of adjoining land at 10 Hylands Road, Murdunna that the owner was supportive of the Rural Living Zone A being applied to the property.

78. At the hearing, Mr. Adam Smee (Southern Planning) for David Reinbold explained that application of the Rural Living Zone would ensure the zoning of the land matches the land to the north and the south. He also noted that the land is covered in native vegetation and not used for rural purposes such as agriculture; fundamentally it is a large Rural Living-type property. Furthermore, he submitted that the Rural Living B Zone is proposed because the land is likely to be limited to the creation of three additional lots as a consequence of the bushfire management requirements that would be required for new lots/dwellings.
79. In relation to the proposed Village Zone, Mr. Smee explained that the zoning would provide valuable commercial opportunity at Murdunna, which would support the local population and provide more than a casual stopping point for passing traffic. Further, Mr. Smee explained that a waterway is located on the land that separates the proposed Village Zone from the rest of the property. The existing dwelling is one of several dwellings located on the eastern side of the highway at the frontage.
80. Mr. Smee also added that the residential amenity of the existing dwelling is impacted by vehicle parking on the side of the highway, and that the Village Zone would allow consideration of a commercial use. Mr. Smee noted that the current vehicle parking on the side of the highway is a safety issue, and that the highway is not perceived to be a barrier to the Village Zone being applied on either side of the road reservation.
81. The planning authority was in agreement with the representor and emphasized that application of the Rural Living and Village zones to the land was recognition of the existing mixed use and development. The planning authority opined that the low growth scenario for Murdunna in the regional strategy does not apply to the Rural Living Zone, as the regional strategy provides separate policies for Rural Living zoning. Nevertheless, the planning authority added that the subdivision potential of many of the large properties zoned Low Density Residential and Rural Living at Murdunna is significantly constrained by lack of road frontage, which limits the full development potential of undeveloped land to an estimated 56 lots.
82. The planning authority was of the view that the proposed Village Zone would recognise and enhance the mix of activities in the area and would facilitate improvement in traffic management by providing on-site car parking. The planning authority noted that the extension of the Village Zone is supported by representation 39 (Millington). The planning authority also submitted that Murdunna is a local centre under the activity centre network, but added that it was somewhat unclear as there has been examples, such as the settlement at Swanwick, where the Commission has determined that the intensity of the commercial activity was not of a scale to be declared an activity centre.
83. The planning authority noted that the Rural Living sub-zone applied to 10 Hylands Road is largely academic because its size would not provide for subdivision.

Commission consideration

84. The Commission is persuaded that land zoned Rural Living is not subject to the growth management strategies in the regional strategies. Policies SRD 1.3 and SRD 1.4 provide for consolidation of existing settlements and recognition of existing rural living communities. Creation of new rural living areas is not considered possible under the regional strategy.
85. On that basis, the Commission finds that application of the Rural Living Zone B to the land is consistent with the regional strategy, in particular the policies at SRD 1.3 a. and c. The land is indeed wedged between Rural Living zoned land on its northern and southern sides, and application of similar zoning would consolidate the existing settlement around the Village Zone that is the central axis of the settlement. While the property only contains one dwelling

over 14.75ha of land, it forms part of the existing rural living community, and weight is given to recognition of the existing use and development and provision of a congruent zoning pattern. The proposition that the Rural Living Zone should be viewed as infill is a reasonable one and reconcilable with policy SRD 1.3 c of the regional strategy.

86. Application of the Rural Living B sub-zone would limit subdivision potential, which is considered wise due to the evident natural values and bushfire management challenges. The natural values assessment submitted by the representor supports limitation of further development on the land, including subdivision and construction of dwellings.
87. The Commission is not persuaded that application of the Village Zone to that part of the land containing the existing dwelling and fronting the Arthur Highway is appropriate in the circumstances or is as far as practicable, consistent with the regional strategy, in particular the policies in AC 1, AC 2 and AC 3. Murdunna is either a local centre that is intended only to provide for the day-to-day needs of the immediate community, or as suggested by the planning authority, is not of significant scale to be declared an activity centre. The implications of further potential for mixed-use and development on the eastern side of the highway has not yet been strategically justified through local planning strategy, including a supply and demand analysis for Murdunna.
88. Furthermore, the Commission is not persuaded that application of the Village Zone is compliant with VZ 1 of Guideline No. 1, which states that the zone should only be applied to land where there is a current unstructured mix of residential use, commercial activity, and community service and there is a strategic intention to maintain this mix. While this is evident on the western side of the highway where there is a shop/service station, post office, public park and dwelling located in the Village Zone, this mix does not extend to the eastern side to the highway where all the use is residential.
89. The Commission finds that the Rural Living B Zone should be applied to the whole of 4051 Arthur Highway, Murdunna. As a consequence of that decision, the Commission also determines that the Rural Living A Zone be applied to 10 Hylands Road so that the existing rural residential use and development on that site is recognised and spot-zoning of the property as Rural may be avoided.

Commission decision

90. Modification:
 - Revise the zoning of 4051 Arthur Highway, Murdunna (folio of the Register 229085/1) to Rural Living Zone B; and
 - Revise the zoning of 10 Hylands Road, Murdunna (folio of the Register 232255/1) to Rural Living Zone A.
91. Reason:
 - To apply the Rural Living Zone consistent with Guideline No. 1 and the regional strategy.

Village Zone – Murdunna

Representation: Robert J Millington (39)

92. The representor requested expansion of the current Village Zone in Murdunna. The representor states that this would provide for the future expansion and consolidation of the settlement and create a more livable village, particularly for older people. Furthermore, the representor proposes that there be no more linear coastal development along the King George Sound and Sommers Bay.

93. In the section 35F report, the planning authority recommended that there be no change to the draft LPS and that, with the exception of the proposed application of the Village Zone to part of 4055 Arthur Highway, further application of the Village Zone is not supported because it would increase commercial activity to a greater extent than is required. The planning authority also expressed the view that there is merit in further application of the Low Density Residential Zone, but that further strategic work is required to justify its expansion. The planning authority added that no further linear coastal development is proposed in the draft LPS.

Commission consideration

94. The Commission agrees with the planning authority that further application of the Village Zone is not appropriate at this time for Murdunna. As discussed above, it is unclear how further application of the Village Zone is consistent with policies AC 1, AC 2 and AC 3 of the regional strategy. The proposal does not satisfy Guideline VZ 1, as there is no evidence of an existing unstructured mix of residential use, commercial activity, and community services.
95. Application of the Low Density Residential Zone is not appropriate as any expansion is unlikely to meet the growth strategies of the regional strategy.
96. The draft LPS does not augment the existing settlement along the coast and the Commission therefore holds that the application of zones at Murdunna is consistent with the *State Coastal Policy 1996*.

Commission decision

97. The Commission considers that no modifications are required.

Rural Zone – 270 Dam Road, Saltwater River and 617 Saltwater River Road, Premaydena

Representation: Scott Linnell and Karina Little (3)

98. The representors requested that the zoning of land at 270 Dam Road, Saltwater River be revised from the Agriculture Zone to the Rural Zone, and that the zonings of 617 Saltwater River Road, Premaydena be revised from the Agriculture Zone to Rural or Rural Living Zone .
99. The reasons include:
- the properties are relatively small in area (5.903ha and 1.158ha respectively) and therefore cannot be properly farmed; and
 - over half of 270 Dam Road is covered with native bushland, while 617 Saltwater River Road contains a dwelling and has rural-residential character.
100. In the section 35F report, the planning authority recommended that both properties be included in the Rural Zone. The planning authority noted that the area of each title is small and therefore have limited agricultural potential. Application of the Rural Zone would not make a difference to agricultural practices in the respective areas, as each site already adjoins the zone. The planning authority stated that application of the Rural Zone satisfies the LPS criteria at section 34(2) of the Act.
101. Following the hearing, the planning authority was directed to provide a diagram showing how the Priority Vegetation Area overlay would be applied to 270 Dam Road in the event that the Rural Zone was applied. The planning authority subsequently submitted this information and noted that the land had been sold into new ownership as of July 2021.

Commission consideration

102. The Commission is persuaded that the Rural Zone should be applied to 617 Saltwater River Road, but is not satisfied that an alternative zone to Agriculture Zone is appropriate for 270 Dam Road.
103. The state land potentially suitable for the agriculture zone mapping identifies both properties as 'unconstrained', and therefore worthy of inclusion in the Agriculture Zone. However RZ 3 of Guideline No. 1 provides land may be included in the Rural Zone where it can be demonstrated that the land has limited or no potential for agricultural use.
104. A dwelling was constructed on 617 Saltwater River Road in 2018 under the interim planning scheme. This was after the state land potentially suitable for the agriculture zone mapping was completed in 2017. Considering the recent improvements to the property and three properties in the vicinity of the site also fronting Saltwater River Road contain dwellings and are identified as constrained, the Commission is satisfied that the Rural Zone should be applied in this instance.
105. The Commission is satisfied that it is not appropriate to apply the Priority Vegetation Area overlay to 617 Saltwater River Road, as it is largely cleared of vegetation. Further, the Regional Ecosystem Model (REM) mapping that supports application of the Natural Assets Code does not identify any significant vegetation.
106. The land at 270 Dam Road Road contains vegetation over more than half of the property, and contains rural outbuildings. The land is identified as unconstrained in the land potentially suitable for the agriculture zone mapping. No evidence was submitted from the owners of the land confirming their support for a change in zoning to Rural or application of the priority vegetation area overlay, which presents a natural justice issue.

Commission decision

107. Modification:
- Revise the zoning of 617 Saltwater River Road, Premaydena (folio of the Register 175084/1) to Rural.
108. Reason:
- To apply the Rural Zone consistent with Guideline No. 1.

Rural Zone – 734 Nubeena Back Road, Koonya**Representation:** Janice Sutton (8)

109. The representor requested that the zoning of land at 734 Nubeena Back Road, Koonya be revised from the Agriculture Zone to the Rural Zone.
110. The reasons include:
- the land contains a dwelling;
 - the land is not suitable for agricultural purposes such as grazing or cropping, the soil quality is poor, the land has poor access to sunlight, and that the land is steep and partly vegetated;
 - the Agriculture Zone would reduce the value of the property, affect the ability of the owners to carry out boundary adjustments, and impact the existing use rights of the existing dwelling, home office and Visitor Accommodation.

111. In the section 35F report, the planning authority recommended that the land remain in the Agriculture Zone and made the following points in response:
- the land is identified as unconstrained in the land potentially suitable for the agriculture zone mapping;
 - several properties on the opposite side of Nubeena Back Road have been included in the Rural Zone as those properties are predominately covered in native vegetation;
 - a number of small titles near the site, including 728 and 730 Nubeena Back Road, are included in the Rural Zone due to small lot size;
 - the adjoining land to the north, south and east is within the Agriculture Zone. The lot to the south has a cleared area of approximately 20ha. The lot to the east is part of a larger property zoned Agriculture;
 - to the north is a similar sized lot that is part-pasture and part-native vegetation, but with sufficient agricultural potential to warrant inclusion in the Agriculture Zone;
 - although the site does have less agricultural potential relative to the land to the north, south and east, the Agriculture Zone best achieves the zone purpose to the greatest extent possible;
 - given the multitude of factors that determine market value, impact on property value is unknown;
 - the provisions for boundary adjustments in the SPPs, for both minor and major reorganisations, are equivalent to those in the interim planning scheme;
 - Visitor Accommodation is a discretionary use in the Agriculture Zone, which is similar to the requirements of the interim planning scheme;
 - a brewery is a discretionary use under the SPPs and the interim planning scheme;
 - the existing work from home arrangements form part of normal residential activity, which are not impacted by the zone of the land;
 - no modification of the draft LPS is required; and
 - the draft LPS satisfies the criteria at section 34(2) of the Act.
112. Prior to the hearing, the representor made a submission that further examined the physical attributes of the land and the surrounding area with particular emphasis on the poor land capability (class 5 and 6 land), which makes cropping difficult. The submission was tabled at the hearing.
113. In response, the planning authority reiterated its opinion that in spite of the reasonable points made by the representor, application of the Rural Zone would not be strictly compliant with Guideline No. 1. Furthermore, the site is somewhat isolated and application of the Rural Zone would not result in a congruent zoning pattern without also including several of the surrounding titles. No expert evidence is available to justify application of the Rural Zone to this land or surrounding titles.

Commission consideration

114. The Commission supports the views of the planning authority and is satisfied that the land should remain in the Agriculture Zone and this is consistent with AZ 1 of Guideline No.1. No expert evidence was submitted to support consideration of an alternative zoning, as provided for under AZ6 of Guideline No.1. The Commission notes that while the land in its isolation may be suitable for the Rural Zone, avoidance of spot-zoning in order to maintain harmonious zoning patterns is a priority as a matter of good planning practice.

Commission decision

115. The Commission considers that no modifications are required.

Rural Zone and Priority Vegetation Area Overlay – Forester Peninsula, including 519 Blackman Bay Road, Dunalley folios of the Register 153439/1, 165986/1, 155378/1, 169808/5, 153437/1, 225383/1, 218402/1 and 81225/1

Representation: Matt and Vanessa Dunbabin (42)

116. The representors requested that the land, or most of the land, comprising 519 Blackman Bay Road, Dunalley (Bangor property) be revised from the Agriculture Zone to the Rural Zone.
117. The reasons included:
- the Agriculture Zone would restrict the intended future use of the land;
 - application of the Agriculture Zone is not consistent with Guideline No. 1 as the much of the land is covered in native vegetation, is class 6 and 7 on the land capability mapping available on theLIST, is steep and rocky in parts, and is limited to light seasonal grazing; and
 - a majority of the property is contained in private timber reserves and conservation covenants.
118. In the section 35F report, the planning authority responded with the following points:
- the land is unconstrained in the land potentially suitable for the agriculture zone mapping;
 - the requirements of Guideline No. 1 will result in many farming properties that contain a mix of productive land and native vegetation being included in the Agriculture Zone;
 - the property contains extensive areas of native vegetation identified in the REM mapping that forms the basis of the Priority Vegetation Area overlay. The overlay cannot be applied to the Agriculture Zone under Guideline No. 1;
 - Bangor is the largest agricultural property in the municipal area. Excluding Bangor from the Agriculture Zone would lead to inconsistencies in how the Agriculture Zone is applied across the municipal area, particularly the Forester Peninsula;
 - the Rural Zone is consistent with RZ1 of Guideline No. 1, which states that the zone may be applied where agriculture is limited due to environmental or other characteristics of the area. The conservation covenants and private timber reserves, particularly given their scale, are a constraint that override the planning scheme and determine future land use. These areas do not appear integral to the larger agricultural operation (RZ 3 (a)), but rather play a complementary or secondary role;
 - it is recommended that the property, and all other properties in the Forestier Peninsula zoned Agriculture be revised to the Rural Zone; and
 - the draft LPS with the application of the Rural Zone to these properties satisfies the criteria at section 34(2) of the Act.
119. Prior to the hearing, the representor provided an Agricultural Assessment relating to 519 Blackman Bay Road (Bangor property) prepared by Mr. Jason Lynch (Pinion Advisory) as supporting evidence that the Rural Zone should be applied to the relevant titles.
120. At the hearing, the representor submitted that only 13% of the land comprising the Bangor property is used for agricultural purposes and that there are no plans to change the use of the land, the majority of which is designated as private timber reserves and conservation covenants. The representor was supportive of application of the Priority Vegetation Area overlay consistent with the REM mapping.
121. In response, the planning authority noted that the use of the land was diverse, and that on balance, the Rural Zone was more appropriate.
122. Furthermore, the planning authority reiterated its view that the Rural Zone should replace all of the land currently zoned Agriculture on the Forester Peninsula, and that excluding the

Bangor property from the Agriculture Zone in isolation of the remainder of land in the Forester Peninsula would lead to inconsistencies in zone application, but did not have any information from a suitably qualified person to support this proposal. The planning authority also recommended that the Priority Vegetation Area overlay be applied in accordance with the REM mapping if the land was zoned Rural.

