
From: Greg Partridge <gpartridge@mitchellplasticwelding.com>
Sent: Monday, 26 June 2023 5:44 PM
To: TPC Enquiry
Cc: Brendan Mitchell; Peter Dingemanse
Subject: Mr Brendan Mitchell / CBM Sustainable Design - Additional Submission to the Tasmanian Planning Commission
Attachments: Cover letter to TPC re Hearing 6 July 2023.docx; HVC LPS TPC Response Brendan Mitchell and CBM 26062023.docx

Follow Up Flag: Follow up
Flag Status: Completed

Categories:

Good Afternoon

Please find attached documentation in support of our scheduled appearance before the Tasmanian Planning Commission on 6 July 2023.

Yours sincerely

Gregory Partridge
Operations Manager Fabrication and Field
Mitchell Plastic Welding



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Monday 26 June 2023

Tasmanian Planning Commission
3/144 Macquarie Street
HOBART TAS 7001
(e): tpc@planning.tas.gov.au

Dear Commissioners

Please find attached an additional submission regarding our properties located at 9 Kiles Road, Castle Forbes Bay and 4015 Huon Highway, Castle Forbes Bay respectively.

We look forward to expanding on this submission at our hearing before you on 6 July 2023.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Brendan Mitchell', written in a cursive style.

Brendan Mitchell
Managing Director

MEMORANDUM

TO: Tasmanian Planning Commission

FROM: Brendan Mitchell / CBM Sustainability Group

DATE: 26 June 2023

RE: Response to Proposed Huon Valley LPS and State Planning Scheme

Introduction

The Tasmanian Planning Commission (TPC) has invited a further response from Mr Brendan Mitchell / CBM Sustainability Group (representation 264) in relation to two specific properties – 9 Kile’s Road, Castle Forbes Bay (PID 5249542) and 4015 Huon Hwy, Castle Forbes Bay (PID 3005413).

Both properties appear in the Huon Valley Council (the Planning Authority) annotated Section 35F Report (commencing on page 489) recently distributed by the TPC.

In response to this updated documentation and in support of our original submission, we ask that the TPC set aside the Planning Authorities recommendation and make a new and balanced determination, one that considers not only the Planning Authorities perspective, but also the additional information outlined in this response.

9 Kiles Road, Castle Forbes Bay

In relation to 9 Kiles Road, Castle Forbes Bay, we respectively challenge the Planning Authorities recommendation that the site is correctly classified as an Agriculture Zone as proposed in the Huon Valley Council (HVC) Local Provision Schedule (LPS). We assert that this property should be zoned Rural.

The Planning Authority stated in its Section 35F Report that the property was investigated in the first instance for alternate zoning under AZ 6, a zoning of Agriculture was subsequently determined to be the most appropriate classification for this site.

Noting that Agriculture is one of the most limiting land use zones in the LPS, we have previously submitted that a classification of Rural is a more accurate description of the mixed-use arable land found throughout the Huon Valley Municipality.

Our original representation suggested that small nonproducing lots - such as our property in question, should not be zoned Agriculture simply because they have some arable land, or are near or co-located next to producing lots.

It is completely normal for Rural and Agricultural zones to be side by side and this zone interaction is well provided for in the provisions of the LPS. The Tasmanian Planning Scheme (TPS) manages Sensitive

Use within 200 metres of nearby Agricultural zoned property, the exact same way that it does for Agricultural land adjacent to Rural classified holdings and Rural land next to Rural Living zones.

To ignore the obvious flexibility provisions of the TPS and force a small non-producing lot - that is clearly not capable of sustaining any form of agricultural activity or revenue into an erroneous zone classification simply because it located next to a much larger and appropriately zoned piece of agricultural land, makes no sense whatsoever. The excuse that such action protects that land from use conflicts suggests significant doubt in the ability of the performance-based scheme to manage said use.

When the HVC Interim Scheme was introduced, Castle Forbes Valley was zoned as Significant Agriculture (Sig Ag). A view of the 2021 land use maps clarifies that only a small portion of the current zone is orchard, some is runoff grazing but residential and hobby farming is more significant. Kiles Road and the subject property lies at the end of the river plain of the Castle Forbes Rivulet. The valley floor has a land capability rating of class 4; Land well suited to grazing but which is limited to occasional cropping or a very restricted range of crops. The existing scheme has much of the valley floor zoned as Sig Ag, including most of the class 4 land, however 50% of the Sig Ag zoned land in this locality is class 5; Land unsuited to cropping and with slight to moderate limitations to pastoral use and class. In the proposed mapping of the LPS, there is a significant increase of Agriculture zone in comparison the current Sig Ag zone. Many larger lots formally zoned Rural Resource are proposed as Agriculture, thus no loss if minor non-contributing lots are moved to Rural Zone. Map 6 indicates the proposed expansion of the Agriculture zone in the context of Kiles Road. To zone the minor lots at Kiles Road as Rural is not a loss of land purposed for agriculture.

The Section 35F - 9 Kiles Road response noted that the property was investigated in first instance for alternate zoning under AZ 6. Agriculture was determined as the most appropriate. The subsequent review of Agriculture zoning by RMCG considered that for the single lot to be not Agriculture might create "spot zoning" but confirmed that to apply the Rural zone to the few small living use properties clustered at the junction of Kiles Road is only marginally less preferred. The point was made that the adjacent country road - Castle Forbes Road, is a separation and thus the reason these small "residential without agriculture properties" on Kiles Road are not seen as connected to the Rural Zone adjacent. In that sense the recommendation was that Agriculture was preferred, but only slightly over having three properties on this southern side of the road as a cluster of Rural.

The review by RMCG considered that for the single lot not to be classified as Agriculture may create a "spot zone" and inferred to create an alternative planning pathway that will negatively influence the normal use and function of the larger predominant Agricultural properties surrounding it. In other words, the report suggests that small rural residential use properties on the Kiles Road junction will create an out of rhythm "spot zone" blip on the planning map if not zoned Agriculture. Noting that no acknowledgment is made that the solution is actually a simple drawing of the line between zones, it is fairer to describe the proposal as including the lots with the Rural zone directly adjacent to the north, in lieu of tying them to the Agricultural zone to the south and east. It is not a cluster and certainly not spot zoning - it is a matter of setting the boundary between two zones. This solution is consistent with the predominant solution for Agriculture / Rural zone boundary in the proposed LPS maps.

RMCG stated that it was a "marginal" call as to whether a group of small nonproducing properties located around the junction of Kiles Road and Castle Forbes Road should be zoned as Rural and then incorporated into the adjacent and larger Rural zone located to the north. The three properties in question are 3 and 9 Kiles Road and 135 Castle Forbes Road.

The small and unproductive size of each lot clearly removes them from an Agricultural classification and correctly aligns them to the adjacent Rural zone. By drawing these properties into the Rural zone and ignoring the dividing roads arbitrarily separating them, each lot is then correctly assigned its true classification, instead of attempting to force them into the restricted Agricultural zone located to the south and east. Clearly the Planning Authority is comfortable with the concept of both Agriculture zone and Rural zone working together; in mapping of new Agriculture zones this feature of the TPS is well relied on. The new Agricultural zoned areas are not broad and predominant, but rather staggered and interspersed with Rural and other zones. The solution is consistent with the predominant solution for Agriculture / Rural zoned boundaries in the proposed LPS maps and it is clearly the preferred solution here.

Specifically in relation to 9 Kiles Road, the property is improved in such a way that it is consistent with a Rural zone classification. The 3.3-hectare multi use rural property contains a large and renovated home and a significant rural storage/manufacturing workshop facility - a use that occupies and covers the front third portion of the property. This has no effect on the cherry farm adjacent. This detail is not captured in the Section 35F Report – the only mention of its existing use and infrastructure is “the dwelling is 70m from land managed for orchards”. Apart from the inference that the Agriculture needs to be protected from the legitimate rural use of residence, it notes that nearby CT 7401 with class 4 might become isolated with rural on 3 sides in the solution. This is a somewhat skewed description, apart from fact that a Rural zone does not constrain an Agriculture zone. The lot mentioned is a corner lot with a road on two sides, with good connectivity to the two larger Agricultural zoned properties to the south and west. The annotated report concludes that to have Kiles Road in an Agriculture zone is a slightly preferred option for zoning consistency, but the case for zoning consistency is not well made. There is a road and five homes between the cherry farm to the east and CT 7401 west of the subject land. The option for Rural zoning of smaller properties at the Kiles Road junction is a good one and should be significantly preferred.