123. Following the hearing, the planning authority was directed to provide an agricultural report by a suitably qualified person that would support application of the Rural Zone to the following properties comprising all land zoned Agriculture in the Forester Peninsula (excluding the Bangor property), and provide written evidence that the owners of each of the properties support the application of the Rural Zone to their land:
- 15 Blackman Bay Road, Dunalley folio of the Register 149527/1;
 - 3612 Arthur Highway, Murdunna folio of the Register 165980/2;
 - 3652 Arthur Highway, Murdunna folio of the Register 114876/1;
 - 3654 Arthur Highway, Murdunna folio of the Register 171988/2;
 - Arthur Highway, Murdunna folio of the Register 171988/1;
 - 3656 Arthur Highway, Murdunna folios of the Register 234715/1, 65794/1 and 85690/1;
 - Arthur Highway, Murdunna PID 5958082;
 - 3670 Arthur Highway, Murdunna folio of the Register 52601/2;
 - 3672 Arthur Highway, Murdunna folio of the Register 52601/1; and
 - 3674 Arthur Highway, Murdunna folio of the Register 168568/1.
124. The planning authority was also asked to confirm the proposed zoning of several parcels of reserved and acquired roads. Furthermore, the planning authority was required to provide a diagram to show how the Priority Vegetation Area overlay would be applied to the land in the event the Rural Zone was applied, and in each instance confirm owner agreement.
125. The planning authority subsequently submitted an agricultural report prepared by Nicholbrook Horticultural Consulting, dated 31 August 2021 that concluded the following about the above listed properties:
- ‘the titles do not meet the requirements to be zoned Agriculture under the proposed LPS other than 3656 Arthur Highway, Murdunna folio of the Register 234715/1. As this is an isolated title with no scope for amalgamation with adjoining titles to increase the agricultural enterprise and no additional water resource available, there is no impediment to the agricultural enterprise should it be zoned Rural along with the adjacent properties.’*
126. The planning authority attempted to obtain the written agreement of the owner of each lot that is proposed to have the Rural Zone and the Priority Vegetation Area overlay applied, however responses were only received from some land owners and were not unanimously in support.
127. The representors and owners of the Bangor property provided written confirmation that they were in support of application of the Priority Vegetation Area overlay to their land. The owner of 15 Blackman Bay Road, Dunalley also provides written support for proposed Rural zoning of their land.

Commission consideration

128. The Commission accepts the expert evidence and advice given in the agricultural assessments for both the Bangor property, 15 Blackman Bay Road, Dunalley and the remainder of the Forester Peninsula at Murdunna. The Commission is satisfied that the Rural Zone should be applied in accordance with Guideline No. 1, in particular RZ 3 and AZ 6 which provide for this

zone to be applied to land identified as unconstrained in the state land potentially suitable for the agriculture zone mapping if supported by detailed local strategic analysis.

129. The Commission also finds that the Priority Vegetation Area overlay consistent with the REM mapping should be applied to the Bangor property, 15 Blackman Bay Road, Dunalley and the remainder of the Forester Peninsula at Murdunna.
130. The Commission considers that revising the zoning from Agriculture to Rural and applying the Priority Vegetation Area overlay to the Bangor property and 15 Blackman Bay Road, Dunalley is a modification only as these property owners have submitted their support.

Commission decision

131. Modification:

- Revise the zoning of 519 Blackman Bay Road, Dunalley (folios of the Register 153439/1, 165986/1, 155378/1, 169808/5, 153437/1, 225383/1, 81225/1 and 218402/1) and 15 Blackman Bay Road, Dunalley (folio of the Register 149527/1) to Rural; and apply the Priority Vegetation Area overlay in accordance with the regional ecosystem model.

132. Reason:

- To apply the Rural Zone and Priority Vegetation Area overlay consistent with Guideline No. 1.

Commission consideration under section 35KB

133. Revising the zoning from Agriculture to Rural and applying the Priority Vegetation Area overlay to the remainder of the Forester Peninsula at Murdunna would be a substantial modification as there may be a public interest in the modification. Under section 35KB, the Commission considers the substantial modifications required are suitable to be made by way of an amendment, under Part 3B of the Act, of the Tasman LPS, after it comes into effect.

Commission decision under section 35KB

134. Draft amendment directed to the Tasman LPS:

- Rezone the following properties from the Agriculture Zone to the Rural Zone as shown in Attachment 3:
 - (a) 3612 Arthur Highway, Murdunna folio of the Register 165980/2;
 - (b) 3652 Arthur Highway, Murdunna folio of the Register 114876/1;
 - (c) 3654 Arthur Highway, Murdunna folio of the Register 171988/2;
 - (d) Arthur Highway, Murdunna folio of the Register 171988/1;
 - (e) 3656 Arthur Highway, Murdunna folios of the Register 234715/1, 65794/1 and 85690/1;
 - (f) Arthur Highway, Murdunna PID 5958082;
 - (g) 3670 Arthur Highway, Murdunna folio of the Register 52601/2;
 - (h) 3672 Arthur Highway, Murdunna folio of the Register 52601/1;
 - (i) 3674 Arthur Highway, Murdunna folio of the Register 168568/1;
 - (j) the reserved and acquired roads (2) alongside the western boundaries of folios of the Register 234715/1, 65794/1 and 85690/1; and
 - (k) the reserved roads (4) alongside the boundaries of folios of the Register 52601/1, 52601/2, 168568/1, 234715/1, 171988/2 and 114876/1.
- Apply the Priority Vegetation Area overlay to the following properties, consistent with the REM mapping, as shown in Attachment 3:

- (a) 3612 Arthur Highway, Murdunna folio of the Register 165980/2;
- (b) 3652 Arthur Highway, Murdunna folio of the Register 114876/1;
- (c) 3654 Arthur Highway, Murdunna folio of the Register 171988/2;
- (d) Arthur Highway, Murdunna folio of the Register 171988/1;
- (e) 3656 Arthur Highway, Murdunna folios of the Register 234715/1, 65794/1 and 85690/1;
- (f) Arthur Highway, Murdunna PID 5958082;
- (g) 3670 Arthur Highway, Murdunna folio of the Register 52601/2;
- (h) 3672 Arthur Highway, Murdunna folio of the Register 52601/1;
- (i) 3674 Arthur Highway, Murdunna folio of the Register 168568/1;
- (j) the reserved and acquired roads (2) alongside the western boundaries of folios of the Register 234715/1, 65794/1 and 85690/1; and
- (k) the reserved roads (4) alongside the boundaries of folios of the Register 52601/1, 52601/2, 168568/1, 234715/1, 171988/2 and 114876/1.

135. Reason:

- To apply the Rural Zone and Priority Vegetation Area overlay consistent with Guideline No. 1.
- The Commission considers that the modifications are a substantial modification as there may be a public interest in the modifications.

Rural Zone – Private Timber Reserves, Mineral Resources and Mining Leases

Representation: Department of State Growth (54)

136. The representor requested that the zoning of several parcels of land containing mineral resources and mining leases be revised from the Low Density Residential and Rural Living zones to the Rural Zone.
137. Specifically, the representor requested application of the Rural Zone to 4015, 4017, 4021, 4041 Arthur Highway, Murdunna and 5841 Arthur Highway, Taranna (folios of the Register 237688/1, 159348/3, 159348/1 and 159348/2), which all contain private timber reserves.
138. The representor also requested that the Rural Zone be applied to 3901, 3907, 3917, and 3937 Arthur Highway (folios of the Register 60740/1, 60740/2), Arthur Highway (folio of the Register 33822/1), the road reservation folio of the Register 238203/1, and the road reservation adjacent to the south east boundary of folio of the Register 33822/1 on account of the land being located adjacent to private timber reserves. The representor was concerned that the Rural Living Zone would provide opportunity for further subdivision and residential use and development that would constrain forestry activities.
139. The representor also raised concern about the zoning of land possibly containing mineral resources as identified in the draft strategic mineral resources mapping published on the LIST by Mineral Resources Tasmania. The representor recommended that any changes from the Rural Resource Zone in the interim planning scheme to zones that have the potential to restrict access to mineral supply in the draft LPS be discussed with Mineral Resources Tasmania. The representor also identified land at 3901, 3907, 3917, and 3937 Arthur Highway (folios of the Register 60740/1, 60740/2, Arthur Highway (folio of the Register 33822/1), the road reservation folio of the Register 238203/1, and the road reservation adjacent to the south east boundary of folio of the Register 33822/1 zoned Rural Living under the draft LPS that would have the potential to restrict access to mineral supply.
140. Finally, the representor stated that it was supportive of the Rural Zone being applied to the existing quarry at Noyes Road, White Beach (folio of the Register 144284/3).

141. In the section 35F report, the planning authority responded with the following points:
- the application of the Rural Zone to land containing or adjacent to private timber reserves is not supported as the owners of the respective titles are known to, or have made representations to the effect that the use of the land for timber harvesting is not intended;
 - the lots identified in the representation are 'small-scale' with minor strategic significance;
 - the Mineral Resources Tasmania mapping is 'draft' mapping and different to mapping of known mineral resources;
 - the land at 3901, 3907, 3917 and 3937 Arthur Highway totals five lots, with four of those containing existing dwellings, meaning that there is little potential for alternative use and development despite containing private timber reserves and potential mineral supply;
 - no modification of the draft LPS is required; and
 - the draft LPS satisfies the criteria at section 34(2) of the Act.
142. Prior to the hearing, the Commission sought the views of Mineral Resources Tasmania, which submitted that it supports the protection of mineral resources, particularly sand, which is a diminishing resource, especially in the south of the State. Mineral Resources Tasmania stated that application of the Rural Zone to any land within the draft strategic mineral layer is preferred, and noted that the Rural Living Zone prohibits Extractive Industry. Mineral Resources Tasmania noted that the Attenuation Code in the SPPs would apply to manage future land use conflicts between mining activities and sensitive use.
143. At the hearing, the Department of State Growth maintained its view that the land should be zoned Rural as the existence of a private timber reserve is evidence that the owner intends to grow and harvest timber, and therefore the zoning of the land should reflect this pre-determined intent. Application of the Low Density Residential and Rural Living zones does not comply with Guideline No. 1, particularly RLZ 2. While the Department acknowledged that the private timber reserves are managed and controlled outside the ambit of the Act, it was of the view that the potential for conflict between the requirements of the *Forest Practices Act 1985* and the *Land Use Planning and Approvals Act 1993* should be recognised in the draft LPS.
144. In response, the planning authority stated that it understood the concerns of the Department, however each of the subject properties have the competing demands for residential use and development. The planning authority noted that the owner of the land at Taranna made a representation on the interim planning scheme specifically that sought application of the Low Density Residential Zone to the two smallest titles that have been maintained in that zone. The owner of the land would likely be in support of the Low Density Residential Zone being retained. Furthermore, the planning authority explained that it applied the Rural Living Zone with the intent of keeping the zoning of the land close to the provisions of the interim planning scheme Environmental Living Zone that was applied to the two larger titles.
145. On the land at Murdunna, the planning authority noted that 4015 and 4017 Arthur Highway were created by boundary adjustment and that the land contains remnant private timber reserves that are located on the adjacent rural land. The planning authority stated that the lots are of a size that are only suitable for rural residential purposes and that a planning permit has been granted for a dwelling to be constructed at 4015 Arthur Highway. Nevertheless, the owner of the lot would need to apply to discharge the private timber reserves irrespective of the planning permit to allow the dwelling to be constructed.
146. The planning authority added that the harvesting of timber would require a forest practices plan, while the Rural Living Zone requires that a sensitive use be setback 200m from a Rural Zone. The planning authority held that the Rural Living Zone complies with RLZ 2(a) of Guideline No. 1 and that the zoning is largely academic in the circumstances anyway. On

balance, the Rural Living Zone would provide best recognition for the existing and intended residential use and development.

147. The Department added that it was supportive of the submission made by Mineral Resources Tasmania and maintained that the Rural Living Zone should not be applied to areas identified in the draft strategic mineral resources mapping as the zoning could compromise future access to the resource.
148. In response, the planning authority was firmly opposed to application of the Rural Zone on the basis that the land may contain mineral resources and made the following points:
- the resource is unlikely to be accessible on such small lots likely to contain dwellings;
 - it does not appear economically viable for a person to purchase the land and improvements in order to access what can only be a small amount of mineral resource;
 - that the resource will remain on the land irrespective of the zoning; and
 - that there is limited background information available to determine what the draft mapping means for future zone mapping.

Commission consideration

149. The Commission notes section 11(3) of the Act states:

Nothing in a planning scheme or the Tasmanian Planning Scheme affects –

- a) forestry operations conducted on land declared as a private timber reserve under the Forest Practices Act 1985; or
- b) the undertaking of mineral exploration in accordance with a mining lease, an exploration licence, a special exploration licence, or a retention licence, issued under the Mineral Resources Development Act 1995...

150. The existing and intended use and development of the land prescribed by the zoning is for residential purposes. Although the land contains possible mineral resources, private timber reserves, or is located adjacent to private timber reserves, the relatively small area of the lots reflects the residential scale and use of these properties. The Commission affords some weight to the concerns of the representor, however on balance, finds that most appropriate zone for the land is Rural Living as the zone that best recognises the existing use and development of the land and subdivision pattern. The use of the Rural Living Zone as a potential buffer between forestry or mineral prospecting activities and other surrounding residential areas in the Low Density Residential Zone is also prudent.

Commission decision

151. The Commission considers that no modifications are required.

Rural Zone – Arthur Highway, Murdunna PID 5958752

Representation: Department of State Growth (54)

152. The representor requested that the zoning of the Crown land at Arthur Highway, Murdunna PID 5958752 be revised from the Rural Living A Zone to Rural Zone, on the basis that the Rural Zone is inconsistent with RLZ 2 of Guideline No. 1.
153. In the section 35F report, the planning authority supported application of the Rural Zone.
154. At the hearing, the Department of State Growth maintained its preference for the Rural Zone, but conceded that the appropriate zone for the land would be largely dictated by the strategic basis for the zoning to be consistent with the surrounding land, particularly the land at 4051

Arthur Highway, which is the subject of representation 18. The Department added that its desire to avoid the Rural Living Zone was motivated by a will to indicate to the community that it has no intention of selling the land for use for residential purposes. The Department stated that the Environmental Management or Utilities zones would be alternative options that it would support.

155. The planning authority responded by reiterating its support for the Rural Zone, but stated that it would also support the Rural Living, Environmental Management or Utilities zones.

Commission consideration

156. The Commission observes that the zoning of the land should consider sound strategic planning principles and assessment of the zoning of the surrounding land, particularly land to the north at 4051 Arthur Highway, Murdunna. As discussed above, the decision has been made to zone that land Rural Living, meaning that if zoned Rural, PID 5958752 would be a spot-zoning surrounded by land zoned Rural Living. The Commission finds in this instance that avoidance of spot-zoning and facilitating a congruous zoning pattern is a priority and that the land should be zoned Rural Living.

Commission decision

157. The Commission considers that no modifications are required.

Rural Zone – Mount Arthur State Reserve – land surrounded by PID 2302547

Representation: Tasman Council (56)

158. The representor requested the zoning of the land at the Mount Arthur State Reserve be revised from the Environmental Management zone to the Rural Zone. The reason is that this zoning would be consistent with the zoning of similar parcels of Crown land, noting an example of the Rural Zone applied to the land at 180 Coal Mine Road, Sloping Main.
159. In the section 35F report, the planning authority recommended that the Rural Zone be applied.
160. Prior to the hearing, the Commission sought the views of the Department of Primary Industries, Parks, Water and Environment, which submitted that the Environmental Management Zone be applied. The reason was that the zone is consistent with Guideline No. 1.
161. At the hearing, the planning authority accepted the view of the Department and agreed that the land should remain in the Environmental Management Zone, but added that it sought consistency in the zoning of similar parcels of Crown land. Specifically it proposed application of the Environmental Management Zone to a parcel of Crown land at Saltwater River, which is surrounded by 95 Coal Mine Road (folio of the Register 164878/2) and 180 Coal Mine Road (folio of the Register 140468/1).

Commission consideration

162. The Commission accepts that the Environmental Management Zone is the most appropriate zone to apply to the Mount Arthur State Reserve. It is noted that the reserve is included in the Tasman National Park and Reserves Management Plan, which states that the *'Reserve is a small parcel of land on the summit of Mount Arthur surrounded by State forest. It was proclaimed primarily to protect historic heritage values and for visual management.'*

163. The Commission notes the evidence that the reserve has historic heritage and scenic value and is satisfied that the reserve should remain in the Environmental Management Zone in accordance with EMZ 1 of Guideline No.1.
164. The Commission does not agree that the Environmental Management Zone should be applied to the Crown land at Saltwater River, as it is not part of the Tasmanian Reserve Estate and it is unclear whether the land contains any of the values required to satisfy Guideline No. 1. Aerial photography of the site indicates that at least part of the land has been used for agricultural purposes in recent times (hay baling), possibly by way of Crown lease to the owners of the surrounding land.