Rural zoning better reflects the existing infrastructure and use of the Kiles Road property and Rural zoning does not create an impost on the Agriculture zone. A comparison of the purpose for each zone is helpful in considering why this is important to get right. Resource development is prioritised in both Agriculture and Rural zones. Whilst an Agriculture zone acts to protect any land subject to it for agricultural purposes, the Rural zone acts to provide for not only agriculture, but also other rural fit uses. Agriculture zone demands minimal interference in the zone on agriculture - the few permitted uses are only those in direct support of agricultural activities. Rural zone seeks to minimise the conversion of agriculture land, whilst allowing for a range of rural appropriate uses at a scale and intensity suitable for a rural location.

It is important to note that the purpose for a Rural Zone first acknowledges agricultural land within it, clearly agricultural land is expected to be in both Rural and Agriculture zones. The TPS is not designed such that any land with any agricultural potential be locked away in an Agricultural zone. Protection of productive agriculture is vital, but the concern over how Agriculture zone mapping might be used as an additional planning control is valid.

The HVC LPS can continue to support community and business in a way the promotes the sustainable future of the municipality. A well planned and mapped Agriculture zone can add value to agricultural producing areas, but this classification will devalue and constrain 9 Kiles Road if applied to it. We submit that the 9 Kiles Road should be correctly classified as Rural and that the RMGC recommendation to include two small adjacent properties into this zone is a sound and justifiable action.

4015 Huon Highway, Castle Forbes Bay

The Mitchell Plastic Welding Pty Ltd (MPW) owned and operated manufacturing facility is a light industrial adaptive reuse of an early 1970's site originally constructed as a fruit processing and cold storage facility. MPW purchased the site in 2012 and has been operating from it ever since.

The MPW Factory provides for the manufacture, processing, service/repair and installation of HDPE plastic products primarily utilised by local, national and international aquaculture and agriculture sectors. In addition, the company has expanded its customer base to include the liquid storage, boutique and municipal service industries.

Whilst MPW is expanding its business operations throughout the State, the iconic Huon Highway address will remain the key site and head office for this proud Tasmanian family-owned company. Currently the business employs 60 plus staff - the majority of which are drawn from the Huon Valley and its surrounding hamlets, although this number will expand significantly when the business begins recyclable resource recovery and recycling activities at a satellite site in Brighton.

The MPW manufacturing facility is directly adjacent to the Huon Highway. The site is split zoned Rural Resource and Agriculture under the current HVC Interim Planning Scheme. The factory buildings are zoned Rural Resource and an outdoor storage and handling area acquired by minor boundary adjustment to the east and south of the constrained factory site is zoned Significant Agriculture. The adjacent caretaker's cottage/executive office is on its own Rural Resource zoned lot. The 50m wide Scenic Overlay associated with the Huon Highway extends over most of the site.

As previously submitted to the Planning Authority, MPW have proposed that the zoning must be corrected as the process of planning reform has HVC transitioning into the TPS. The allocation of a Light Industrial Zone classification would accurately reflect the actual business activities, constructed building footprint and use of the land, it would not adversely affect agriculture and it provides for good amenity controls in the context of the surrounding rural landscape. Further, the Scenic Overlay requires strong control of visual amenity regardless of zone.

Since advertising of the HVC LPS, the Planning Authority has confirmed a correction of the Agriculture and Rural zones for the site is in order. In the respect to 4015 Huon Highway, the Castle Forbes Bay factory site was acknowledged in the section 35F report as needing to have a correction to the zone. The solution as tabled is for it to be zoned Rural, on the basis that this will provide for existing Resource Processing as a permitted use. That is an error - the existing use is Manufacturing!

As the Planning Authority response is based on an incorrect assumption of the existing Use and the subsequent permitted pathway provided for it, no consideration of other solutions was made. It currently reads that the existing planning glitches will be solved in the new scheme under a Rural zoning. However, that assumption is far from the case; our response is based on an assessment of Light Industrial, as it is the only suitable solution for the existing manufacturing facility.

We are confident that the Planning Authority intended to support MPW's ongoing use of the significantly developed site and upgraded building footprint. Their Section 35F response indicates that the proposed solution of a Rural zoning was chosen because it "provides a permitted pathway for expansion of the existing use." HVC agreed that the adaptation and upgrade of the old facilities at Castle Forbes Bay to the now "productive use" fits well in the allocated site. However, the permitted pathway intentioned by Council is not provided for in a Rural zone via the state provisions for manufacturing. The site is not broad acre, but rather it is concise and defined. The existing Development and Use is Light Industrial in nature and not limited to Resource industries.

Since the site "Use" is not Resource Processing - as are the aquaculture businesses in the Huon Valley that MPW services, the proposed Rural zoning for the site falls short. "Manufacturing and Processing" is a discretionary use and "Service Industry" is qualified as applying to the servicing of resources only. Whilst the objective of use standards for discretionary activities in a Rural zone can support the intention to use the whole site, an assessment against the performance criteria is problematic, especially when the criteria use the term "agricultural land".

The case is made that Light Industrial zoning does not impact or constrain the predominant Agriculture and Rural zones surrounding the site, but rather provides for better use and development controls. By way of explanation, for the entire time that MPW has owned and operated the property, light industrial manufacturing and associated processing activities have been the primary function occurring on site. To set the zone to Light Industrial does not impact or constrain the predominant zones surrounding the property, instead it provides for more stringent use and development controls to be applied. Furthermore, our site is already developed and operating as a light industrial business, thus to formally transition it to a corresponding classification has no material impact on surrounding properties.

As currently proposed by the Planning Authority, there is no issue with having a Rural zoned property adjacent to an Agriculture zoned one, as is the case with our site. Similarly, there is no adverse effect if the differing zone was Light Industrial. It is normal for Rural, Light Industrial and Agriculture zones to be adjacent and interact with each other - neither confines nor constrains the other, they are balanced and conditioned in their sensitivity towards surrounding uses. The placement of differing zones for individual sites and properties is predominant for this section of the Huon Highway and is already the case for this site. If as granted the effect of Rural adjacent to Agriculture is appropriate in this location and circumstance, then correspondingly there can be no additional adverse effect if the differing zone was Light Industrial. The simple response is the site is already developed as light industrial, thus to continue has no addition effect.

We are aware that in considering Light Industrial as a suitable Zone classification, any additional effect must also be taken into account. As the Use standards for Light Industrial are more stringent than Rural, we note that there will be additional controls surrounding amenity issues, particularly as our site and zone is specifically defined and limited as it is. For example, for any use expansion and development, screening of outdoor storage and landscaping is required. MPW have recently invested in a generous and fully landscaped berm for the site to improve visual amenity along the Huon Highway frontage.

Contrary to the above Light Industrial provisions, a Rural Zone classification provides an acceptable pathway to increase a development area by an additional 30% without consideration of screening for storage or landscaping!

Important to the consideration of zoning effect is the fact that the Huon Highway is a valued scenic road and our site is subject to the Scenic Overlay. Whilst a Light Industrial zone will provide for enhanced management and use of the site, this additional overlay demands an increased focus on ensuring that amenity and visual impacts are managed to a high standard, regardless of zone type. Any development or use within 50m of the road is subject to the Code - that is effectively the whole of our site. If the solution to the zone correction is Light Industrial, this will not be a pathway for detracting of landscape rural amenity and natural values – instead it will only strengthen and enforce this mandatory provision.

The MPW Castle Forbes Bay factory is not out of character in the municipality. Adaptive reuse of facilities and buildings is a well-established practise in the Huon Valley, with some of those being zone corrections when the Interim Scheme was first established. The factory cannot be asked to relocate for new zone mapping reasons and the broadening of our business model and the essential industries that we service does not provide that justification, because to do so would mean that MPW will move to another municipality. A zone response that provides both opportunity and suitable control is necessary and that solution is Light Industrial.