Commission decision

165. The Commission considers that no modifications are required.

Landscape Conservation Zone – General Issues

Representations: Conservation Landholders Tasmania (1), Paul Fazackerley and Kathryn MacNicol (12), Tasmanian Land Conservancy (45)

166. The representors requested that all land with a conservation covenant declared under the *Nature Conservation Act 2002* be zoned Landscape Conservation or Environmental Management. The reasons include that:
- land containing conservation covenants is recognised as having natural values and the zoning of the land should reflect the use and development potential of such land;
 - application of the Landscape Conservation Zone would satisfy Guideline No. 1;
 - the methodology used for application of the Rural and Agriculture zones indicates that the Landscape Conservation or Environmental Management zones should be applied to private reserves;
 - conservation covenants are part of the Tasmanian Reserve Estate, which is land reserved to be managed for biodiversity conservation under Tasmania’s Regional Forest Agreement. This land is also part of Australia’s National Reserve System thereby contributing to the fulfilment of Australia’s obligations under the international Convention on Biological Diversity 1993. All but the two of the most recent reserves are listed in the latest version of the Collaborative Australian Protected Area Database;
 - in Tasmania, privately protected land covers a smaller area than publicly protected land, but it contains a higher percentage of threatened communities;
 - private reserves, including all private conservation covenants and Tasmanian Land Conservancy reserves, have a reserve management plan prepared by experts to protect, conserve and manage the ecological, scientific, cultural and aesthetic values of the area in the public interest; and
 - that zoning of the broader landscape around conservation covenants should be carefully considered to avoid fragmentation of the land that might impact natural values.
167. In the section 35F report, the planning authority recommended against blanket inclusion of all land with a conservation covenant in the Landscape Conservation and Environmental Management zones for the following reasons:
- conservation covenants sit outside the Act and can be viewed as a contract between parties;
 - the SPPs do not allow a planning authority to have regard to conservation covenants in determining use and development applications. However this does not mean that the planning scheme can negatively impact compliance with the covenant. For all practical

purposes, a conservation covenant overrides the planning scheme and is the primary mechanism by which land use is regulated on these sites;

- conservation covenants are private reserves shown in the Tasmanian Reserve Estate (available via LISTmap). Guideline No. 1 does not specifically require that areas of the Tasmanian Reserve Estate be included in the Landscape Conservation Zone;
- no strategic planning work has been undertaken to identify scenic or environmental values at a landscape scale other than in the Nubeena/White Beach Structure Plan. In most circumstances the draft LPS has replaced the Rural Resource Zone in the interim planning scheme with the Rural or Agriculture zones rather than provide for a strategic shift to the Landscape Conservation Zone; and
- much of the land subject to conservation covenants would be subject to the Priority Vegetation Area and other overlays.

Commission consideration and observation

168. As a general observation, determining the zone to apply to a conservation covenant needs to be balanced with application of zones based on sound planning principles, such as, minimising spot zoning and applying the zoning that satisfies Guideline No. 1 and the regional strategy.
169. The Commission also observes that conservation covenants are made under the *Nature Conservation Act 2002*, but are not reserves. The application of zoning, as the primary method of the control of use and development, should firstly be undertaken irrespective of whether a covenant applies, with weight given to the existence and content of a covenant when multiple zoning options are available. Private sanctuaries and private nature reserves are reserve types listed under Schedule 1 of the *Nature Conservation Act 2002*, and so application of the Landscape Conservation or Environmental Management zones is normally required to comply with Guideline No. 1. The Guidelines do not specifically refer to the Australian National Reserve System.
170. The Landscape Conservation Zone should not simply be applied on the basis that a conservation covenant is in place. Areas that have extensive conservation covenants (such as, a cluster of many, a large area, or both) may demonstrate good strategic planning merit for applying this zone provided that broader landscape values (not biodiversity values) are demonstrated.
171. Save for the specific parcels of land considered elsewhere in this decision, the Commission generally supports the Rural zoning (and Agriculture zoning for 93 Littles Road) that has been applied by the planning authority.
172. The Commission's consideration of representations that requested zoning changes to specific sites and provided significant further detail are outlined below.

Landscape Conservation Zone – Various Properties

Representations: Conservation Land Holders Tasmania (1), Stephen Bond (2), David Hildred (4), Geoff Couser (6), Paul Fazackerley and Kathryn MacNicol (12), Frieda Moran (15), Andrew Barwick (20), Marjorie Baily (24), Colin Hurley (25), R E Graham (33), Karen Keats (38), M. Pamille Berg and Robin Blau (46), Jonathan and Andrea Hamer (49)

173. The representors requested that various parcels of land be revised from the Rural Zone and Agriculture Zone to the Landscape Conservation Zone. The reasons include:
- that the whole or majority of each property is under a conservation covenant and therefore has been identified for protection and conservation; and

- that the conservation covenants were approved by the Minister for Environment as the properties contain threatened vegetation as listed in Schedule 3A of the *Nature Conservation Act 2002*.
174. The representations made by Mr. David Hildred (representation 4) and Ms. Trish Baily (representation 24) also proposed application of the Landscape Conservation Zone instead of the Rural Zone to 741 Nubeena Back Road, Koonya citing the natural values of the land as the reason. Mr. Hildred also suggested the 'Rural Agriculture Zone' as a possible alternative. The land does not contain a conservation covenant.
 175. The representation made by Mr. R E Graham (representation 33) proposed application of the Landscape Conservation Zone instead of the Rural Zone to 30 Parkers Beach Road, Koonya on the basis that the land has natural values, including scenic values, and provides wildlife habitat. The representor also proposes application of the Landscape Conservation Zone to all land between Nubeena Road and Norfolk Bay.
 176. The representation made by Ms. Karen Keats (representation 38) proposed application of the Landscape Conservation Zone instead of the Rural Zone to 415 Nubeena Road on the basis that the land contains threatened vegetation and therefore satisfies LCZ 1 of Guideline No. 1.
 177. The representation by the Conservation Land Holders Tasmania (representation 1) also sought application of the Landscape Conservation Zone to Noyes Road, White Beach FR 168111/1 and Roaring Beach Road folio of the Register 173612/4, however the owners of those properties, Mr. Andrew Barwick (representation 20) and Mr. Colin Hurley (representation 25) respectively, sought retention of the Rural Zone to their land.
 178. In the section 35F report, the planning authority had recommended that the following 14 properties be zoned Landscape Conservation:
 - Roaring Beach Road, Nubeena folio of the Register 37147/1;
 - Roaring Beach Road, Nubeena folio of the Register 173612/2;
 - Roaring Beach Road, Nubeena folio of the Register 173612/3;
 - Roaring Beach Road, Nubeena folio of the Register 173612/4;
 - Roaring Beach Road, Nubeena folio of the Register 173612/5;
 - 958 Roaring Beach Road, Nubeena folio of the Register 173612/6;
 - 388 Hurdle Road, Saltwater River folio of the Register 209585/1;
 - 388 Hurdle Road, Saltwater River folio of the Register 240132/1;
 - 388 Hurdle Road, Saltwater River folio of the Register 243116/1;
 - 694 Dam Road, Saltwater River folio of the Register 105562/4;
 - 493 Roaring Beach Road, Nubeena folio of the Register 131007/1;
 - 501 Roaring Beach Road, Nubeena folio of the Register 129335/1; and
 - 756 Roaring Beach Road, Nubeena folio of the Register 142606/2;
 - Roaring Beach Road, Nubeena folio of the Register 177006/1.
 179. The reasons include that:
 - the land at Mount Communication (folios of the Register 37147/1, 173612/2, 173612/3, 173612/4, 173612/5 and 173612/6) are the result of a Tasmanian Land Conservancy subdivision. The area is relatively remote and is a mix of remnant native vegetation and former forestry areas. Mount Zion and Mount Communication are landmarks. While the owner of folios of the Register 173612/4 and 173612/5 only supports Landscape Conservation zoning for lot 5 and retention of the Rural Zone on lot 4, the planning authority recommended that all of the titles be zoned Landscape Conservation;

- the land at Dam Road, Hurdle Road, Roaring Beach Road (folios of the Register 209585/1, 240132/1, 243116/1, 105562/4 and 142606/2) is generally a ridgeline (Paddy's Ridge) and application of the Landscape Conservation Zone is considered reasonable. The proposed zoning is supported by the owners of 4 of the 5 lots (representations 6 and 49);
- the land at Roaring Beach Road, Nubeena (folios of the Register 131007/1, 129335/1, and 177006/1) are adjoining vegetated titles with a total area of approximately 120ha. Billy Blue Hill is located on easternmost of the titles, and part of Walters Ridge runs across the two western titles. The proposed zoning is supported by the owners of folios of the Register 129335/1 and 131007/1 (representations 2 and 4 respectively).

180. In the section 35F report, the planning authority otherwise recommended against application of the Landscape Conservation Zone and retention of the Rural Zone (and Agriculture zoning for 93 Littles Road) for the following reasons:

- all 18 lots in the Heathy Hill Drive, Saltwater River subdivision, were created as a principally residential subdivision. While the Landscape Conservation Zone would apply to a large area of land that must be managed to maintain native vegetation cover due to the covenants, the primary intent of the land is residential use and development, not landscape management;
- 101 Staceys Road, Nubeena is predominately covered with native vegetation. Although the Zone is supported by the owner of the land (see representation 12), its application would result in a spot-zoning. The draft LPS has adequate regard to the values that exist on the site through application of the Rural Zone, and the Priority Vegetation Area and Waterway and Coastal Protection Area overlays;
- application of the Zone to 678 Dam Road, Nubeena would result in a spot-zoning. This is not supported as the land is in a broader area with properties generally containing dwellings and where application of the Rural Zone is warranted in order to comply with Guideline No. 1. The planning authority noted that the Priority Vegetation Area overlay would apply to almost all of the site and to some of the adjoining land;
- 269 Dam Road, and 380 Hurdle Road, Saltwater River (folios of the Register 230773/1 and 213918/1) are on the periphery of Paddys Ridge, but only a small part of each site contains a conservation covenant. Significant parts of each property are cleared and the land is therefore more suited to the Rural Zone;
- 29 and 67 Prices Flats Road, Premaydena are covered with native vegetation and appear to have some scenic value. The Priority Vegetation Area overlay would apply to the land, which combined with the conservation covenants, would regulate clearance of the land. As the owner of the land did not make a representation, the proposal to rezone the land was not supported;
- 93 Littles Road, Premaydena has an area of approximately 20ha which is proposed for the Agriculture Zone and is mostly covered in native vegetation, particularly west of the small watercourse (Daleys Creek) that runs through the site. The surrounding land is predominately agriculture in nature, but with productive potential constrained by land fragmentation and small lots. Nevertheless that land is listed as unconstrained in the land potentially suitable for the agriculture zone mapping. The land immediately to the west contains a private timber reserve. Although supported by the owner of the land (representation 15), retention of the Rural Zone is recommended as application of the Landscape Conservation Zone would result in spot-zoning. A potential alternative is to zone the covenanted area as Landscape Conservation and the front of the site and the nearby small titles as Rural; however the Agriculture Zone is more compliant with Guideline No. 1;

- 360 Nubeena Road, Koonya contains a covenant that applies to part of the site only. As the proposal would result in a spot-zoning of the land and the owner did not make a representation, the Landscape Conservation Zone was not supported;
 - 359 Fire Tower Road, Koonya would result in a spot-zoning of the land. As the owner did not make a representation, the Landscape Conservation Zone was not supported;
 - Noyes Road, White Beach (folio of the Register 209075/1) is part of the quarry operation in Noyes Road. As the owner did not make a representation, the Landscape Conservation Zone was not supported;
 - Noyes Road, White Beach (folio of the Register 160318/1) contains a covenant that applies to part of the site only. As the proposal would result in a spot-zoning of the land and the owner did not make a representation, the Landscape Conservation Zone is not supported;
 - Noyes Road, White Beach (folio of the Register 168111/1) is zoned Rural, which complies with Guideline No. 1 and its retention is supported by the owner (representation 20). The Landscape Conservation Zone was not supported;
 - 741 Nubeena Back Road, Koonya has an area of approximately 5ha and is predominately cleared and was therefore considered best suited to the Rural Zone. It was noted that there is no 'Rural Agriculture Zone.' The Priority Vegetation Area overlay applies to the site and extensively in the surrounding area, and this is only possible if the Rural Zone is applied instead of the Agriculture Zone;
 - all land between Nubeena Road and Norfolk Bay, including 30 Parkers Beach Road, Koonya has agricultural value and character and is therefore zoned Rural, with the exception of the Crown foreshore and private land at Sympathy Point. The land is included in the land potentially suitable for the agriculture zone mapping. Guideline No.1 therefore requires application of the Rural or Agriculture Zone. The land is identified as constrained and so the Rural Zone was applied. Application of the Landscape Conservation Zone would not satisfy Guideline No. 1. The Priority Vegetation Area overlay applies to part of 30 Parkers Beach Road and the broader area; and
 - 415 Nubeena Road, Koonya is a small lot with pasture to one side and a quarry reserve to the east, which is owned by the Crown. The site has no particular landscape qualities and no natural values of note. Application of the Landscape Conservation Zone would not be consistent with Guideline No. 1.
181. Prior to the hearing, the owners of the following properties to which the Landscape Conservation Zone was proposed in representation 1 and supported by the planning authority, confirmed in writing that they supported application of the Landscape Conservation Zone to their land:
- Roaring Beach Road, Nubeena folio of the Register 37147/1;
 - Roaring Beach Road, Nubeena folio of the Register 173612/2;
 - Roaring Beach Road, Nubeena folio of the Register 173612/3;
 - Roaring Beach Road, Nubeena folio of the Register 177006/1;
 - 756 Roaring Beach Road, Nubeena folio of the Register 142606/2; and
 - 958 Roaring Beach Road, Nubeena folio of the Register 173612/6.
182. At the hearing, Mr. John Thompson on behalf of Conservation Landholders Tasmania stated that he was generally in agreement with the planning authority's recommendation and accepted that blanket changes to the zone without the consent or support of landowners would not afford natural justice. Mr. Thompson also made the point that conservation covenants do not override the planning scheme, but place significant restriction on land to the degree that warrants the natural values being recognised by the Landscape Conservation Zone.

183. Mr. Thompson and the planning authority were both in agreement that conservation covenants form part of the reserve estate and are therefore reserved land. On that basis, Mr. Thompson's fundamental position was that the Landscape Conservation Zone should be applied and this is consistent with LCZ 1 and LCZ 2 of Guideline No. 1.
184. The planning authority held that Guideline No. 1 and the zone purpose confirm the Landscape Conservation Zone is angled towards conservation of broad landscape values, as opposed to biodiversity values, and further this zone should not be applied to isolated sites. Application of the zone requires proper strategic justification and analysis of landscape values.
185. Mr. Thompson also advocated for the inclusion of 101 Stacys Road folio of the Register 131902/2 and 93 Littles Road folio of the Register 241839/1 in the Landscape Conservation Zone on the basis that both have significant natural value that warrants a spot-zoning approach. Furthermore, Mr. Thompson was of the view that both lots should not have been included in the land potentially suitable for the agriculture zone mapping as the land is included in the Tasmanian Reserve Estate and should therefore have been omitted.
186. Mr. Thompson's view was supported by the owner of 93 Littles Road, Ms. Frieda Moran who highlighted the natural values of her land, particularly that it has good connectivity with the surrounding land and therefore has value as a wildlife corridor. The land contains evidence of native animals such as wombats. Ms. Moran contended that application of the Landscape Conservation Zone would be consistent with LCZ 1 and AZ 6 of Guideline No. 1. She added that her land is steep and contains a watercourse, and that the surrounding agricultural land is fragmented, resulting in her land being constrained and making traditional agricultural use difficult.
187. In response, the planning authority conceded that the most appropriate zone for 93 Littles Road was difficult as it is located on the interface between cleared land on the east and steep and forested land on the west. The most important factor in the decision to apply the Agriculture Zone was to produce an orderly zoning pattern, and so the land was zoned Agriculture. The planning authority contemplated split-zoning the land along the skyline, but concluded that the land should remain in the Agriculture Zone. The planning authority noted that the use table for the Agriculture Zone does not conflict with management of natural values, and in fact it supports environmental conservation in concert with the covenant.
188. In response to the zoning of 101 Stacys Road, the planning authority stated that in the event that the representors could establish that the site had outstanding landscape values, then it would support application to the Landscape Conservation Zone.
189. Mr. Thompson was supportive of the request of the owners of Roaring Beach Road, Nubeena folio of the Register 173612/4 and Noyes Road, White Beach folio of the Register 168111/1 to have those properties remain in the Rural Zone.
190. Mr. Thompson and the planning authority noted that the owners of 388 Hurdle Road, Saltwater River folio of the Register 243116/1 (representation 49) had, contrary to the recommendation in the section 35F report, asked for split-zoning of the land determined by the location of the conservation covenant. The reason specified by the owner was that the remainder of the land contains a eucalyptus plantation, which they preferred to be zoned Rural.
191. Both Mr. Thompson and the planning authority noted that there were three properties for which the planning authority had recommended application of the Landscape Conservation Zone, but did not have an opinion from the respective owners of the land about whether the Zone was supported. These properties were Roaring Beach Road, Nubeena folios of the Register 173612/2 and 173612/3, and 756 Roaring Beach Road, Nubeena folio of the Register 142606/2. Following the hearing, the planning authority was directed to provide written

evidence from the owners of these properties confirming that they were supportive of the application of the Landscape Conservation Zone. The planning authority subsequently submitted the written agreement of the owners of Roaring Beach Road, Nubeena folios of the Register 173612/2 and 173612/3, to application of the Landscape Conservation Zone, however no response was received from the owner of 756 Roaring Beach Road, Nubeena folio of the Register 142606/2.