For 4015 Huon Highway, it must be considered that the section 35F report missed the opportunity to fully assess the correction of Agriculture/Rural zoning at Castle Forbes Bay. Light Industrial was not even considered, because it was too quickly assumed that Rural held the solution. The presumed Use in that assessment was not accurate. The site is developed and used in a way that is best described and managed as Light Industrial. The value of the site and its contribution to the local economy is connected to its ability to function for manufacturing and service industry. A zone correction is required to progress the LPS and the chosen solution must consider the effect for the property, adjacent uses, the locality and the municipality. In the context of this site, supporting the current activity and managing the future Use and Development is only achieved within a Light Industrial Zone.

Conclusion

Thank you to yourselves as members of the Tasmanian Planning Commission for staying the course and for establishing the Tasmanian Planning Scheme across our State. We appreciate the opportunity to make this further submission and sincerely invite you to visit and assess our sites in person.

Not only is MPW an important part of the sustainable economy for the Huon Valley, but it is more so a significant part of the unique food and entrepreneurial industry and recycling future for Tasmania.

We look forward to presenting our case to you at our Hearing on 6 July 2023.

EXTRACTS

26/3/2023 – TPC, HVC LPS

The following are extracts from the HVC SECTION 35F report, and B. Mitchell/ CBM representation 2022 as referred to in this response

EXTRACT 1

[HVC Section 35F report, January 2023](#)

GENERAL RESPONSE - AGRICULTURE ZONE The Council acknowledges that the assessment of agricultural potential in the Huon Valley is difficult due to a range of factors. As is the case with the LCZ, topography, land size, existing development and the mixed farming/native vegetation of titles all makes this a complex and almost case by case analysis. Council has applied Guideline No.1 for application of the Agriculture zone however Council acknowledges that:

- A detailed assessment of agricultural potential or constraints has not been carried out.
- The high value of land per ha on smaller titles was not adequately considered.
- Existing use and infrastructure on titles has not been taken into account.
- There was no ground testing of the proposed Agricultural Zoning titles.

EXTRACT 2

[RMCG annotation version re 9 Kiles Road](#)

The title is 3.3ha with a dwelling which is approximately 70m from land managed for orchards on both the eastern and southern boundaries. Whilst we support the points raised in the Rep, changing the zoning of the subject title is not supported as that would be spot zoning. Whilst a cluster comprised of CT 7692/1 and CT 119742/1 could be considered for Rural, this is less preferred (but only marginally) as it leaves CT 7401 somewhat isolated with Rural zoning on 3 sides. The subject titles and all surrounding land is mapped as Class 4 land and Castle Forbes Bay Rd to the north reduces connectivity to Rural zoning on the northern side. For zoning consistency, Ag is preferred (but only marginally). In June 2020 (Group 2) we comment on titles in this area and whilst we do not comment on the subject title we do comment on one further to the east (CT 14578/1) as follows. 'While the title itself is best described as a domestic block, it is adjacent to land that is proposed to be zoned Ag, including orchards. To avoid spot zoning the Ag Zone would be more appropriate. So Guideline AZ2 is applicable'. Also CT 100008/1 is recommended for the Ag zone in our June 2020 comments. Note at that stage CT 119742/1 and CT 7692/1 were proposed for the Rural zone and there is no comment on those two.

No change. Retain in the Ag zone. A second slightly less preferred option is a cluster comprised of the subject title (CT7692/2) and CT 121882/1 & CT 119742/1 to be changed from Ag to Rural

EXTRACT 3

[B Mitchell/ CBM representation 2022](#)

It is great to see the Huon Valley moving on with planning reform, we in business and industry are very keen to see planning simplified and understand that the new State scheme is intended to deliver that.

We write this submission as response the proposed new scheme as advertised. This response is somewhat last minute however going forward we will have CBM sustainability group is assisting, we ask they be included in correspondence. As discussed with council a more detailed submission developed with assistance of our consultants with them will be provided in due time.

There are several challenges with that we can see when reviewing the proposed mapping against the state scheme. We understand that the transition is generally to be like for like from the current planning scheme into the new State Scheme, but it is important to also consider things that should be changed as we move to a new scheme. Other challenges relate to mapping, the expansion of overlays linked to the new codes can result in a restriction of use not always intended or desired.

A broad issue we have identified is the application of Agricultural Zone for any property that has arable land. The criteria originally used for mapping the existing Significant Agricultural Zone when the interim scheme came in, may not be the same as what is intended for the new Agriculture Zone today. Especially where sites and actual use do not reflect the zone purpose of the Agriculture Zone, more appropriate zones should be considered. The intent of the agriculture zone is to protect productive land, it primarily does this by restricting uses. This may be appropriate for large scheme productive farmland areas, land that is connected to irrigation or land of specifically high agricultural value but doesn't fit well to smaller properties especially those that have, or have potential for, varied uses. It is a general comment that Rural zone is a fairer zone for land that has varied use, it manages the same key interest of protecting arable land but does not prohibit all else. Surely Agriculture zone should be used sparingly and carefully. It is specifically for land that is reserved for the production of food, that is the zone purpose. Rural Zoned land also is productive in agriculture but can create space for diversity in use within the landscape and in the context of local community and industry.

Similarly, the translation of Agriculture zone to properties that may be better defined as Rural Living should be questioned. Protection of food producing land is not achieved by applying the zone, much opportunity is lost for properties that are not broad acre farms. Our property at 9 Kiles Rd is set amongst other similar properties ranging from 1 ha to 10 ha; the local cluster of rural living homes, some with a house paddock, may be better zoned rural if not rural living.

Specifically, we note discrepancies with zoning for our factory site 4015 Huon highway at Castle Forbes Bay. The new scheme proposes zoning that is historic rather than a planning zone reflecting the use and the manner in which the site is developed. The site is a discrete title with a significant built facility that supports industry, primarily agriculture and aquaculture, but others as well. The 1.5ha site is neither Rural nor Agricultural in scale, use, or the way it is developed. A long time ago the site and buildings held produce, but agriculture changed, the facility was no longer needed for that function. Subsequently the site was redeveloped as workshops for supporting industry, the diversification of irrigation and aquaculture has allowed the business to prosper, and the facility improve. The site is commercial/ light industrial in nature and should be zoned as such, it loses its purpose if reserved for agriculture. To be zoned appropriately won't inhibit the site continuing its role in supporting agriculture and aquaculture. To be zoned according to the way it is developed and is used ensures the investment in, and the output of, this productive site is not inhibited by planning but supported.

In respect to other properties and the scheme in general, we have yet to fully consider the effect of the proposed LPS. We thank council for confirming that further comment is welcomed beyond this submission. We do however note that the natural assets code is extensively mapped with layers applied depending on zoning. The coastal refugia overlay appears to exclude residential zoned land but is triggered everywhere else. The way the code as written prohibits nearly all use, it seems to be purposed to create a new nature reserve area, much of which will be on private land. By example, our property at 4013 Huon Hwy has most of its future usable area subject to this overlay. The overlay will prohibit nearly all future development or use, and only based on a current land contour. This is regardless of appropriate land use, good planning or design. The proposed LPS mapping has freehold titles in Environmental Management the zone assigned to national parks and reserves. This does not seem correct when the scheme provides Landscape Conservation, Low Density Living or Village for such purposes. Our land parcel PID 5268444 at Cackle Creek is subject to this question.

We trust that council in preparing the LPS for the new scheme has considered the need for growth in our municipality and land availability. The state scheme has clear provisions, yet it may be that the zones as mapped are more based on history of planning schemes rather than vision for the Huon. We encourage council to move strategically to support diversity and flexibility in land use and development, we have a choice how to map the state planning provisions to our municipality, we should do so in a way that avoids restriction on industry and community.

Trusting there is an opportunity to discuss. Our hope is that the LPS process supports us all moving in the direction we want our Municipality to grow.

MAPS

26/06/2023

Tasmanian Planning Commission - HVC LPS

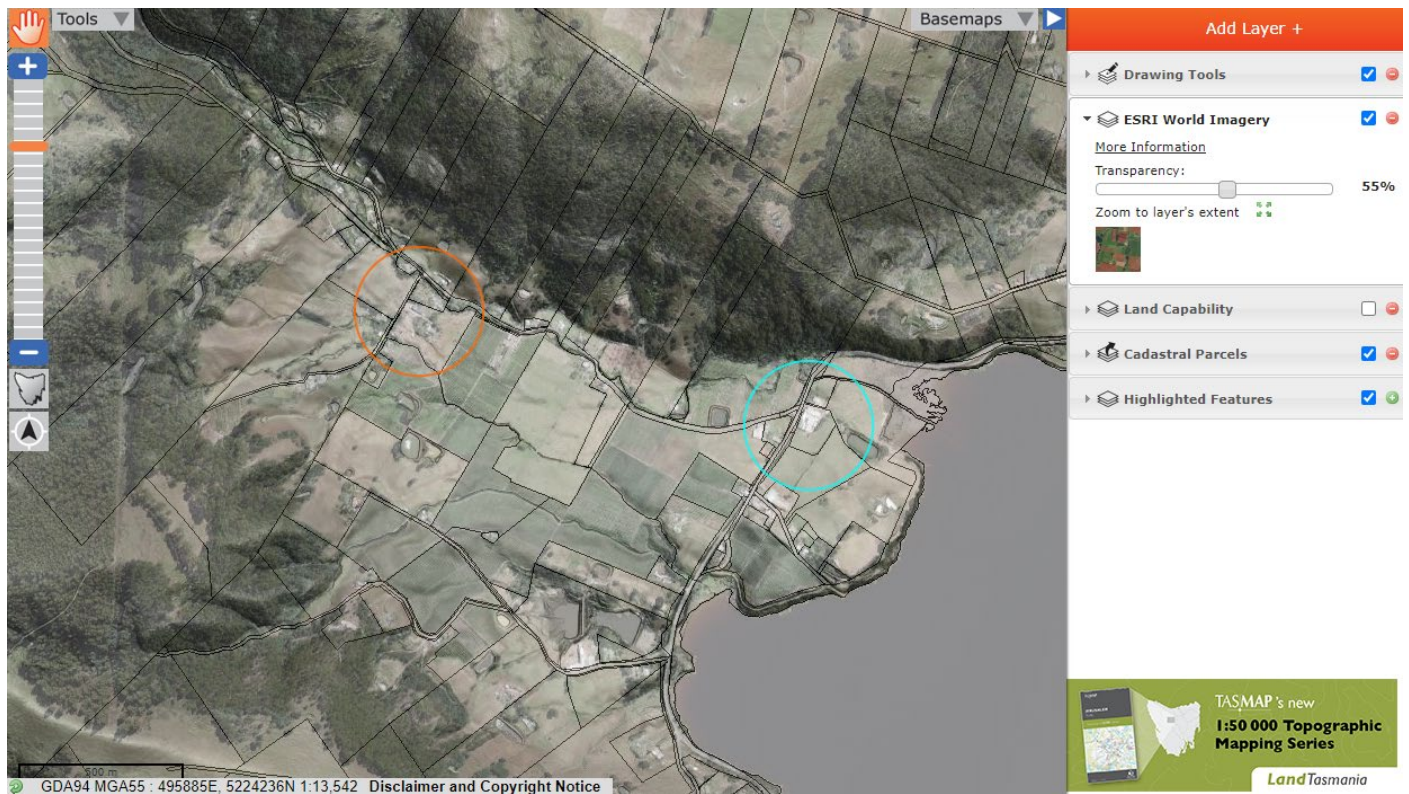
Proposed HVC LPS -Tasmanian Planning Commission Assessment and Hearing

B.Mitchell / CBM Submission– ASSOCIATED MAPS

The following Maps and Diagrams are supplementary to the submission by B.Mitchell and CBM They identify the sites, context and planning mapping referred to in the submission.

All base maps used are created by The LIST MAP, Tasmania, and the Discover Communities Tasmania Planning Scheme Consultation tools. Annotations by CBM.

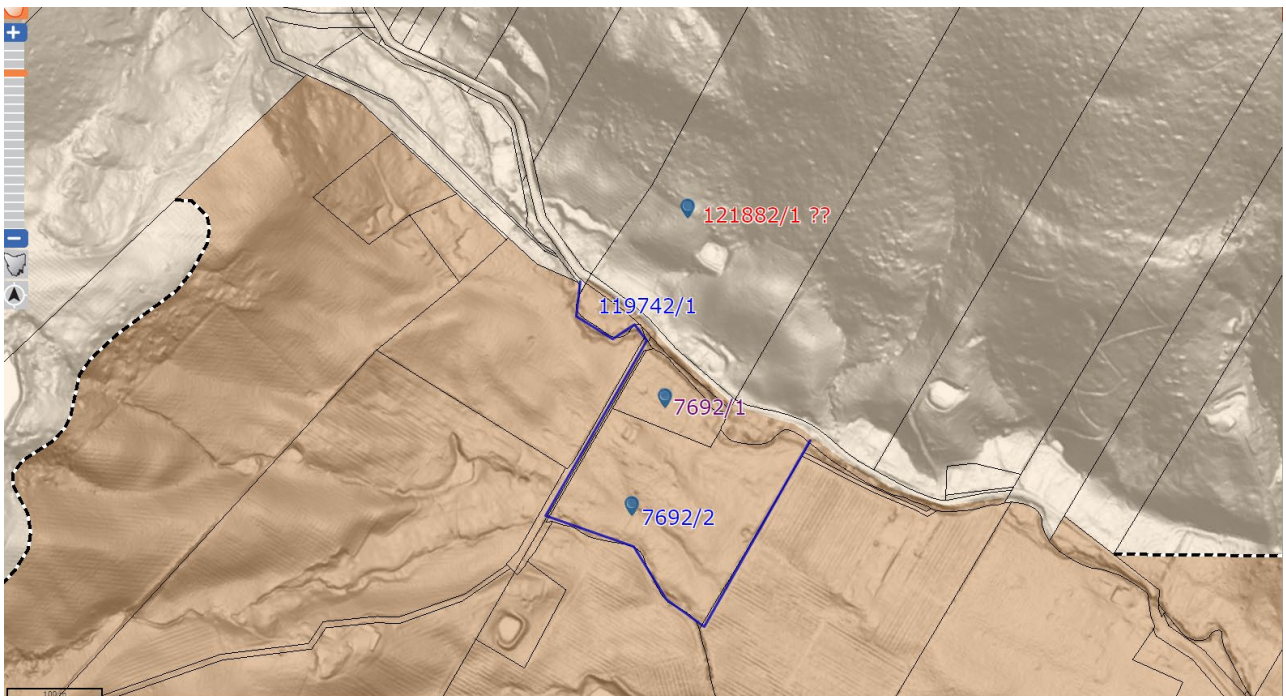
KILES RD and CASTLE FORBES BAY, HVC LPS assessment maps.