192. The planning authority was also asked to confirm whether it would support application of the Landscape Conservation Zone to the Crown land at Mount Communication, Dam Road Nubeena PID 6006905 in the event that the Landscape Conservation Zone was applied to folios of the Register 173612/2 and 173612/3. The planning authority subsequently submitted this information confirming that application of the Landscape Conservation Zone was supported.

Commission consideration

193. The Commission agrees with the planning authority's reasons for application of the Landscape Conservation Zone to additional properties and considers that each property is able to demonstrate some level of landscape value. The Commission has also examined the location of the properties, the relationship of each to other land with similar characteristics and how each is integrated with land that is zoned or reserved for management of natural and landscape values. The Commission holds that the Landscape Conservation Zone is the most appropriate zone for the land identified and is consistent with Guideline No. 1 and the regional strategy.
194. However, the Commission does not agree the Landscape Conservation Zone is appropriate for applying to 756 Roaring Beach Road, Nubeena folio of the Register 142606/2, as the written agreement of the owners to application of the Zone was not received.
195. Equally, the Commission agrees with the planning authority's reasons for not applying the Landscape Conservation Zone to isolated titles in an effort to avoid spot-zoning. Such practices are consistent with good planning principles that intend to produce planning controls that provide for the fair, orderly and sustainable use and development of air, land and water as required by the objectives of the Resource Management and Planning System of Tasmania.
196. The Commission agrees with the planning authority's stance that the purpose of the Landscape Conservation Zone is for the management of landscape values, not biodiversity values. The presence of biodiversity values is not irrelevant, however representors have not necessarily demonstrated the foremost requirement i.e. that each property has landscape value. Biodiversity is primarily managed through the Natural Assets Code. In the event that land has biodiversity value, but no landscape value, then it is more likely that a zone such as the Rural Zone would need to be applied in combination with the Priority Vegetation Area overlay in order to meet the requirements of Guideline No. 1.
197. The Commission is not persuaded that application of the Landscape Conservation Zone to 93 Littles Road and 101 Stacys Road is warranted as the representors have not produced evidence that these properties have sufficient landscape value to prioritise spot-zoning over the prevailing zoning patterns.
198. The Commission agrees with the planning authority's reasons for retention of the Rural Zone on those properties not containing conservation covenants, namely 741 Nubeena Back Road, Koonya, and the land between Nubeena Road and Norfolk Bay, including 30 Parkers Beach Road, Koonya, and 415 Nubeena Road, Koonya. In each instance, the Commission is satisfied that application of the Rural Zone is compliant with Guideline No. 1.

199. The Commission also agrees that 388 Hurdle Road, Saltwater River folio of the Register 243116/1 should be split-zoned by including the conservation covenant in the Landscape Conservation Zone, and the remaining part of the land containing the eucalyptus plantation in the Rural Zone.
200. Finally, the Commission accepts that Mount Communication, Dam Road Nubeena PID 6006905 should be in the Landscape Conservation Zone, so that the zoning is consistent with the surrounding land.

Commission decision

201. Modification:

- Revise the zoning of the following properties to Landscape Conservation:
 - Roaring Beach Road, Nubeena folio of the Register 37147/1;
 - Roaring Beach Road, Nubeena folio of the Register 173612/2;
 - Roaring Beach Road, Nubeena folio of the Register 173612/3;
 - Roaring Beach Road, Nubeena folio of the Register 173612/5;
 - 958 Roaring Beach Road, Nubeena folio of the Register 173612/6;
 - 388 Hurdle Road, Saltwater River folio of the Register 209585/1;
 - 388 Hurdle Road, Saltwater River folio of the Register 240132/1;
 - 694 Dam Road, Saltwater River folio of the Register 105562/4;
 - 493 Roaring Beach Road, Nubeena folio of the Register 131007/1;
 - 501 Roaring Beach Road, Nubeena folio of the Register 129335/1;
 - Roaring Beach Road, Nubeena folio of the Register 177006/1;
 - Mount Communication, Dam Road Nubeena PID 6006905;
 - the reserve road within 694 Dam Road, Saltwater River folio of the Register 105562/4;
 - the reserve road within 958 Roaring Beach Road, Nubeena folio of the Register 173612/6; and
 - the two parcels of reserve road surrounded by Roaring Beach Road, Nubeena folios of the Register 173612/2 and 173612/3, and Mount Communication, Dam Road Nubeena PID 6006905.
- Revise the zoning of the land at 388 Hurdle Road, Saltwater River folio of the Register 243116/1 contained within the conservation covenant shown in CPR Plan No. 6948 to Landscape Conservation with the split zoning part to be determined by the area defined by the CPR Plan. The remaining part of the land must remain in the Rural Zone.

202. Reason:

- To apply the Landscape Conservation Zone consistent with Guideline No. 1.

Landscape Conservation Zone – Use Table

Representations: Shane and Stacey Salter (13) and M. Pamille Berg and Robin Blau (46)

203. The representors raised concern that the use table for the Landscape Conservation Zone provides for discretionary uses that are inappropriate for Eaglehawk Neck and similar areas throughout the Tasman Peninsula, and requested the following discretionary uses be prevented from applying to land zoned Landscape Conservation at these locations:

- Community Meeting and Entertainment;
- Domestic Animal Breeding, Boarding or Training;
- Emergency Services;
- Food Services;

- General Retail and Hire;
- Resource Development;
- Sports and Recreation;
- Tourist Operation; and
- Visitor Accommodation.

204. The representors requested that the application of the Landscape Conservation Zone to 122 and 124 Blowhole Road be reviewed. The reasons are that the discretionary uses available in the zone, with the exception of Residential and Utilities, would not be appropriate for the long-term preservation of the continuous forest habitat of the area.
205. In the section 35F report, the planning authority made the following comments:
- the original version of the draft LPS submitted by the planning authority had these properties and several other adjoining properties zoned Rural Living. The zoning of the land was changed by the Commission to Landscape Conservation due to the location of conservation covenants in the area and the evident landscape values;
 - the Rural Living Zone provides for consideration of residential amenity, but the Landscape Conservation Zone does not. The character of use of the area is residential in nature, while the area also has clearly identifiable scenic qualities. The change in zone purpose from the interim planning scheme Environmental Living Zone to the Landscape Conservation Zone in the draft LPS is a significant change that results in some uncertainty as to what land uses could occur in adjoining areas;
 - although the proposal to alter the use table has some merit, it is considered unlikely that compliance with section 34(2) of the Act could be demonstrated to warrant a site specific provision in the LPS;
 - the requests are noted and should be reconsidered when undertaking future strategic planning work;
 - no modification of the draft LPS is required; and
 - the draft LPS satisfies the criteria at section 34(2) of the Act.
206. At the hearing, Ms. Pamela Berg reiterated her concern that the Landscape Conservation Zone is not appropriate for her land as it already contains a residential use. Ms. Berg also reiterated her concern that the use table for the zone would provide for use and development that is not suitable for the area.
207. The planning authority stated that the provisions of the Landscape Conservation Zone are deficient because it does not recognise that some properties to which the Zone is intended to be applied are large, but remain residential in nature. It was also observed that the zone does not provide use standards for protection of residential amenity. The planning authority contemplated whether the Rural Living Zone could be applied to land at Eaglehawk Neck, as it contains standards for managing residential amenity, and in combination with overlays, such as the Scenic Protection Area overlay, would provide adequate protection of the landscape values of the land.

Commission consideration

208. The Commission is not persuaded that the Landscape Conservation Zone is an inappropriate zone to apply to the land at Eaglehawk Neck and similar areas throughout the Tasman Peninsula, or that the use table should be modified to restrict the range of discretionary uses in these locations.
209. The Landscape Conservation Zone provides clear priority for protection of landscape values and for complementary use or development. The zone purpose is to provide for the

protection, conservation and management of landscape values, and to provide for compatible uses or developments that do not adversely impact on the landscape values.

210. The land at Eaglehawk Neck, including 70, 122, 124 and 126 Blowhole Road, is characterised by its landscape values, being densely forested with native vegetation and is visually prominent location due to the steep topography and provides part of the backdrop to Pirates Bay. Further, the identified lots all accommodate an existing dwelling so residential use is established. Application of the Landscape Conservation Zone to this land complies with LCZ 1 and LCZ 2 of Guideline No. 1, particularly in the absence of a Scenic Protection Area overlay applying to the land.
211. The Commission notes there are some residential amenity protections ingrained in the development standards, particularly clause 22.4.2, which require building setbacks of 20m from side boundaries. In contrast, the Rural Living Zone only provides a setback requirement of 10m from side boundaries.

Commission decision

212. The Commission considers that no modifications are required.

Environmental Management Zone – Various Areas – Future Potential Production Forest Land

Representations: Anna Pafitis (22), Cynthia Townley (23), Stuart MacDonald (26), Paul Sutton (28), Jane Taylor (29), Kerry Sakariassen (31), Jill Pierce and Craig Brown (32), R E Graham (33), Karin and Ted Leeson (34), Catherine and John Love (35), Terence Brumby (37), Karen Keats (38), Brooke Robinson (43), Michael Moore (44), Keith O’Hara (48), Christine Coughanowr (50), Karen Zabiegala (53)

213. The representors requested that the zoning of all Future Potential Production Forest (FPPF) land be revised from the Rural Zone to the Environmental Management Zone.
214. In the section 35F report, the planning authority recommended against application of the Environmental Management Zone and made the following comments:
- it is somewhat unclear whether FPPF land is forestry land or managed for its conservation value. If considered areas of forestry land, the provisions of the Act mean that any forestry activity is excluded from planning approval, which renders the zoning irrelevant to a large degree. If considered conservation-based, the land would be managed accordingly through frameworks that are also not particularly influenced in any meaningful way by land use zoning;
 - no modification of the draft LPS is required; and
 - the draft LPS satisfies the criteria at section 34(2) of the Act.
215. Prior to the hearing, the Commission directed a submission from the Department of Primary Industries, Parks, Water and Environment (DPIPWE), as the Department responsible for administering FPPF land. In its submission the Department supported application of the Rural Zone to FPPF land to land that has no reserve status. The Department noted that the approach is in keeping with Government policy objectives for management of FPPF land to secure a ‘wood bank’ to provide for future sustainable forestry production.
216. DPIPWE’s only exception to this advice was its recommendation that the Environmental Management Zone be applied to the two parts of Pirates Bay Road, Eaglehawk Neck folio of the Register 141542/1. The land is owned by the Crown and is identified as FPPF lots 293 and 294. The parcels are contiguous with the Tasman National Park, contain or are adjacent to the Three Capes Track or associated infrastructure, provide an important scenic backdrop to the track, and may contain habitat for threatened species such as the White-bellied Sea Eagle.

217. At the hearing, one of the representors, Ms. Anna Pafitis noted that her concerns primarily related to the impact of forestry operations on the scenic values of the area that would have a consequential impact on the tourist experience.
218. In response, the planning authority noted that State forestry is outside its control, notwithstanding, the forest practices code provides for scenic protection. The planning authority also noted that in the event that a Scenic Protection Area overlay is prepared in future, it would probably not be applied to forestry land.
219. The planning authority was supportive of application of the Environmental Management Zone to FPPF land lots 293 and 294.

Commission consideration

220. The Commission notes:

- the *Forestry (Rebuilding the Forest Industry) Act 2014*, provides for special species timber harvesting in FPPF land that, under clause 4.4.1 of the SPPs, is largely exempt where in conformity with a forest practices plan; and
- the management objectives for FPPF land, under Schedule 3 of the *Forestry (Rebuilding the Forest Industry) Act 2014*, are broad ranging and include to:
 - conserve natural biological diversity, geological diversity, water quality, and the like;
 - encourage education, research, tourism, recreational use, and the like;
 - provide for activities such as the taking of game species, the controlled use of natural resources, exploration activities and taking of mineral resources; and
 - allow for private, commercial or industrial uses.

221. The Commission considers that many of the uses provided by the Rural Zone are similar to the Environmental Management and Landscape Conservation zones.
222. The Commission observes that if the land is included in the Rural Zone, the Priority Vegetation Area overlay may apply and impacts on identified priority vegetation would be managed by the standards in the Natural Assets Code.
223. Irrespective of which zone is applied, forestry activities are exempt from the Natural Assets Code, and would be regulated by way of a Forest Practices Plan approved under the *Forest Practices Act 1985*.
224. The Commission prefers the advice of DPIPW and agrees that the Rural Zone is appropriate to be applied to FPPF land, with the exception of FPPF land lots 293 and 294, which should be zoned Environmental Management due to their site content with the demonstrated scenic values of those particular lots.

Commission decision

225. Modification:

Revise the zoning of the two parts of Pirates Bay Road, Eaglehawk Neck, folio of the Register 141542/1 that are identified as Future Potential Production Forest land lots 293 and 294, to Environmental Management.

226. Reason: To apply the Environmental Management Zone consistent with the purpose of the zone and Guideline No. 1.

Environmental Management Zone – Various Areas – Beaches and Reserves

227. **Representations:** Anna Pafitis (22), Cynthia Townley (23), Stuart MacDonald (26), Paul Sutton (28), Jane Taylor (29), Kerry Sakariassen (31), Jill Pierce and Craig Brown (32), R E Graham (33), Karin and Ted Leeson (34), Catherine and John Love (35), Terence Brumby (37), Karen Keats (38), Brooke Robinson (43), Michael Moore (44), Keith O’Hara (48), Christine Coughanowr (50), Karen Zabiegala (53)
228. The representors supported the application of the Environmental Management Zone to all foreshores, National Parks and Conservation Areas. The representors also sought application of the Environmental Management Zone to all informal reserves on land owned or managed by Sustainable Timber Tasmania. The representation made by Ms. Jill Pierce and Mr. Craig Brown (representation 32) sought application of the Environmental Management Zone to the following reserves and areas:
- Lime Bay Reserve;
 - Pirates Bay;
 - Shelley Beach;
 - Stewart’s Bay;
 - Carnarvon Bay;
 - Newman’s Beach;
 - Parkers Beach;
 - Crescent Beach;
 - Fortescue Bay;
 - Eaglehawk Neck vista;
 - The old Eaglehawk Neck highway;
 - The Eaglehawk Neck narrow peninsula, including the Community Hall; and
 - The Blowhole and jetty area at the end of Blowhole Road.
229. The representation made by Ms. Brooke Robinson (representation 43) sought application of the Environmental Management Zone or Landscape Conservation Zone to the land bordering the Roaring Beach Conservation Area or more broadly in the vicinity of that land.
230. In the section 35F report, the planning authority noted that the Environmental Management Zone had already been applied to the places listed by the representors, that no modification of the draft LPS is required, and that the draft LPS satisfies the criteria at section 34(2) of the Act.
231. At the hearing, the planning authority stated that the Environmental Management Zone has been applied to the places in the Tasmanian Reserve Estate in accordance with Guideline No. 1. The planning authority noted that the Environmental Management Zone provides for the use of the Community Hall and officers quarters at Eaglehawk Neck.

Commission consideration

232. The Commission accepts the planning authority’s response and agrees that all of the relevant features have been zoned Environmental Management in accordance with Guideline No.1. The zone purpose of the Environmental Management Zone is to provide for the protection, conservation and management of land with significant ecological, scientific, cultural or scenic values, and to allow for compatible uses or development.
233. The Commission does not consider that applying the Environmental Management Zone to all informal reserves owned or managed by Sustainable Timbers Tasmania is consistent with Guideline No.1, or that this blanket approach to zone application is appropriate without considering site context has planning merit.

Commission decision

234. The Commission considers that no modifications are required.

Environmental Management Zone – Jetties and Accretions

Representation: Tasman Council (56)

235. The representor requested that the zoning of a number of jetties and accretions be revised to the Environmental Management Zone.