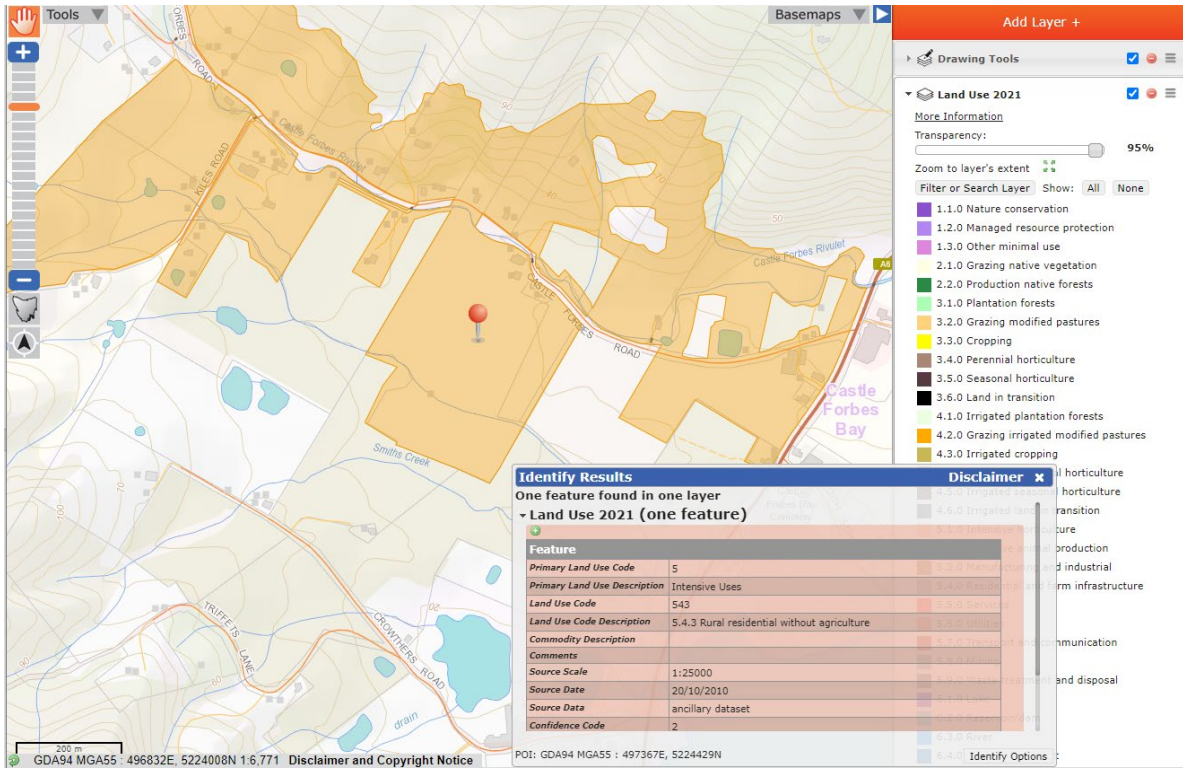
MAP 1 – LOCATION – 9 Kiles Rd (orange) and 4015 Huon Highway (blue) Castle Forbes Bay



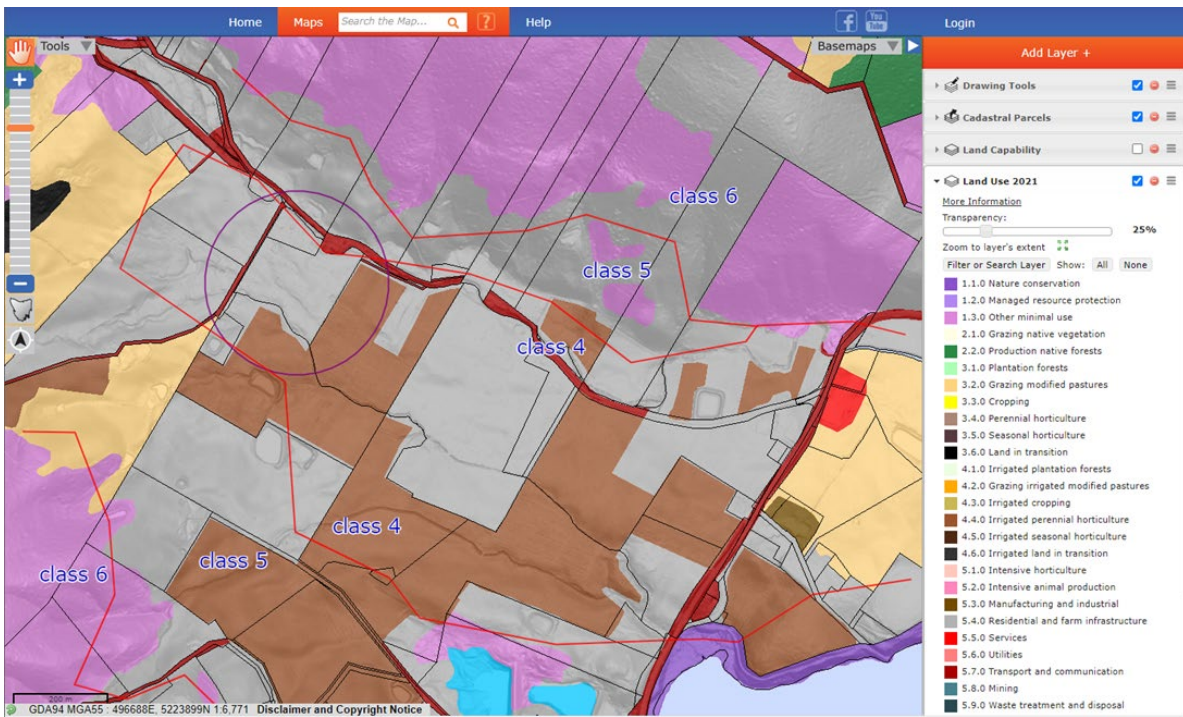
MAP 2 – LOCATION 9 Kyles Rd (7692/2) in the context of Kyles Rd Junction Properties.



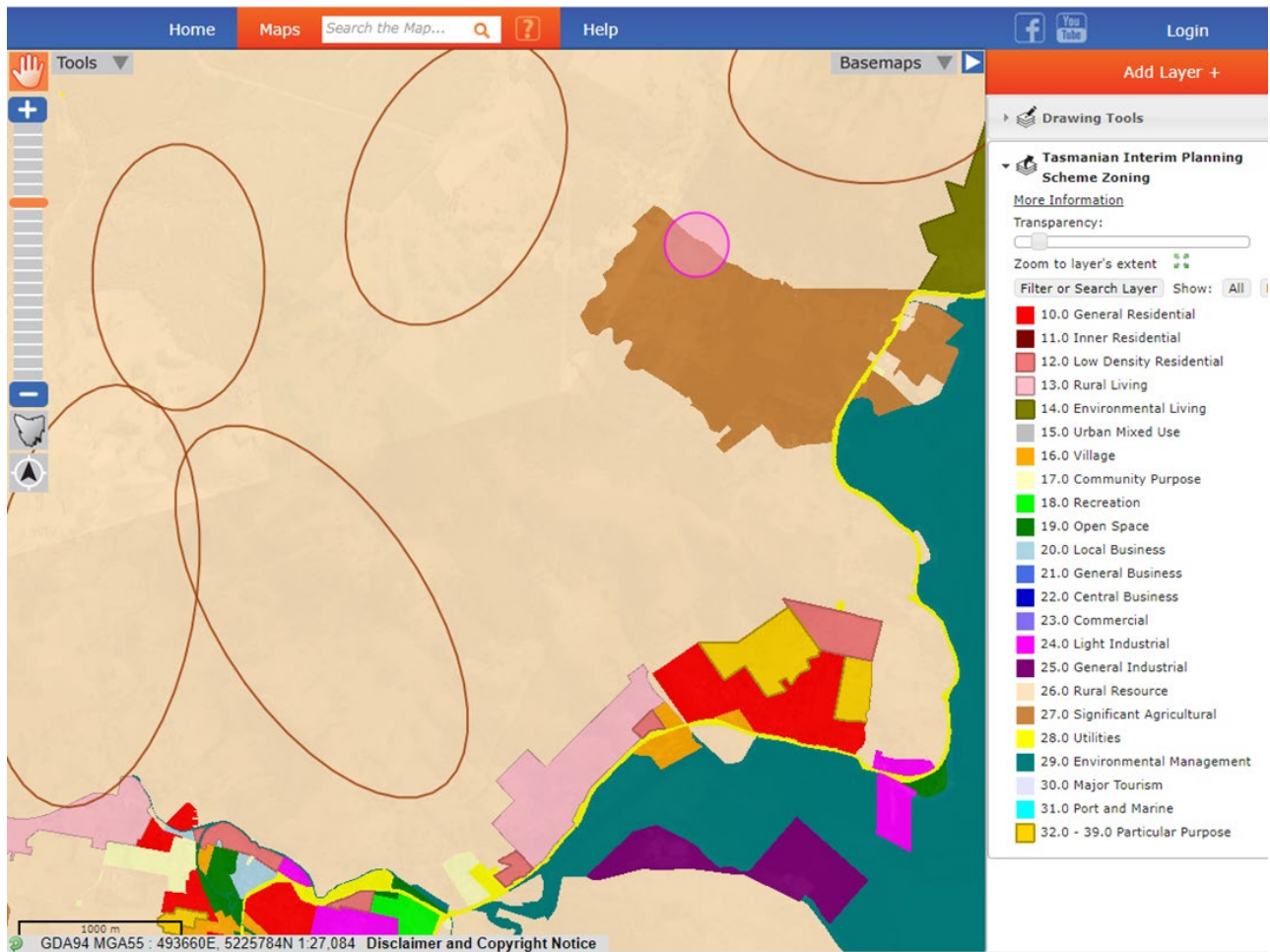
MAP 3 – ZONE BOUNDARY 9 Kyles Rd, PROPOSED SOLUTION ZONE BOUNDARY BETWEEN AG ZONE AND RURAL ZONE