236. In the section 35F report, the planning authority supported the request.

237. At the hearing, the planning authority stated that it wanted to prioritise consistency in the application of zones and that its preference was that the Environmental Management Zone either apply to all jetties and accretions in the municipality or completely removed from same. The planning authority stated it preferred the latter approach. It requested that the zoning be removed from the only three areas of water zoned in the draft LPS, which are all zoned Environmental Management:

- 229 Roaring Beach Road FR 37325/5, Nubeena (Tassal shore base);
- 370 Blowhole Road PID 1468246, Eaglehawk Neck (Blowhole Road jetty); and
- 1695 Main Road (162471/1), Nubeena (Nubeena jetty).

Commission consideration

238. The Commission supports the planning authority’s view that the zoning be removed to the above three jetties and agrees that consistent application of zoning in the draft LPS should be prioritised.

239. The Commission notes while section 7 of the Act provides for any accretion from the sea adjoining the municipality area to be zoned, where an accretion is not zoned then clause 7.11 of the SPPs applies. This clause provides that an application for use or development seaward of the municipal district must be considered in accordance with the provisions of the zone that is closest to the site, or the zone from which the use or development extends.

Commission decision

240. Modification:

Revise the zone maps by removing the zoning from the following sites:

- the lease/license area and jetty seaward of the municipal boundary opposite 1695 Main Road, Nubeena folio of the Register 162471/1;
- the lease/license area and infrastructure seaward of the municipal boundary adjacent to 229 Roaring Beach Road, Nubeena folio of the Register 37325/5; and
- the lease/license area and jetty seaward of the municipal boundary adjacent to 370 Blowhole Road, Eaglehawk Neck PID 1468246.

241. Reason: To be consistent with section 32 of the Land Use Planning and Approval Act 1993.

Community Purpose, Open Space, Particular Purpose Zone – Eaglehawk Neck Historic Site – 5031 Arthur Highway (Officer’s Quarters), 5067 Arthur Highway (Community Hall), Eaglehawk Neck

Representation: Jill Pierce and Craig Brown (32)

242. The representor requested application of the Community Purpose Zone, Open Space Zone or a Particular Purpose Zone to the Eaglehawk Neck officer’s quarters at 5031 Arthur Highway and the Eaglehawk Neck community hall at 5067 Arthur Highway instead of the Environmental

Management Zone. The reason was that these places are important community gathering places.

243. In the section 35F report, the planning authority considered the representation did not warrant modification to the draft LPS. The reasons include:
- expressed the view that the Environmental Management Zone would adequately provide for the continued use of these facilities; and
 - the owner of the land (Parks and Wildlife Service) did not make a representation in opposition to the zone.

Commission consideration

244. The Commission accepts the view of the planning authority, and additionally notes that the facilities are within a dedicated formal reserve, being the Eaglehawk Neck Historic Site. EMZ 1 of Guideline No. 1 indicates that the Environmental Management Zone should be applied to such historic sites. Although the site contains an important local community building, on balance, recognition of the historic site is of greater importance. The Environmental Management Zone caters for the existing uses.

Commission decision

245. The Commission considers that no modifications are required.

Road and Railway Attenuation Code – Road or Railway Attenuation Area Overlay – Arthur Highway

Representation: Department of State Growth (54)

246. The representor sought removal of the Road or Railway Attenuation Area overlay from the Arthur Highway. The reasons include:
- any future alterations to the highway would require an amendment to the overlay to alter the width of the buffer zone; and
 - their preference is to rely on the 50m buffer otherwise specified in the Road or Railway Assets Code of the SPPs.
247. In the section 35F report, the planning authority recommended that the overlay be retained and made the following comments:
- the use of the mapping is more transparent and would help the community understand the planning requirements. However, this only holds if the mapping is current. There is no structure in place to facilitate collaboration between State agencies and planning authorities to regularly review and update the mapping;
 - no modification of the draft LPS is required; and
 - the draft LPS satisfies the criteria at section 34(2) of the Act.
248. At the hearing, the Department of State Growth explained that having the overlay mapped is problematic because the location and widths of State roads change over time as a result of roadworks and cadastral adjustments. The Department noted that the time and financial cost of making amendments to mapping is unviable and that it would prefer that the planning authority apply the Code through the SPPs. This would allow the provisions to adapt as roads transform. The Department advised that it could prepare a non-statutory layer to show the attenuation area that could be made available to the public via theLIST. The non-statutory layer could be updated routinely to account for changes to the State road casement.

249. The planning authority explained that it included the overlay, because as a result of being a small organisation, it is often not staffed with a planning officer. As a result, it prefers that planning provisions are able to be shown graphically to the public where possible. The planning authority supported removal of the overlay if the Department provided a non-statutory layer that would be made publically available via theLIST.

Commission consideration

250. The Commission notes the planning authority's agreement to remove the Road or Railway Attenuation Area overlay from the LPS, and instead supports reliance on the definition of 'road or rail attenuation area' under clause C3.3.1 of the Road or Railway Attenuation Code to apply the relevant code provisions.
251. The Commission also notes the commitment of the Department to provide a non-statutory layer to be made publically available via theLIST that spatially shows the attenuation area for state roads. It is noted that the Commission has no power to require a non-statutory layer to be provided on theLIST, and that any non-statutory mapping would need to be negotiated between the relevant parties.

Commission decision

252. Modification:

- Revise the draft LPS by removing the Road or Railway Attenuation Area overlay.

253. Reason:

- To meet technical requirements of Practice Note 7.

Local Historic Heritage Code and Port Arthur and the Coal Mines Historic Sites Specific Area Plan

Representations: David Hildred (4), Richard Tuffin (9), Anne Hoyle for Tasman Peninsula Historical Society (10), Don Clark (11), Sue Clark (14), Graham Speight (16), Fay Odell (17), Ian and Anne Hoyle (19), Roseanne Heyward (21), Anna Pafitis (22), Cynthia Townley (23), Stuart MacDonald (26), Ann McGinniss (27), Paul Sutton (28), Jane Taylor (29), David Roe for Port Arthur Historic Site Management Authority (30), Kerry Sakariassen (31), Jill Pierce and Craig Brown (32), R E Graham (33), Karin and Ted Leeson (34), Catherine and John Love (35), Dianne Snowden (36), Terence Brumby (37), Karen Keats (38), Anne Courtney (41), Brooke Robinson (43), Michael Moore (44), M. Pamille Berg and Robin Blau (46), Peter Rigozzi (47), Keith O'Hara (48), Christine Coughanowr (50), Karen Zabiegala (53)

254. The representors raised concern that the draft LPS only lists two places of local historic heritage significance, and no local heritage precincts, local historic landscape precincts, places or precincts of archaeological potential, significant trees, or places of aboriginal heritage significance. Representors raised concern that places listed on the Tasmanian Heritage Register (THR), such as the Cascades Probation Station, the Impression Bay Probation Station, convict tramway, and other places had been omitted from Table C6.1.
255. The representors listed several examples of places that may qualify for listing, such as Ravensbourne, Gellibrand's Farm, Koonya Hall, Eaglehawk Neck Community Hall, St Albans Church and cemetery, probation stations, burial sites, early settlement sites, industrial sites, archaeological sites, reserves, and trees. Representors requested that local historic landscape precincts be inserted for Koonya, Premaydena, Saltwater River, Safety Cove and Eaglehawk Neck. Representors observed the existence of previous studies of local heritage places and suggested that the planning authority could use these studies and new studies as the basis of new listings in tables C6.1, C6.2, C6.3, C6.4, and C6.5.

256. The representation made by Ms. Anna Pafitis (Representation 22) included a report by Gray Planning, which provided background on heritage management practices across several levels of government, and noted that the Local Historic Heritage Code of the SPPs would not apply to places listed in an LPS that are also listed on the THR. The report suggests that the intent of the system is to gradually rationalise the State and local lists by removing duplicate listings, however places are generally only removed from the THR if the place is also listed at a local level. The report contends that the planning authority is obligated to undertake further work towards population of tables C6.1, C6.2, C6.3, C6.4, and C6.5 that allow application of the Local Historic Heritage Code.
257. In the section 35F report, the planning authority accepted the concerns of the representors and responded with the following points:
- the planning authority is committed to working with the community and stakeholders to progress identification, investigation, assessment and registration of places of local historic heritage significance that are not currently regulated by the Tasmanian Heritage Council or the draft LPS;
 - aboriginal heritage is regulated by State legislation. Potentially, places of aboriginal heritage significance could be listed in Table C6.4 Places or Precincts of Archaeological Potential;
 - clause C6.2.3 of the Local Historic Heritage Code states that the *'code does not apply to a registered place entered on the Tasmanian Heritage Register, unless for the lopping, pruning, removal or destruction of a significant tree as defined in this code.'* Consequently, places listed on the Tasmanian Heritage Register are not included in the draft LPS;
 - the interim planning scheme has no heritage precincts and therefore no heritage precincts were contained in the draft LPS;
 - the original version of the draft LPS included four Local Historic Landscape Precincts at Koonya, Safety Cove, Premaydena and Saltwater River;
 - archaeological potential is distinct from heritage values. If a heritage place also has archaeological potential, that place must be listed in both tables. Archaeological potential is likely to be significant across the municipal area. The planning authority has commenced development of a geographic information system layer of potential European sites from maps and data provided by Dr. Richard Tuffin. Significant work is required to complete the layer. Archaeological potential is the method used in some other schemes (namely Derwent Valley) to allow aboriginal heritage to be considered; however, the typical approach is to rely on the *Aboriginal Relics Act 1975*;
 - a significant amount of work is required to identify, research, assess and register places of local heritage significance. Within the community, there are various individuals, heritage professionals and groups with knowledge of, and interest in, local history and local heritage. A report on a proposal to form a local heritage advisory panel was listed for consideration at the June 2021 Council meeting;
 - no modification of the draft LPS is required; and
 - the draft LPS satisfies the criteria at section 34(2) of the Act.
258. At the hearing, the Ms. Pafitis stated that the Tasman Peninsula is best known for its heritage places, particularly the world heritage-listed Port Arthur and Coal Mines historic sites, and a number of probation station sites that are listed on the THR. While she understood that places have been left out of Table C6.1 in order to avoid duplication of places on the THR, she opined that there are a significant number of local heritage places that are of no less significance than State listed places. In her view, the planning authority had not met its

obligation to populate the lists and that the proposal to form a local heritage advisory panel was tokenistic as the results would not be enforceable.

259. Ms. Pafitis also tabled a submission on behalf of Don and Sue Clark (representors 11 and 14). The submission outlined the importance of including the Cascades probation station as a local historic landscape precinct as it would provide protection for elements of the landscape around the historic site that are otherwise not protected by the THR listing. The precinct could also include the Koonya Hall and St Albans Church. Ms. Pafitis stated that while the THR would protect the buildings, it wouldn't protect the trees and landscape around it, which is why a heritage landscape precinct is needed.
260. In response, the planning authority observed that it has been difficult to implement the results of the heritage study without the support of the community, and that the intended heritage advisory panel would allow the process to happen through community contribution to the work. This approach would not be expedient, however that method would give the project the best chance of success.
261. The parties also discussed the legislative methods for management of aboriginal heritage under the *Aboriginal Heritage Act 1975*, and that the Local Historic Heritage Code specifically excludes places of Aboriginal heritage significance. Ms. Pafitis accepted that aboriginal heritage places could not be listed under the Code.

Commission consideration

262. The Commission accepts the position of the planning authority that further work to identify places of local historic heritage significance for listing in tables C6.1, C6.2, C6.3, C6.4, and C6.5 is required and notes the following:
- the LPS requirements of the SPPs, specifically LP1.8.1 and LP1.8.2, provide for places and precincts to be included in the code lists, but does not mandate inclusion, and as such the incorporation of the listings is a matter of local policy; and
 - objective (g) of Part 2 of Schedule 1 of the Act also does not mandate that a local heritage place list be included in a draft LPS.
263. The Commission acknowledges the significant number of representations that requested listing of new local heritage places in tables C6.1, C6.2, C6.3, C6.4, and C6.5. The Commission determines that there is insufficient strategic evidence to justify the listing of additional places of local heritage significance at this time, but notes the recent decision of the Tasman Council (23 June 2021) to establish the Tasman Heritage Advisory Panel to assist in preparation of new listings. The Commission also observes that local heritage places are not necessarily without any protection, as zoning controls are still applied.
264. The Commission notes that the new listings must be supported by a suitably qualified person and demonstrate how each listing would meet a criterion in the definition of local historic heritage significance in clause C6.3.1 of the SPPs.
265. As noted by the parties at the hearing, aboriginal heritage is covered by the provisions of the *Aboriginal Heritage Act 1975*, and the Local Historic Heritage Code does not apply to Aboriginal heritage values (clause C6.1.2).

Commission decision

266. The Commission considers that no modifications are required.

Natural Assets Code – Priority Vegetation Area Overlay – Various Properties

Representations: Anna Pafitis (22), Cynthia Townley (23), Marjorie Baily (24), Stuart MacDonald (26), Paul Sutton (28), Jane Taylor (29), Kerry Sakariassen (31), Jill Pierce and Craig Brown (32), R E Graham (33), Karin and Ted Leeson (34), Catherine and John Love (35), Terence Brumby (37), Karen Keats (38), Brooke Robinson (43), Michael Moore (44), Tasmanian Land Conservancy (45), Keith O’Hara (48), Christine Coughanowr (50), Karen Zabiegala (53)

267. The representors sought blanket application of the Priority Vegetation Area overlay to all Future Potential Production Forest land, all foreshores, National Parks and Conservation Areas. The representors provided a map to show the land that should be included in the overlay. Representors also raised concern that the REM mapping used to prepare the overlay is based on desktop assessment and has not been assessed by physical site inspection. Several representors also stated that the overlay should be used to provide for wildlife corridors.
268. In the section 35F report, the planning authority responded with the following points:
- the REM mapping provides the data and inputs behind the Priority Vegetation Area overlay;
 - the Priority Vegetation Area overlay is applied on a consistent basis according to the REM;
 - the REM incorporates known species and community records and compliments this with predicted likelihood of species based on informed science. The vast majority of Tasmania has not been subject to ground surveys. The REM mapping captures all threatened vegetation communities recorded at the time the model was run;
 - one of the many inputs into the REM is a connectivity criteria which is the degree to which patches of native vegetation are inter-connected and the extent to, which species can move between patches;
 - the Priority Vegetation Area overlay would apply to 20,266ha of land in the planning area compared with the Biodiversity overlay of the interim planning scheme that only applies to 5,451 hectares. The Priority Vegetation Area overlay would, if it were not excluded from certain zones such as the Agriculture Zone, apply to 30,143ha of land in the planning area;
 - it is not practical to map isolated threatened species records. Such records are often not sufficiently accurate and the usability of a map of such records would be poor. The *Threatened Species Protection Act 1998* is the principal regulation in any event, and most threatened species records occur within a broader vegetation community anyway, and are therefore included in the overlay;
 - no modification of the draft LPS is required; and
 - the draft LPS satisfies the criteria at section 34(2) of the Act.
269. At the hearing, the planning authority reiterated its opinion that no modification of the Priority Vegetation Area overlay is required. The planning authority also noted that blanket application to areas within the Tasmanian Reserve Estate is unnecessary as most of the land is reserved for natural values that are protected anyway.

Commission consideration

270. The Commission observes the REM mapping has been accepted for use in the draft LPS.
271. No other local evidence or information prepared by a suitably qualified person has been submitted.
272. The Priority Vegetation Area overlay has been applied in accordance with the REM mapping, which is based on expert evidence. The Commission accepts that the overlay has been applied as required by Guideline No. 1 and is consistent with the LPS requirements of the SPPs.

Without further evidence, there is no rationale for the overlay to be modified as requested by the representors.

Commission decision

273. The Commission considers that no modifications are required.

Natural Assets Code – Future Coastal Refugia Area Overlay

Representation: Department of State Growth (54)

274. The representor sought removal of the Future Coastal Refugia Area overlay from areas of the Utilities Zone within the State road casement on the basis that its application does not comply with NAC 6 (c) of Guideline No. 1 and could constrain future use and development of major road infrastructure.
275. In the section 35F report, the planning authority noted that the overlay has not been applied to any land zoned Utilities, that no modification of the draft LPS is required, and that the draft LPS satisfies the criteria at section 34(2) of the Act.
276. At the hearing, the planning authority and representor both agreed that any overlap between the Future Coastal Refugia Area overlay and the State road casement Utilities Zone should be removed, but noted that the issue may have been related to the resolution of the PDF mapping.

Commission consideration

277. The Commission accepts that there should not be any overlap between the Future Coastal Refugia Area overlay and the State road casement Utilities Zone, as prescribed by Guideline No.1 It is the Commission’s opinion that there is no overlap between Future Coastal Refugia Area overlay and the Utilities Zone within the State road casement; however a direction is included in the section 35K(1)(a) notice to ensure that final mapping does not include any overlaps.

Commission decision

278. Modification:

- Revise the draft LPS by Future Coastal Refugia Area overlay by removing any overlapping with the Utilities Zone within the State road casement.

279. Reason:

- To meet technical requirements of Practice Note 7.

Scenic Protection Code – Scenic Protection Area Overlay and Scenic Road Corridor Overlay - Various Areas

Representations: David Hildred (4), Anne Hoyle for Tasman Peninsula Historical Society (10), Paul Fazackerley and Kathryn MacNicol (12), Sue Clark (14), Graham Speight (16), Fay Odell (17), Ian and Anne Hoyle (19), Anna Pafitis (22), Cynthia Townley (23), Stuart MacDonald (26), Ann McGinniss (27), Paul Sutton (28), Jane Taylor (29), Kerry Sakariassen (31), Jill Pierce and Craig Brown (32), R E Graham (33), Karin and Ted Leeson (34), Catherine and John Love (35), Dianne Snowden (36), Terence Brumby (37), Karen Keats (38), Anne Courtney (41), Brooke Robinson (43), Michael Moore (44), M. Pamille Berg and Robin Blau (46), Peter Rigozzi (47), Keith O’Hara (48), Christine Coughanowr (50), Karen Zabiegala (53)

280. The representors sought application of the Scenic Protection Area and Scenic Road Corridor overlays throughout the planning area to places that have outstanding scenic value. The reasons include:
- that protection of the scenic values of the area are very important to the management of State and local heritage values, and the marketability of the peninsula as a tourist destination;
 - the overlay could be applied at Eaglehawk Neck and Roaring Beach, and the Scenic Road Corridor overlay to Roaring Beach Road, the Arthur Highway, Safety Cove Road and Littles Road to protect views to surrounding areas from those vantage points; and
 - there would be inappropriate development if there were no overlays.
281. One of the representors, Ms. Ann McGinniss (representor 27) sought application of planning controls that would protect the view of the southern area of the Tasman Peninsula when viewed from Arthurs Peak on the Three Capes Track.
282. In the section 35F report, the planning authority made the following comments:
- the draft LPS supporting report acknowledges that further work is required to identify areas that warrant application of the overlays and to specify the landscape management strategies that are required. Currently, there is no basis to include scenic landscape areas in the draft LPS;
 - there is generally adequate protection of scenic values through zone provisions and through the management processes in place for Crown land;
 - no modification of the draft LPS is required; and
 - the draft LPS satisfies the criteria at section 34(2) of the Act.
283. At the hearing, Ms. Anna Pafitis reiterated her opinion that the Tasman Peninsula has major scenic value, especially as it relates to tourist experience and that the draft LPS should be modified to include a Scenic Protection Area overlay and a Scenic Road Corridor overlay.
284. In response, the planning authority made the following comments:
- the interim planning scheme doesn't have provisions that can transition to the draft LPS so new work would be required to justify application of the overlays;
 - the planning authority has a scenic values assessment methodology, which is included in the supporting report, however the methodology is complex and would require community engagement and the input of consultants to develop actual mapping;
 - the planning authority is supportive of doing further work towards development of mapping, but at this point in time, it hasn't undertaken the work to understand where the overlays should be applied;
 - application of zones and overlays, particularly the Landscape Conservation and Environmental Management zones and Priority Vegetation Area overlay would provide some protection of scenic values; and
 - the Scenic Protection Code in the SPPs is ineffective and may not provide the outcomes sought by the representors, particularly the Scenic Road Corridor overlay, as vegetation can still be removed, and buildings can still be constructed outside the corridor and obstruct views.

Commission consideration

285. The Commission accepts the recommendations and reasons of the planning authority that further local strategic planning outside the draft LPS process is required to determine whether Scenic Protection Code overlays are warranted. The Commission notes the following:

- there are undoubtedly areas of significant scenic value in the municipality that may be suitable for inclusion in overlays;
- the LPS requirements of the SPPs, specifically clauses LP1.7.6 and LP1.8.1, provide for Scenic Protection Code overlays to be included in the draft LPS, but does not mandate inclusion, and as such the incorporation of the overlays is a matter of local policy for the planning authority;
- the Scenic Protection Code has limited applicability considering the exemptions noted by the planning authority; and
- the underlying zones, such as the Environmental Management Zone, provide for consideration of scenic values.

286. The Commission acknowledges the significant number of representations that requested mapping of Scenic Protection Code overlays. However, without further evidence there is no rationale for the overlay to be applied to the land identified in the representations. The Commission notes the planning authority may undertake further work to develop overlay mapping in the future.

287. The Commission notes a Scenic Protection Area overlay and a Scenic Road Corridor overlay must supported by a suitably qualified person that establishes the scenic values of each area and what management objectives would apply.

Commission decision

288. The Commission considers that no modifications are required.

Coastal Inundation Hazard Code – Table C11.1 and Flood-Prone Areas Hazard Code – Flood-Prone Hazard Area Overlay

Representation: Department of Police, Fire and Emergency Management – State Emergency Service (5)

289. The representor noted the following:

- that the draft LPS does not contain a Flood-Prone Hazard Area overlay, and that the planning authority would need to rely on the SPPs for application of the Flood-Prone Areas Hazard Code to test the merits of proposed use and development;
- that the State government is currently undertaking a project (the Tasmanian Flood Mapping Project) to provide statewide flood mapping for implementation in all Local Provisions Schedules; and
- it supports the zoning proposed for the planning area, particularly the use of zones that provide for the management of density in flood-prone and coastal inundation hazard areas.

290. The representor also requested that an additional line be added to Table C11.1 in the draft LPS written document specifying coastal inundation hazard band AHD levels for ‘all other locations’ not specified in the table.

291. In the section 35F report, the planning authority noted that it does not have the data available for mapping of a Flood-Prone Hazard Area overlay. The planning authority indicated that it would be open to including a Flood-Prone Hazard Area overlay in its LPS once the Tasmanian Flood Mapping Project is complete.

292. At the hearing, the representor stated that the Tasmanian Flood Mapping Project is forecast to be ready for implementation by May 2022. All parties were supportive of adding a line to

Table C11.1 specifying coastal inundation hazard band AHD levels for all other locations not specified in the table.

Commission consideration

293. The Commission notes that flood mitigation can be addressed under clause C12.2.4 of the SPPs.
294. The Commission agrees that Table C11.1 should be amended to include an additional line in the Table specifying coastal inundation hazard band AHD levels for all other locations not specified in the table. This is consistent with the AHD levels published on the DPAC website to assist interpretation and application of the *Building Act 2016*.

Commission decision

295. Modification:

- Revise the draft LPS written document to include the technical modifications identified in Annexure A to the section 35K(1)(a) notice to include an additional line in Table C11.1 specifying coastal inundation hazard band AHD levels for all other locations as follows:

All other locations	1	2.4	3	2.7
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Local Area Objectives

Representation: Anna Pafitis (22), Cynthia Townley (23), Stuart MacDonald (26), Paul Sutton (28), Jane Taylor (29), Kerry Sakariassen (31), Jill Pierce and Craig Brown (32), R E Graham (33), Karin and Ted Leeson (34), Catherine and John Love (35), Terence Brumby (37), Karen Keats (38), Brooke Robinson (43), Michael Moore (44), M. Pamille Berg and Robin Blau (46), Keith O’Hara (48), Christine Coughanowr (50), Karen Zabiegala (53)

296. The representors requested inclusion of local area objectives in the draft LPS, especially for assessment of built form, local amenity, privacy, environmental and aesthetic values. The representors believe local area objectives would assist the planning authority to make decisions.
297. In the section 35F report, the planning authority made the following comments:
- under the SPPs, local area objectives may be considered where a performance criterion explicitly refers to local area objectives. This only occurs in six of more than 100 use and development standards. Of these six, only two would be relevant to the draft LPS, which are retail impact in the Local Business Zone and landscaping in the Light Industrial Zone. This is a clear and direct policy of the SPPs, and local area objectives would therefore have a limited practical role;
 - properly drafted local area objectives can assist in the application of planning controls and provide greater guidance to proponents, the community and the planning authority, however, under the current SPPs there is insufficient benefit relative to the amount of work required to produce sound local area objectives;
 - no modification of the draft LPS is required; and
 - the draft LPS satisfies the criteria at section 34(2) of the Act.
298. At the hearing, the representors Ms. Anna Pafitis and Ms. Pamille Berg observed that the intent of the SPPs is to provide for an LPS to contain local area objectives that would provide a nexus between the SPPs and actual local character. Ms. Pafitis and Ms. Berg were supportive

of local area objectives, but did not specifically indicate what the provisions would be intended to control, for example, residential character.

299. In response, the planning authority opined that local area objectives have a limited role to play in the assessment of use and development applications under the SPPs and again noted that there are only six use and development standards provide for local area objectives to be applied.
300. The Commission also noted that local area objectives can be applied under clause 6.10.2 of the SPPs, which provides for local area objectives to be considered when appraising an application for a discretionary use under a zone or specific area plan. Furthermore, local area objectives can be contemplated under clause 7.1.3 when examining an application changes to an existing non-conforming use, and under clause 7.10 in relation to development not required to be categorised into a use class. The planning authority was in agreement.
301. The planning authority added that if local area objectives had a more significant role to play in the assessment of local character, then it would consider same for the draft LPS, however it was not satisfied that local area objectives were needed or what the provisions would provide for. The planning authority was of the opinion that the SPPs would provide appropriate controls through the zone and code application. The planning authority noted that local area objectives would need to be more than broad strategic statements, and would need to be of actual utility in an assessment.
302. The planning authority noted that local area objectives are usually applied through particular purpose zones and specific area plans and that further strategic work involving the community would need to be undertaken to establish the character of each of its areas that could be written into local area objectives.

Commission consideration

303. The Commission notes the use of local area objectives for all zones is not necessary for the function of the LPS, and the draft LPS can still operate without local area objectives. The inclusion of local area objectives are a matter of local planning policy by the planning authority.

Commission decision

304. The Commission considers that no modifications are required.

On-Site Waste Water Management Specific Area Plan

Representation: Shane and Stacey Salter (13), Anna Pafitis (22), Cynthia Townley (23), Stuart MacDonald (26), Paul Sutton (28), Jane Taylor (29), Kerry Sakariassen (31), R E Graham (33), Karin and Ted Leeson (34), Catherine and John Love (35), Terence Brumby (37), Karen Keats (38), Brooke Robinson (43), Michael Moore (44), M. Pamille Berg and Robin Blau (46), Keith O’Hara (48), Christine Coughanowr (50), Karen Zabiegala (53)

305. The representors raised concern that the proposed On-Site Waste Water Management Specific Area Plan would result in an economic cost to the local community. Representors were concerned that the specific area plan would require TasWater to provide reticulated sewer services at the cost of ratepayers, who would then be charged a compulsory fee for connection and use. A further concern was that reticulated sewer infrastructure would allow higher density residential areas that would be out of character with the local settlements.
306. In the section 35F report, the planning authority made the following comments:

- the provisions are intended to manage the impact that development can have on the operation of on-site wastewater management systems on small lots. As development footprints increase, wastewater management becomes much more difficult to manage effectively in small areas and must be considered from the planning application stage of the development assessment process. Failing systems can be subject to formal notices under the *Building Act 2016* that require upgrades. New systems are subject to maintenance obligations and are less likely to contribute to the cumulative problems of on-site wastewater management systems;
- the specific area plan only applies to unserviced properties with an area less than 800m², which are identified in the draft LPS maps;
- no reticulated sewer systems are proposed;
- no modification of the draft LPS is required; and
- the draft LPS satisfies the criteria at section 34(2) of the Act.

307. At the hearing, the representors who were present confirmed that they understood and accepted the clarification given by the planning authority in its section 35F report.

Commission consideration

308. The Commission accepts the explanation given by the planning authority and is satisfied that no modification of the draft LPS or proposed On-Site Waste Water Management Specific Area Plan is required.

Commission decision

309. The Commission considers that no modifications are required.

General Environmental Issues

Representation: David Hildred (4), Marjorie Baily (24)

310. The representations raised a number of general environmental concerns about management of coastal and inland wetlands, fresh water sources, recognition of coastal buffers, and planning for sea level rises.

311. In the section 35F report, the planning authority made the following comments in response:

- the SPPs regulate dams that are less than 1 megalitre in size. Larger dams are regulated by the Tasmanian Government, along with groundwater resources and water licences;
- the draft LPS includes the Future Coastal Refugia Area overlay, the Coastal Erosion Hazard Area overlay, and the Coastal Inundation Hazard Area overlay for management of these issues;
- no modification of the draft LPS is required; and
- the draft LPS satisfies the criteria at section 34(2) of the Act.

Commission consideration

312. The Commission notes the representor's comments and agrees with the view of the planning authority that the draft LPS does not require modification.

Commission decision

313. The Commission considers that no modifications are required.

Technical Mapping Issues – Coastal Areas – Waterway and Coastal Protection Area Overlay, Future Coastal Refugia Area Overlay, Coastal Erosion Hazard Area Overlay, and Coastal Inundation Hazard Area Overlay

Representation: Tasman Council (56)

314. The representor raised concern that the Waterway and Coastal Protection Area overlay is inconsistent with the hydrographic lines mapping available on theLIST that identifies shorelines and inland watercourses. Furthermore, the representor raised concern that there are substantial inconsistencies in the depiction of the high water mark in coastal areas between the guidance maps for the Waterway and Coastal Protection Area overlay, the Coastal Erosion Hazard Area overlay, and the Coastal Inundation Hazard Area overlay. The representor also stated that the exhibited Future Coastal Refugia Area overlay is inconsistent with the State guidance map that forms the basis of that overlay.
315. In the section 35F report the planning authority noted the request.

Commission consideration

316. Guideline No. 1 specifies that the State guidance maps must be used as the basis for all four overlays. The Coastal Erosion Hazard Area overlay, and the Coastal Inundation Hazard Area overlay can only be modified if based on information previously in the interim planning scheme, or if supported by a suitably qualified person.
317. The Commission notes that there may be some discrepancies between the Waterway and Coastal Protection Area guidance map and Hydrographic Lines mapping available on theLIST, however reconciliation of the two maps would require extensive revision by a suitably qualified person. The Future Coastal Refugia Area overlay was reviewed and is consistent with the requirements of Guideline No. 1, save for removal of the overlay from incompatible zones and 'case by case consideration zones.'
318. The Commission understands that the State guidance maps may be in need of review by the relevant State government departments responsible for the maps, but nevertheless finds that the Waterway and Coastal Protection Area, Future Coastal Refugia Area, Coastal Erosion Hazard Area, and the Coastal Inundation Hazard Area overlays have been prepared in accordance with the guidance maps and therefore satisfy Guideline No. 1. Consequently, the mapping does not require modification at this time, but the planning authority may wish to address any inconsistencies through an amendment to the LPS when it has further evidence and information to support the changes.

Commission decision

319. The Commission considers that no modifications are required.

Representations in support of the draft LPS

Representation: Department of State Growth (54)

320. The representor supports the application of the Utilities Zone to State Roads and is satisfied that its application is consistent with the State Road Casement layer on theLIST and therefore UZ 2 of Guideline No. 1.
321. In the section 35F report, the planning authority recommended no modifications as a result of this representation.

Commission consideration

322. The Commission notes the representor's comments are in support of the draft LPS and is satisfied with the planning authority's response in the section 35F report.

Commission decision

323. The Commission considers that no modifications are required.

Bushfire-Prone Areas Overlay

Representation: Tasmania Fire Service (51)

324. The representor supports the application of the Bushfire-Prone Areas overlay, and confirmed that the overlay has been applied according to the mapping supplied by the Tasmania Fire Service.

325. In the section 35F report the planning authority noted the advice and stated that no modification of the draft LPS is required, and that the draft LPS satisfies the criteria at section 34(2) of the Act.

Commission consideration

326. The Commission notes the representor's comments and agrees with the view of the planning authority that the draft LPS does not require modification.

Commission decision

327. The Commission considers that no modifications are required.

Other matters

Matters taken not to be a representation

328. Representors raised matters about process, the transitioning Port Arthur and Coal Mines Historic Sites Specific Area Plan, future conservation covenants, and informal consultation undertaken by the planning authority prior to submission of the draft LPS.