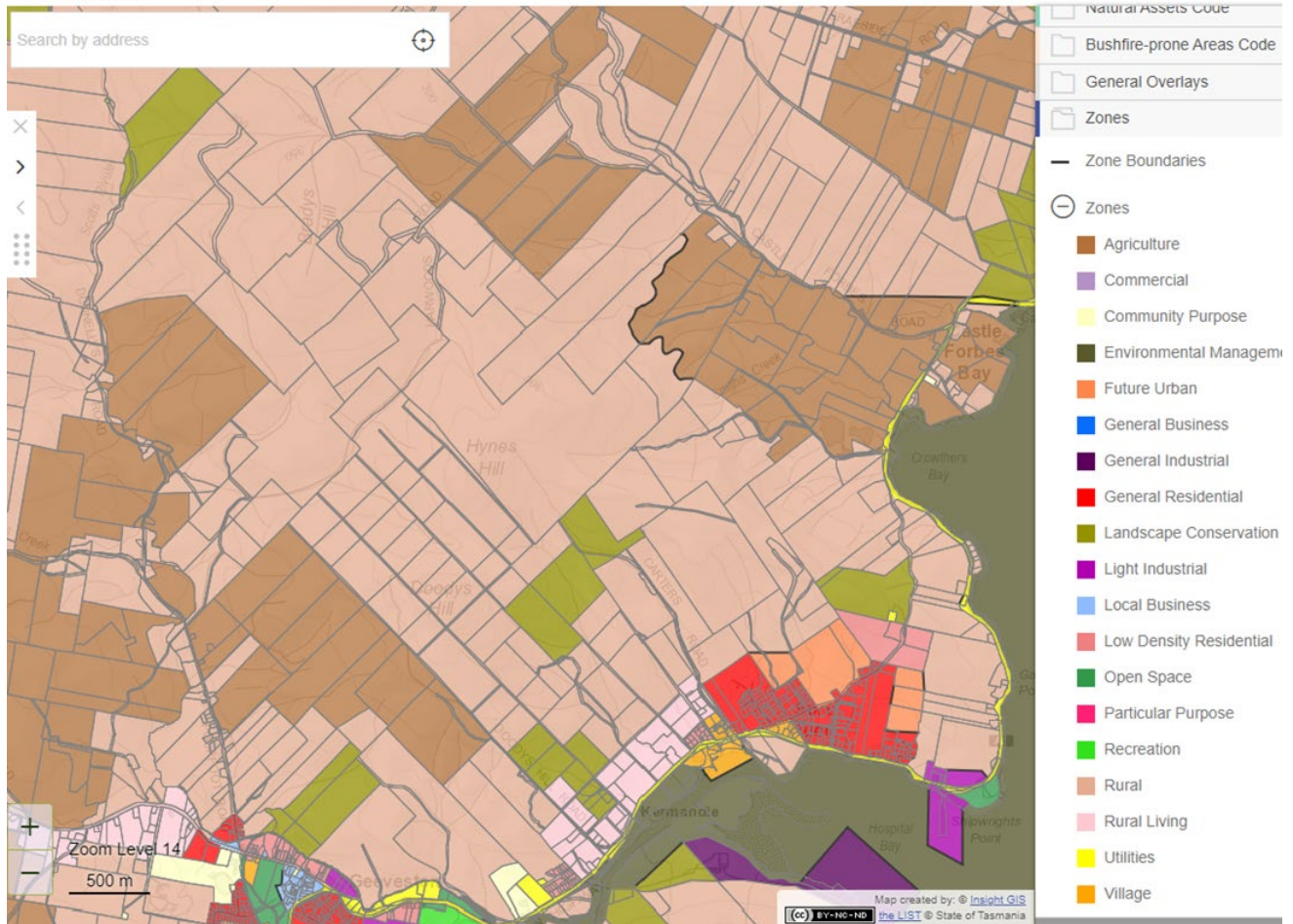
MAP 4 – EXISTING LAND USE 2021, Rural Residential without agriculture aligned to Kiles Rd/ Castle Forbes Rd



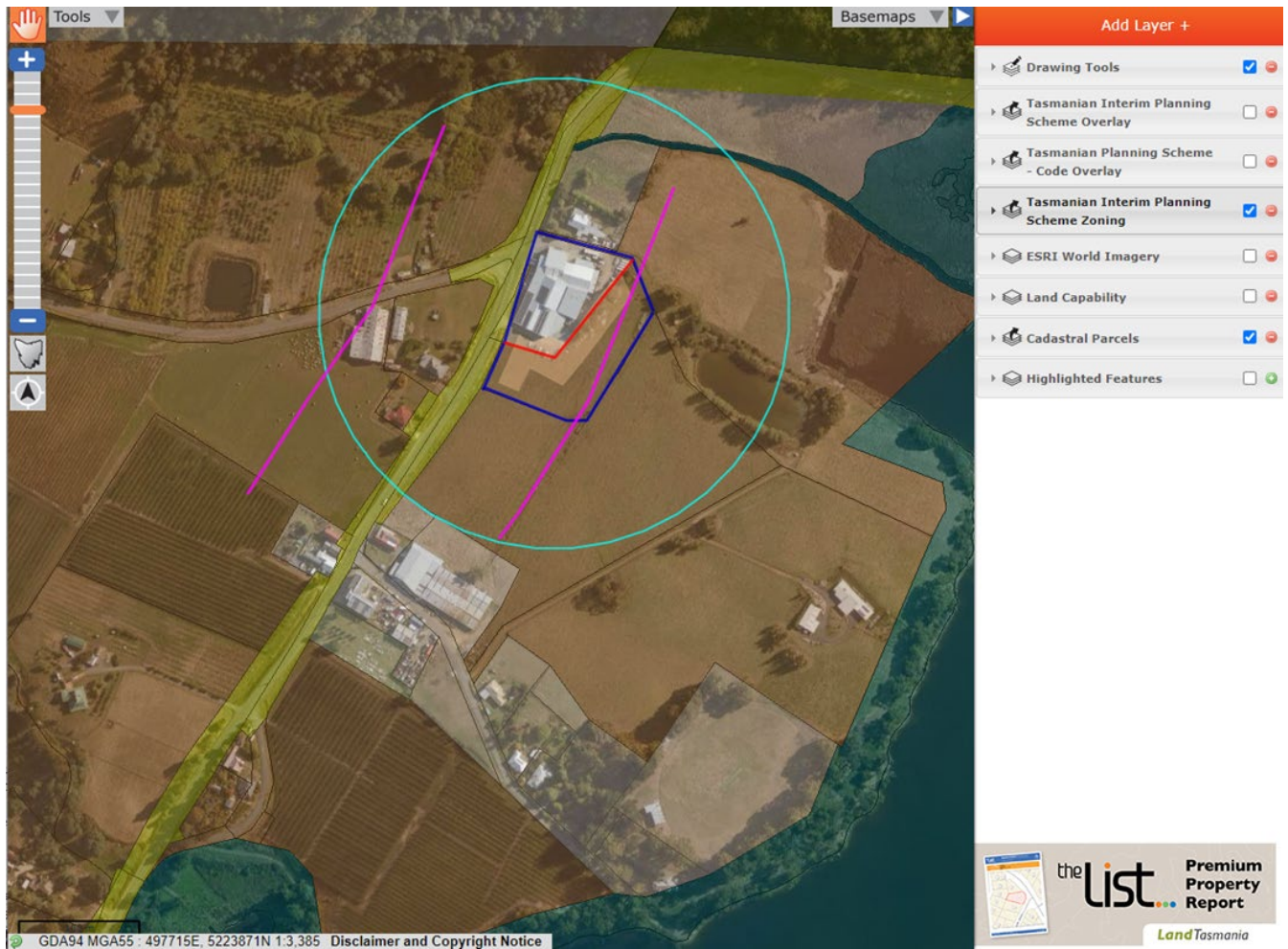
MAP 5 – LAND USE 2021/ LAND CAPABILITY, Land Use and class 4 to 6 land capability overlaid



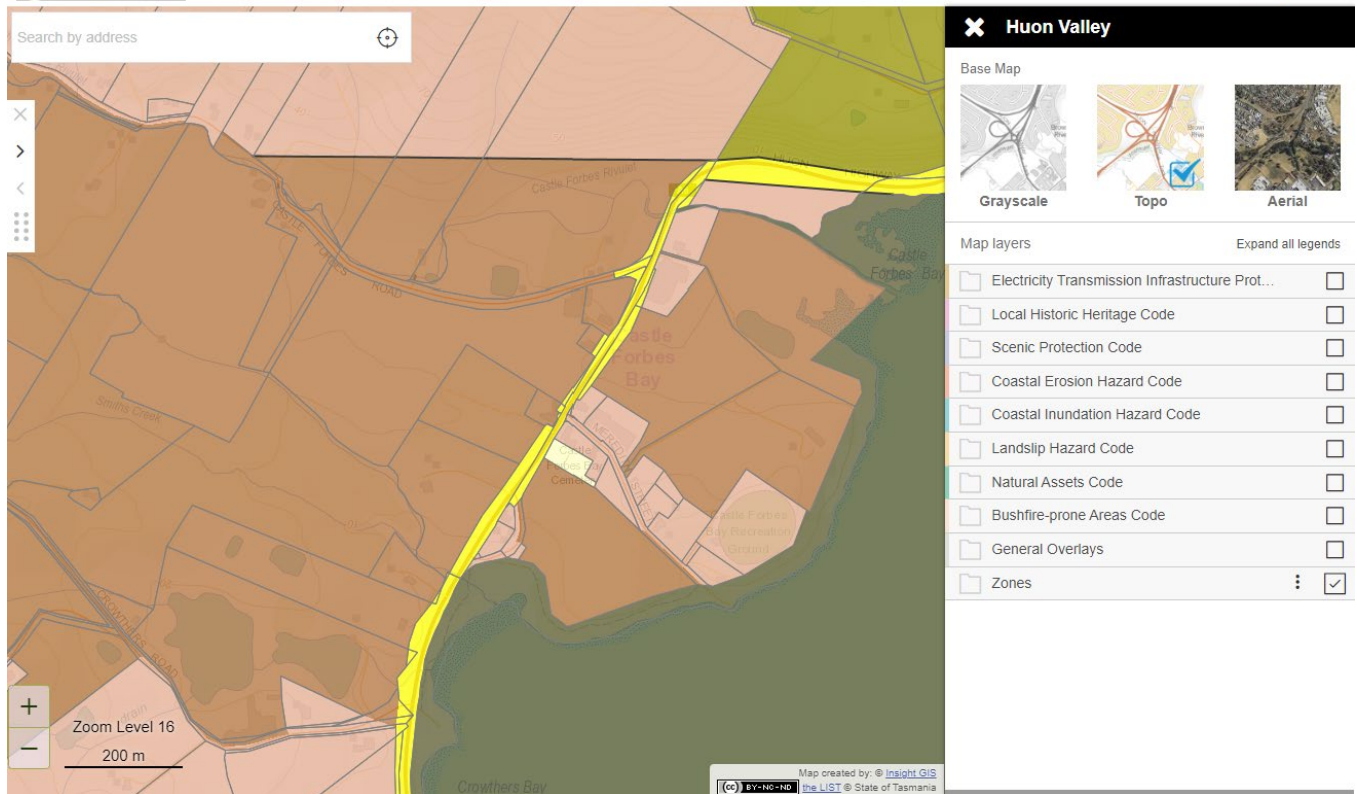
MAP 6 – GEEVESTON/ CASTLE FORBES Current Zone Map, proposed new Ag Zone expansion areas indicated



MAP 7 - GEEVESTON/ CASTLE FORBES Proposed LPS Zone Map, Ag/ Rural Zone alternating and interspersed



MAP 8 – LOCATION CASTLE FORBES BAY, Factory Site (Blue), Zone Split (red) and Scenic Overlay (pink) indicated



MAP 9 – LPS PROPOSED ZONES accepted form, Ag Zone predominant and interspersed non conflicting zone.

END

MEMORANDUM

TO: Tasmanian Planning Commission

FROM: Brendan Mitchell / CBM Sustainability Group

DATE: 26 June 2023

RE: Response to Proposed Huon Valley LPS and State Planning Scheme

Introduction

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In response to this updated documentation and in support of our original submission, we ask that the TPC set aside the Planning Authorities recommendation and make a new and balanced determination, one that considers not only the Planning Authorities perspective, but also the additional information outlined in this response.

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Use within 200 metres of nearby Agricultural zoned property, the exact same way that it does for Agricultural land adjacent to Rural classified holdings and Rural land next to Rural Living zones.

To ignore the obvious flexibility provisions of the TPS and force a small non-producing lot - that is clearly not capable of sustaining any form of agricultural activity or revenue into an erroneous zone classification simply because it located next to a much larger and appropriately zoned piece of agricultural land, makes no sense whatsoever. The excuse that such action protects that land from use conflicts suggests significant doubt in the ability of the performance-based scheme to manage said use.

When the HVC Interim Scheme was introduced, Castle Forbes Valley was zoned as Significant Agriculture (Sig Ag). A view of the 2021 land use maps clarifies that only a small portion of the current zone is orchard, some is runoff grazing but residential and hobby farming is more significant. Kiles Road and the subject property lies at the end of the river plain of the Castle Forbes Rivulet. The valley floor has a land capability rating of class 4; Land well suited to grazing but which is limited to occasional cropping or a very restricted range of crops. The existing scheme has much of the valley floor zoned as Sig Ag, including most of the class 4 land, however 50% of the Sig Ag zoned land in this locality is class 5; Land unsuited to cropping and with slight to moderate limitations to pastoral use and class. In the proposed mapping of the LPS, there is a significant increase of Agriculture zone in comparison the current Sig Ag zone. Many larger lots formally zoned Rural Resource are proposed as Agriculture, thus no loss if minor non-contributing lots are moved to Rural Zone. Map 6 indicates the proposed expansion of the Agriculture zone in the context of Kiles Road. To zone the minor lots at Kiles Road as Rural is not a loss of land purposed for agriculture.

The Section 35F - 9 Kiles Road response noted that the property was investigated in first instance for alternate zoning under AZ 6. Agriculture was determined as the most appropriate. The subsequent review of Agriculture zoning by RMCG considered that for the single lot to be not Agriculture might create "spot zoning" but confirmed that to apply the Rural zone to the few small living use properties clustered at the junction of Kiles Road is only marginally less preferred. The point was made that the adjacent country road - Castle Forbes Road, is a separation and thus the reason these small "residential without agriculture properties" on Kiles Road are not seen as connected to the Rural Zone adjacent. In that sense the recommendation was that Agriculture was preferred, but only slightly over having three properties on this southern side of the road as a cluster of Rural.

The review by RMCG considered that for the single lot not to be classified as Agriculture may create a "spot zone" and inferred to create an alternative planning pathway that will negatively influence the normal use and function of the larger predominant Agricultural properties surrounding it. In other words, the report suggests that small rural residential use properties on the Kiles Road junction will create an out of rhythm "spot zone" blip on the planning map if not zoned Agriculture. Noting that no acknowledgment is made that the solution is actually a simple drawing of the line between zones, it is fairer to describe the proposal as including the lots with the Rural zone directly adjacent to the north, in lieu of tying them to the Agricultural zone to the south and east. It is not a cluster and certainly not spot zoning - it is a matter of setting the boundary between two zones. This solution is consistent with the predominant solution for Agriculture / Rural zone boundary in the proposed LPS maps.