329. In the section 35F report, the planning authority recommended that there be no modification to the draft LPS as a result of the issues raised.

330. The representation made by the Tasman Council raised the following matters about the SPPs:

- exemption for front fences;
- exemption for roadworks;
- exemptions for vehicle crossings;
- general exemptions;
- the Use Table and setback requirements for the Low Density Residential Zone;
- fencing in a Rural or Agriculture Zone;
- subdivision of an existing dwelling in an Agriculture Zone;
- signs per frontage;
- car parking requirements for food services use;
- table C2.2 Internal Access Way widths; and
- standards for demolition in the Local Historic Heritage Code;
- the Natural Assets Code;
- the Scenic Protection Code;
- mapping of hazards and potentially contaminated land;

- the Bushfire-Prone Areas Code;
- on-site wastewater management;
- access to a dwelling from a Crown reserved Road;
- the siting and scale of outbuildings;
- provisions for public open space; and
- conservation covenants.

331. In the section 35F report the planning authority was in support of addressing the matters raised and submitted a recommendation under section 35G of the Act.

Commission consideration

332. The Commission notes that:

- section 35E of the Act sets out the matters not to be taken to be a representation;
- other matters not subject to Part 3A of the Act cannot be considered as part of its consideration under section 35J; and
- during its consideration, it has sought to establish how all the matters raised relate to the draft LPS and if the matters can be included within the draft LPS under section 32 of the Act.

333. The Commission considers that the parts of the representations listed above are outside the considerations under section 35J. The Commission also notes that the planning authority has submitted a report under section 35G of the Act, which would be examined through a separate assessment process in the future.

Commission decision

334. The Commission considers that it does not have jurisdiction to assess these matters.

Matters of a technical nature or relevant to implementation

335. The Commission notes the draft LPS contains matters that are relevant to section 35J(2) of the Act, including:

- minor numbering and typographical errors in the draft LPS;
- instances where the draft LPS zone and overlay maps or geographic information system (GIS) datasets contain overlaps, gaps and errors, or do not apply the technical advice or conventions set out in Practice Note 7 - Draft LPS mapping; technical advice or in Guideline No. 1 – Local Provisions Schedule (LPS): zone and code application; and
- instances where a modification of draft LPS maps and overlays requires a consequent modification to another map.

336. The Commission further notes that Division 1 – Electronic database and documents of Part 6 of the Act, requires the Commission to maintain a database containing an electronic planning map.

Commission consideration

337. The Commission considers that the draft LPS should:

- minimise numbering and typographical errors and be consistent with the conventions set out in the Commission Practice Notes; and

- contain zone and overlay maps that reflect current cadastral parcel boundaries, be free from technical anomalies such as gaps and overlaps, and be provided in a form suitable for being made under section 35L of the Act and inclusion in an electronic database.

Commission decision

338. Modification:

- Revise the draft LPS written document to include the technical modifications identified in Annexure A of Attachment 2 to:
 - meet the LPS requirements of the SPPs;
 - correct references to relevant provisions;
 - provide for the effective operation of the provisions; and
 - reflect the terminology used in the SPPs.
- Revise the draft LPS zone and overlay maps to:
 - align zoning and overlays, based on the cadastral parcels dataset, with the most recent version of the cadastral parcels dataset available from theLIST;
 - fill any unzoned gaps in the zoning layer;
 - remove any overlaps between adjoining zones;
 - apply the schema set out in Appendix B of Practice Note 7 to each relevant GIS dataset;
 - some overlays supplied by theLIST have been modified since the original versions were published on LISTmap (eg the Electricity transmission Infrastructure Protection overlay). Make sure to use the most recent version available;
 - remove any overlaps between features in the same overlay layers that have different categories (excluding for transitioning SAPs), such as; coastal inundation investigation areas and the low coastal inundation hazard band;
 - aggregate adjoining zone or overlay polygons that share the same category, such as, zone type, landslip hazard band, and aggregate adjoining overlay polygons that have no required category, such as a priority vegetation area;
 - align the boundaries of zone and parcel dependant overlays with parcel boundaries, based on the most recent version of the cadastral parcels dataset available from theLIST; and
 - remove any zone or overlay shown outside the municipal area according to the Central Plan Register (CPR) map (including notes), current low water mark map on theLIST, and any areas described by section 35J(2) of the Act; and
 - present all GIS data in the recommended Geodatabase format provided to the planning authority by the Commission.

339. Reason:

- To make modifications of a technical nature or relevant to the implementation of the Local Provisions Schedule if approved under section 35L of the Act.

Attachments

Attachment 1 – List of representations

Attachment 2 – Notice under section 35K(1)(a) to modify the draft LPS

Attachment 2, Annexure A – Modifications to Tasman draft LPS written document

Attachment 3 – Notice under section 35KB to prepare and submit an amendment of the LPS after the LPS comes into effect

Attachment 1**List of Representations**

No	Name
1.	John Thompson for Conservation Land Holders Tasmania
2.	Stephen Bond
3.	Scott Linnell and Karina Little
4.	David Hildred
5.	Department of Police, Fire and Emergency Management - State Emergency Service
6.	Geoff Couser
7.	Jacqueline Geale
8.	Janice Sutton
9.	Dr Richard Tuffin
10.	Anne Hoyle for Tasman Peninsula Historical Society
11.	Don Clark
12.	Paul Fazackerley and Kathryn MacNicol
13.	Shane and Stacey Salter
14.	Sue Clark
15.	Frieda Moran
16.	Graham Speight
17.	Fay Odell
18.	Southern Planning for David Reinbold
19.	Ian and Anne Hoyle
20.	Andrew Barwick
21.	Roseanne Heyward
22.	Anna Pafitis
23.	Cynthia Townley
24.	Trish Baily
25.	Colin Hurley
26.	Stuart Macdonald
27.	Ann McGinniss
28.	Paul Sutton
29.	Jane Taylor
30.	Dr David Roe Port Arthur Historic Site Management Authority
31.	Kerry Sakariassen

32. Jill Pierce and Craig Brown
33. R E Graham
34. Karin & Ted Leeson
35. Catherine and John Love
36. Dr Dianne Snowden
37. Terence Brumby
38. Karen Keats
39. Robert J Millington
40. Patrick Beveridge
41. Anne Courtney
42. Matt and Vanessa Dunbabin
43. Brooke Robinson
44. Michael Moore
45. Tasmanian Land Conservancy
46. M. Pamille Berg and Robin Blau
47. Peter Rigozzi
48. Keith O'Hara
49. Jonathan and Andrea Hamer
50. Christine Coughanowr
51. Tasmania Fire Service
52. Private Forests Tasmania
53. Karen Zabiegala
54. Department of State Growth
55. Leone Guthrie
56. Tasman Council

Attachment 2**Land Use Planning and Approvals Act 1993****Notice to modify under section 35K(1)(a)****Tasman Draft Local Provisions Schedule**

15 October 2021

The Tasmanian Planning Commission (the Commission) directs that the Tasman planning authority modify the Tasman draft Local Provisions Schedule (draft LPS) in accordance with the following:

1.0 Code lists

- 1.1 In table TAS-Table C11.1 Coastal Inundation Hazard Bands AHD Levels, specify the coastal inundation hazard band AHD levels for all other locations, as set out in Annexure A.

Reason: To meet the LPS requirements of the SPPs and Practice Note 8.

2.0 Zone maps and overlays

No.	Description	Direction and Reason
2.1	Noyes Road, White Beach	Revise the zoning of Noyes Road, White Beach (folio of the Register 175928/1) to Rural Living A Zone. <i>Reason: To apply the Rural Living Zone consistent with Guideline No. 1 and the regional strategy.</i>
2.2	4051 Arthur Highway	Revise the zoning of 4051 Arthur Highway, Murdunna (folio of the Register 229085/1) to Rural Living B. <i>Reason: To apply the Rural Living Zone consistent with Guideline No. 1 and the regional strategy.</i>
2.3	10 Hylands Road, Murdunna	Revise the zoning of 10 Hylands Road, Murdunna (folio of the Register 232255/1) to Rural Living A. <i>Reason: To apply the Rural Living Zone consistent with Guideline No. 1 and the regional strategy.</i>
2.4	617 Saltwater River Road, Premaydena	Revise the zoning of 617 Saltwater River Road, Premaydena (folio of the Register 175084/1) to Rural. <i>Reason: To apply the Rural Zone consistent with Guideline No. 1.</i>
2.5	519 Blackman Bay Road and 15 Blackman Bay Road, Dunalley	Revise the zoning of 519 Blackman Bay Road, Dunalley folios of the Register 153439/1, 165986/1, 155378/1, 169808/5, 153437/1, 225383/1, 81225/1 and 218402/1 and 15 Blackman Bay Road, Dunalley (folio of the Register 149527/1) to Rural and apply the Priority Vegetation Area overlay as shown in the attachment to the planning authority's further submission dated 30 August 2021. <i>Reason: To apply the Rural Zone and Priority Vegetation Area overlay consistent with Guideline No. 1.</i>

<p>2.6</p>	<p>Landscape Conservation Zone - Various Properties</p>	<p>Revise the zoning of the following properties to Landscape Conservation:</p> <ul style="list-style-type: none"> • Roaring Beach Road, Nubeena folio of the Register 37147/1; • Roaring Beach Road, Nubeena folio of the Register 173612/2; • Roaring Beach Road, Nubeena folio of the Register 173612/3; • Roaring Beach Road, Nubeena folio of the Register 173612/5; • 958 Roaring Beach Road, Nubeena folio of the Register 173612/6; • 388 Hurdle Road, Saltwater River folio of the Register 209585/1; • 388 Hurdle Road, Saltwater River folio of the Register 240132/1; • 694 Dam Road, Saltwater River folio of the Register 105562/4; • 493 Roaring Beach Road, Nubeena folio of the Register 131007/1; • 501 Roaring Beach Road, Nubeena folio of the Register 129335/1; • Roaring Beach Road, Nubeena folio of the Register 177006/1; • Mount Communication, Dam Road Nubeena PID 6006905; • the reserve road within 694 Dam Road, Saltwater River folio of the Register 105562/4; • the reserve road within 958 Roaring Beach Road, Nubeena folio of the Register 173612/6; and • the two parcels of reserve road surrounded by Roaring Beach Road, Nubeena folios of the Register 173612/2 and 173612/3, and Mount Communication, Dam Road Nubeena PID 6006905. <p><i>Reason: To apply the Landscape Conservation Zone consistent with Guideline No. 1.</i></p>
<p>2.7</p>	<p>388 Hurdle Road, Saltwater River</p>	<p>Revise the zoning of the land at 388 Hurdle Road, Saltwater River folio of the Register 243116/1 contained within the conservation covenant shown in CPR Plan No. 6948 to Landscape Conservation with the split zoning part to be determined by the area defined by the CPR Plan. The remaining part of the land must remain in the Rural Zone.</p> <p><i>Reason: To apply the Landscape Conservation Zone consistent with Guideline No. 1.</i></p>
<p>2.8</p>	<p>Zoning of Future Potential Production Forest</p>	<p>Revise the zoning of the two parts of Pirates Bay Road folio of the Register 141542/1 that are identified as</p>

		<p>Future Potential Production Forest land lots 293 and 294 to Environmental Management.</p> <p><i>Reason: To apply the Environmental Management Zone consistent with the purpose of the zone and Guideline No. 1.</i></p>
2.9	Pirates Bay Road, Eaglehawk Neck	<p>Revise the zoning of the two parts of Pirates Bay Road, Eaglehawk Neck, folio of the Register 141542/1 that are identified as Future Potential Production Forest land lots 293 and 294, to Environmental Management.</p> <p><i>Reason: To apply the Environmental Management Zone consistent with the purpose of the zone and Guideline No. 1.</i></p>
2.10	Zoning of Jetties and Accretions	<p>Revise the zone maps by removing the zoning from the following sites:</p> <ul style="list-style-type: none"> • the lease/license area and jetty seaward of the municipal boundary opposite 1695 Main Road, Nubeena folio of the Register 162471/1; • the lease/license area and infrastructure seaward of the municipal boundary adjacent to 229 Roaring Beach Road, Nubeena folio of the Register 37325/5; and • the lease/license area and jetty seaward of the municipal boundary adjacent to 370 Blowhole Road, Eaglehawk Neck PID 1468246. <p><i>Reason: To meet requirements of section 32(1) of the Land Use Planning and Approval Act 1993.</i></p>
2.11	Road or Railway Attenuation Area Overlay	<p>Revise the draft LPS by removing the Road or Railway Attenuation Area overlay.</p> <p><i>Reason: To meet technical requirements of Practice Note 7.</i></p>
2.12	Future Coastal Refugia Area Overlay	<p>Revise the draft LPS by Future Coastal Refugia Area overlay by removing any overlapping with the Utilities Zone within the State road casement.</p> <p><i>Reason: To meet technical requirements of Practice Note 7.</i></p>

3.0 Consequential and technical issues

3.1 Revise the draft LPS written document to include the technical modifications identified in Annexure A to:

- (a) meet the LPS requirements of the SPPs;
- (b) correct references to relevant provisions;
- (c) provide for the effective operation of the provisions; and
- (d) reflect the terminology used in the SPPs.

3.2 Revise the draft LPS zone and overlay maps to:

- (a) align zoning and overlays, based on the cadastral parcels dataset, with the most recent version of the cadastral parcels dataset available from theLIST;
- (b) fill any unzoned gaps in the zoning layer;
- (c) remove any overlaps between adjoining zones;
- (d) apply the schema set out in Appendix B of Practice Note 7 to each relevant GIS dataset;
- (e) remove any overlaps between features in the same overlay layers that have different categories (excluding for transitioning SAPs), such as; coastal inundation investigation areas and the low coastal inundation hazard band;
- (f) aggregate adjoining zone or overlay polygons that share the same category, such as, zone type, landslip hazard band, and aggregate adjoining overlay polygons that have no required category, such as a priority vegetation area;
- (g) align the boundaries of zone and parcel dependant overlays with parcel boundaries, based on the most recent version of the cadastral parcels dataset available from theLIST; and
- (h) remove any zone or overlay shown outside the municipal area according to the Central Plan Register (CPR) map (including notes), current low water mark map on theLIST, and any areas described by section 35J(2) of the Act; and
- (i) present all GIS data in the recommended Geodatabase format provided to the planning authority by the Commission.

Reason: To make modifications of a technical nature or relevant to the implementation of the Local Provisions Schedule if approved under section 35L of the Act and to be consistent with Guideline No.1.

Annexure A

Modifications to Tasman draft LPS written document

TABLE OF CONTENTS

TAS-Local Provisions Schedule Title

TAS-Effective Date

TAS-Local Area Objectives

TAS-Particular Purpose Zones

TAS-Specific Area Plans

TAS-S1.0 Port Arthur and Coal Mines Historic Sites Specific Area Plan

TAS-S2.0 On-Site Waste Water Management Specific Area Plan

TAS-Site-specific Qualifications

TAS-Code Lists

TAS-Applied, Adopted and Incorporated Documents

Tasman Local Provisions Schedule

TAS-Local Provisions Schedule Title

TAS-1.1 This Local Provisions Schedule is called the Tasman Local Provisions Schedule and comprises all the land within the municipal area.

TAS-Effective Date

TAS-1.2 The effective date for this Local Provisions Schedule is <insert date>.

TAS-Local Area Objectives

This clause is not used in this Local Provisions Schedule.

TAS-Particular Purpose Zones

There are no particular purpose zones in this Local Provisions Schedule.

TAS-S1.0 Port Arthur and Coal Mines Historic Sites Specific Area Plan

TAS-S1.1 Plan Purpose

The purpose of the Port Arthur and Coal Mines Historic Sites Specific Area Plan is:

TAS-S1.1.1 To recognise and protect the heritage significance of the Port Arthur and Coal Mines Historic Sites.

TAS-S1.1.2 To protect the heritage values of the Port Arthur and Coal Mines historic sites from visual impacts within the areas assessed to be visually significant or potentially visually significant to the site.

TAS-S1.2 Application of this Plan

TAS-S1.2.1 The specific area plan applies to the area of land designated as Port Arthur Historic Site Viewshed Specific Area Plan on the overlay maps.

TAS-S1.2.2 In the area of land to which this plan applies, the provisions of the specific area plan are in addition to the provisions of:

- (a) Low Density Residential Zone;
- (b) Rural Living Zone;
- (c) Rural Zone;
- (d) Agriculture Zone;
- (e) Environmental Management Zone;
- (f) Community Purpose Zone; and
- (g) Recreation Zone

as specified in the relevant provision.

TAS-S1.2.3 Council must notify the Port Arthur Historic Sites Management Authority of any discretionary application at the same time and in the same manner as Council gives notice of an application for a permit under Section 57 of the Land Use Planning and Approvals Act 1993.

TAS-S1.2.4 The Planning Authority must not determine the application until 14 days from the date of notification to the Port Arthur Historic Sites Management Authority, or until after the Authority has provided advice, whichever occurs first.

TAS-S1.3 Local Area Objectives

This sub-clause is not used in this specific area plan.

TAS-S1.4 Definition of Terms

This sub-clause is not used in this specific area plan.

TAS-S1.5 Use Table

This sub-clause is not used in this specific area plan.

TAS-S1.6 Use Standards

This sub-clause is not used in this specific area plan.

TAS-S1.7 Development Standards for Buildings and Works

This sub-clause is not used in this specific area plan.

TAS-S1.8 Development Standards for Subdivision

This sub-clause is not used in this specific area plan.

TAS-S1.9 Tables

This sub-clause is not used in this specific area plan.

TAS-S2.0 On-Site Waste Water Management Specific Area Plan

TAS-S2.1 Plan Purpose

The purpose of the On-Site Waste Water Management Specific Area Plan is:

- TAS-S2.1.1 That development requiring on-site waste water management on lots with an area of less than 1,000m² has sufficient land available for on-site waste water management.

TAS-S2.2 Application of this Plan

- TAS-S2.2.1 This specific area plan applies to the area of land designated as the On-Site Waste Water Management Specific Area Plan on the overlay maps.

- TAS-S2.2.2 In the area of land to which this plan applies, the provisions of the specific area plan are in addition to the provisions of the Low Density Residential Zone as specified in the relevant provision.

TAS-S2.3 Local Area Objectives

This sub-clause is not used in this specific area plan.

TAS-S2.4 Definition of Terms

- TAS-S2.4.1 In this Specific Area Plan, unless the contrary intention appears:

Term	Definition
suitably qualified person (waste water management)	means a person who can adequately demonstrate relevant tertiary qualifications (or equivalent) and experience, knowledge, expertise or practice in undertaking waste water management system design in accordance with AS/NZS 1547.

TAS-S2.5 Use Table

This sub-clause is not used in this specific area plan.

TAS-S2.6 Use Standards

This sub-clause is not used in this specific area plan.

TAS-S2.7 Development Standards for Buildings and Works

TAS-S2.7.1 On-site waste water management

This clause is in addition to the Low Density Residential Zone – clause 10.4 Development Standards for Dwellings and clause 10.5 Development Standards for Non-Dwellings.

Objective:	That site has sufficient area available for on-site waste water management.	
Acceptable Solutions	Performance Criteria	
<p>A1</p> <p>Development must not cover more than 30% of the site.</p>	<p>P1</p> <p>The site must provide sufficient area for management of on-site waste water, having regard to:</p> <ul style="list-style-type: none"> (a) the topography of the site; (b) the capacity of the site to absorb runoff; (c) the size and shape of the site; (d) the existing buildings and any constraints imposed by existing development; (e) the provision for landscaping and private open space; (f) any adverse impacts on the quality of ground and surface and coastal waters; (g) any adverse environmental impact on surrounding properties and the locality; and (h) any written advice from a suitably qualified person (waste water management) about the adequacy of the on-site waste water management system. 	

TAS-Site-specific Qualifications

Reference Number	Site reference	Folio of the Register	Description (modification, substitution or addition)	Relevant Clause in State Planning Provisions
TAS-10.1	5803 Arthur Highway, Taranna	130526/1	An additional Discretionary Use Class for this site is Transport Depot and Distribution.	Low Density Residential Zone – clause 10.2 Use Table.
TAS-10.2	30 George Street, Taranna	106513/1	An additional Discretionary Use Class for this site is Transport Depot and Distribution.	Low Density Residential Zone – clause 10.2 Use Table.
TAS-20.1	6555 Arthur Highway, Port Arthur	146020/2	An additional Permitted Use Class for this site is General Retail and Hire.	Rural Zone – clause 20.2 Use Table.
TAS-21.1	1 Saltwater River Road, Premaydena	147094/1	An additional Permitted Use Class for this site is General Retail and Hire.	Agriculture Zone – clause 21.2 Use Table.
TAS-23.1	Parsons Bay Road, Nubeena	Not applicable	An additional qualification for the Discretionary Use Class of Resource Development for this site is: If for live crayfish storage, handling and wholesale business on land identified in PID 2164922 with access from Parsons Bay Road, Nubeena	Environmental Management Zone – clause 23.2 Use Table.

TAS-Code Lists

TAS-Table C3.1 Other Major Roads

Road	From	To
This table is not used in this Local Provisions Schedule.		

TAS-Table C6.1 Local Heritage Places

Reference Number	THR Number	Town/Locality	Street address	Property Name	Folio of the Register	Description, Specific Extent, Statement of Local Historic Heritage Significance and Historic Heritage Values
TAS-6.1.1	Not applicable	Saltwater River	Saltwater River Road	Cemetery	Not applicable	<p>Description Cemetery</p> <p>Specific Extent Part of PID 2165140 as shown on the overlay maps.</p>
TAS-6.1.2	Not applicable	Premaydena	Premaydena Point Road	Cemetery	Not applicable	<p>Description Cemetery</p> <p>Specific Extent Part of PID 2164850 as shown on the overlay maps.</p>

TAS-Table C6.2 Local Heritage Precincts

Reference Number	Town/Locality	Name of Precinct	Description, Statement of Local Historic Heritage Significance, Historic Heritage Values and Design Criteria / Conservation Policy
This table is not used in this Local Provisions Schedule.			

TAS-Table C6.3 Local Historic Landscape Precincts

Reference Number	Town/Locality	Name of Precinct	Description, Statement of Local Historic Heritage Significance, Historic Heritage Values and Design Criteria / Conservation Policy
This table is not used in this Local Provisions Schedule.			

TAS-Table C6.4 Places or Precincts of Archaeological Potential

Reference Number	Town/Locality	Property Name / Address/ Name of Precinct	Folio of the Register	Description, Specific Extent and Archaeological Potential
This table is not used in this Local Provisions Schedule.				

TAS-Table C6.5 Significant Trees

Reference Number	Town/ Locality	Property Name and Street Address	Folio of the Register	Description / Specific Extent	Botanical Name	Common Name	No. of trees
This table is not used in this Local Provisions Schedule.							

TAS-Table C8.1 Scenic Protection Areas

Reference Number	Scenic Protection Area Name	Description	Scenic Value	Management Objectives
This table is not used in this Local Provisions Schedule.				

TAS-Table C8.2 Scenic Road Corridors

Reference Number	Scenic Road Corridor Description	Scenic Value	Management Objectives
This table is not used in this Local Provisions Schedule.			

TAS-Table C11.1 Coastal Inundation Hazard Bands AHD Levels

Locality	High Hazard Band (m AHD)	Medium Hazard Band (m AHD)	Low Hazard Band (m AHD)	Defined Flood Level (m AHD)
	Sea Level Rise 2050	1% annual exceedance probability 2050 with freeboard	1% annual exceedance probability 2100 (design flood level) with freeboard	1% annual exceedance probability 2100
Dunalley	0.9	1.7	2.4	2.1
Eaglehawk Neck	1	2.4	3	2.7
Koonya	1	2.4	3	2.7
Murdunna	1	2.4	2.9	2.6
Nubeena	0.9	1.9	2.5	2.2
Port Arthur	0.9	1.7	2.3	2
Premaydena	1	2.4	2.9	2.6
Saltwater River	1	2.3	2.9	2.6
Sloping Main	0.9	2	2.6	2.3
Taranna	1	2.4	3	2.7
White Beach	0.9	1.9	2.5	2.2
All other locations	1	2.4	3	2.7

TAS-Applied, Adopted or Incorporated Documents

Document Title	Publication Details	Relevant Clause in the LPS
<i>Australian/New Zealand Standard AS/NZS1547:2012 On-Site Domestic Waste Water Management 2012</i>		TAS-S2.4.1

Attachment 3

Land Use Planning and Approvals Act 1993

Notice to modify under section 35KB(1)

Tasman Draft Local Provisions Schedule

14 October 2021

The Tasmanian Planning Commission (the Commission) directs under section 35KB(1) that the Tasman planning authority prepare and submit draft amendments under Part 3B of the Act, of the Tasman Local Provisions Schedule (LPS), as described below, within 42 days after the LPS comes into effect:

1.0 Forester Peninsula

1.1 Apply the Rural Zone to the following properties at Murdunna as shown in Figure 1 below:

- 3612 Arthur Highway, Murdunna folio of the Register 165980/2;
- 3652 Arthur Highway, Murdunna folio of the Register 114876/1;
- 3654 Arthur Highway, Murdunna folio of the Register 171988/2;
- Arthur Highway, Murdunna folio of the Register 171988/1;
- 3656 Arthur Highway, Murdunna folios of the Register 234715/1, 65794/1 and 85690/1;
- Arthur Highway, Murdunna PID 5958082;
- 3670 Arthur Highway, Murdunna folio of the Register 52601/2;
- 3672 Arthur Highway, Murdunna folio of the Register 52601/1;
- 3674 Arthur Highway, Murdunna folio of the Register 168568/1;
- the reserved and acquired roads (2) alongside the western boundaries of folios of the Register 234715/1, 65794/1 and 85690/1; and
- the reserved roads (4) alongside the boundaries of folios of the Register 52601/1, 52601/2, 168568/1, 234715/1, 171988/2 and 114876/1.

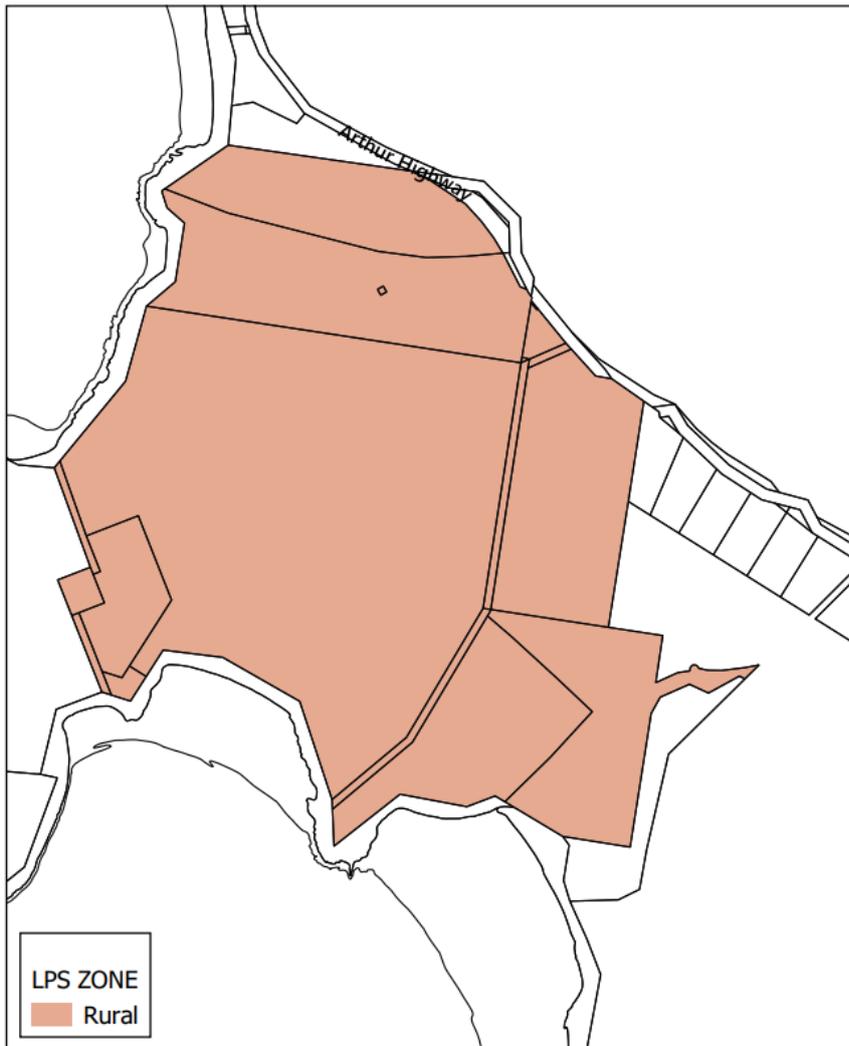


Figure 1 – Application of the Rural Zone at Murdunna

1.2 Apply the Priority Vegetation Area overlay to the following properties at Murdunna as shown in Figure 2 below:

- 3612 Arthur Highway, Murdunna folio of the Register 165980/2;
- 3652 Arthur Highway, Murdunna folio of the Register 114876/1;
- 3654 Arthur Highway, Murdunna folio of the Register 171988/2;
- Arthur Highway, Murdunna folio of the Register 171988/1;
- 3656 Arthur Highway, Murdunna folios of the Register 234715/1, 65794/1 and 85690/1;
- Arthur Highway, Murdunna PID 5958082;
- 3670 Arthur Highway, Murdunna folio of the Register 52601/2;
- 3672 Arthur Highway, Murdunna folio of the Register 52601/1;
- 3674 Arthur Highway, Murdunna folio of the Register 168568/1;
- the reserved and acquired roads (2) alongside the western boundaries of folios of the Register 234715/1, 65794/1 and 85690/1; and
- the reserved roads (4) alongside the boundaries of folios of the Register 52601/1, 52601/2, 168568/1, 234715/1, 1719882 and 114876/1.

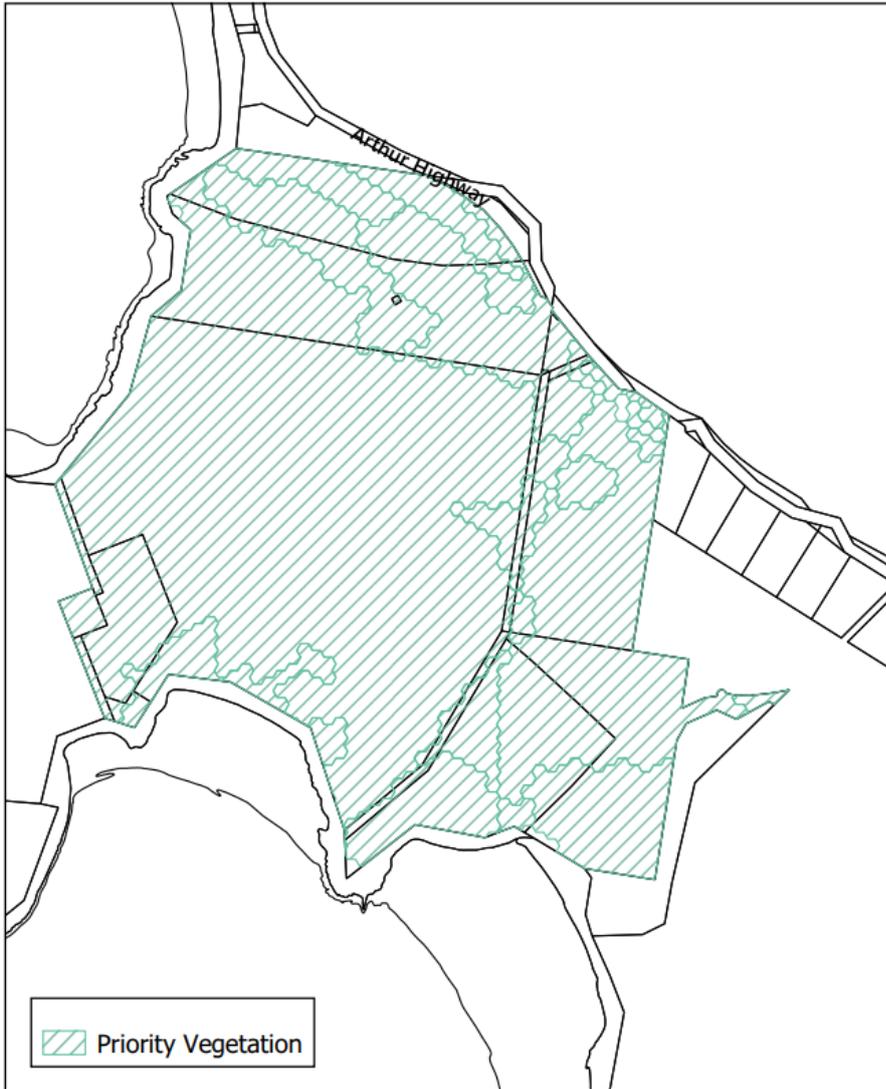


Figure 2 – Application of the Priority Vegetation Area overlay at Murdunna