RMCG stated that it was a "marginal" call as to whether a group of small nonproducing properties located around the junction of Kiles Road and Castle Forbes Road should be zoned as Rural and then incorporated into the adjacent and larger Rural zone located to the north. The three properties in question are 3 and 9 Kiles Road and 135 Castle Forbes Road.

The small and unproductive size of each lot clearly removes them from an Agricultural classification and correctly aligns them to the adjacent Rural zone. By drawing these properties into the Rural zone and ignoring the dividing roads arbitrarily separating them, each lot is then correctly assigned its true classification, instead of attempting to force them into the restricted Agricultural zone located to the south and east. Clearly the Planning Authority is comfortable with the concept of both Agriculture zone and Rural zone working together; in mapping of new Agriculture zones this feature of the TPS is well relied on. The new Agricultural zoned areas are not broad and predominant, but rather staggered and interspersed with Rural and other zones. The solution is consistent with the predominant solution for Agriculture / Rural zoned boundaries in the proposed LPS maps and it is clearly the preferred solution here.

Specifically in relation to 9 Kiles Road, the property is improved in such a way that it is consistent with a Rural zone classification. The 3.3-hectare multi use rural property contains a large and renovated home and a significant rural storage/manufacturing workshop facility - a use that occupies and covers the front third portion of the property. This has no effect on the cherry farm adjacent. This detail is not captured in the Section 35F Report – the only mention of its existing use and infrastructure is “the dwelling is 70m from land managed for orchards”. Apart from the inference that the Agriculture needs to be protected from the legitimate rural use of residence, it notes that nearby CT 7401 with class 4 might become isolated with rural on 3 sides in the solution. This is a somewhat skewed description, apart from fact that a Rural zone does not constrain an Agriculture zone. The lot mentioned is a corner lot with a road on two sides, with good connectivity to the two larger Agricultural zoned properties to the south and west. The annotated report concludes that to have Kiles Road in an Agriculture zone is a slightly preferred option for zoning consistency, but the case for zoning consistency is not well made. There is a road and five homes between the cherry farm to the east and CT 7401 west of the subject land. The option for Rural zoning of smaller properties at the Kiles Road junction is a good one and should be significantly preferred.

Rural zoning better reflects the existing infrastructure and use of the Kiles Road property and Rural zoning does not create an impost on the Agriculture zone. A comparison of the purpose for each zone is helpful in considering why this is important to get right. Resource development is prioritised in both Agriculture and Rural zones. Whilst an Agriculture zone acts to protect any land subject to it for agricultural purposes, the Rural zone acts to provide for not only agriculture, but also other rural fit uses. Agriculture zone demands minimal interference in the zone on agriculture - the few permitted uses are only those in direct support of agricultural activities. Rural zone seeks to minimise the conversion of agriculture land, whilst allowing for a range of rural appropriate uses at a scale and intensity suitable for a rural location.

It is important to note that the purpose for a Rural Zone first acknowledges agricultural land within it, clearly agricultural land is expected to be in both Rural and Agriculture zones. The TPS is not designed such that any land with any agricultural potential be locked away in an Agricultural zone. Protection of productive agriculture is vital, but the concern over how Agriculture zone mapping might be used as an additional planning control is valid.

The HVC LPS can continue to support community and business in a way the promotes the sustainable future of the municipality. A well planned and mapped Agriculture zone can add value to agricultural producing areas, but this classification will devalue and constrain 9 Kiles Road if applied to it. We submit that the 9 Kiles Road should be correctly classified as Rural and that the RMGC recommendation to include two small adjacent properties into this zone is a sound and justifiable action.

4015 Huon Highway, Castle Forbes Bay

The Mitchell Plastic Welding Pty Ltd (MPW) owned and operated manufacturing facility is a light industrial adaptive reuse of an early 1970's site originally constructed as a fruit processing and cold storage facility. MPW purchased the site in 2012 and has been operating from it ever since.

The MPW Factory provides for the manufacture, processing, service/repair and installation of HDPE plastic products primarily utilised by local, national and international aquaculture and agriculture sectors. In addition, the company has expanded its customer base to include the liquid storage, boutique and municipal service industries.

Whilst MPW is expanding its business operations throughout the State, the iconic Huon Highway address will remain the key site and head office for this proud Tasmanian family-owned company. Currently the business employs 60 plus staff - the majority of which are drawn from the Huon Valley and its surrounding hamlets, although this number will expand significantly when the business begins recyclable resource recovery and recycling activities at a satellite site in Brighton.

The MPW manufacturing facility is directly adjacent to the Huon Highway. The site is split zoned Rural Resource and Agriculture under the current HVC Interim Planning Scheme. The factory buildings are zoned Rural Resource and an outdoor storage and handling area acquired by minor boundary adjustment to the east and south of the constrained factory site is zoned Significant Agriculture. The adjacent caretaker's cottage/executive office is on its own Rural Resource zoned lot. The 50m wide Scenic Overlay associated with the Huon Highway extends over most of the site.

As previously submitted to the Planning Authority, MPW have proposed that the zoning must be corrected as the process of planning reform has HVC transitioning into the TPS. The allocation of a Light Industrial Zone classification would accurately reflect the actual business activities, constructed building footprint and use of the land, it would not adversely affect agriculture and it provides for good amenity controls in the context of the surrounding rural landscape. Further, the Scenic Overlay requires strong control of visual amenity regardless of zone.

Since advertising of the HVC LPS, the Planning Authority has confirmed a correction of the Agriculture and Rural zones for the site is in order. In the respect to 4015 Huon Highway, the Castle Forbes Bay factory site was acknowledged in the section 35F report as needing to have a correction to the zone. The solution as tabled is for it to be zoned Rural, on the basis that this will provide for existing Resource Processing as a permitted use. That is an error - the existing use is Manufacturing!

As the Planning Authority response is based on an incorrect assumption of the existing Use and the subsequent permitted pathway provided for it, no consideration of other solutions was made. It currently reads that the existing planning glitches will be solved in the new scheme under a Rural zoning. However, that assumption is far from the case; our response is based on an assessment of Light Industrial, as it is the only suitable solution for the existing manufacturing facility.

We are confident that the Planning Authority intended to support MPW's ongoing use of the significantly developed site and upgraded building footprint. Their Section 35F response indicates that the proposed solution of a Rural zoning was chosen because it "provides a permitted pathway for expansion of the existing use." HVC agreed that the adaptation and upgrade of the old facilities at Castle Forbes Bay to the now "productive use" fits well in the allocated site. However, the permitted pathway intended by Council is not provided for in a Rural zone via the state provisions for manufacturing. The site is not broad acre, but rather it is concise and defined. The existing Development and Use is Light Industrial in nature and not limited to Resource industries.

Since the site "Use" is not Resource Processing - as are the aquaculture businesses in the Huon Valley that MPW services, the proposed Rural zoning for the site falls short. "Manufacturing and Processing" is a discretionary use and "Service Industry" is qualified as applying to the servicing of resources only. Whilst the objective of use standards for discretionary activities in a Rural zone can support the intention to use the whole site, an assessment against the performance criteria is problematic, especially when the criteria use the term "agricultural land".

The case is made that Light Industrial zoning does not impact or constrain the predominant Agriculture and Rural zones surrounding the site, but rather provides for better use and development controls. By way of explanation, for the entire time that MPW has owned and operated the property, light industrial manufacturing and associated processing activities have been the primary function occurring on site. To set the zone to Light Industrial does not impact or constrain the predominant zones surrounding the property, instead it provides for more stringent use and development controls to be applied. Furthermore, our site is already developed and operating as a light industrial business, thus to formally transition it to a corresponding classification has no material impact on surrounding properties.

As currently proposed by the Planning Authority, there is no issue with having a Rural zoned property adjacent to an Agriculture zoned one, as is the case with our site. Similarly, there is no adverse effect if the differing zone was Light Industrial. It is normal for Rural, Light Industrial and Agriculture zones to be adjacent and interact with each other - neither confines nor constrains the other, they are balanced and conditioned in their sensitivity towards surrounding uses. The placement of differing zones for individual sites and properties is predominant for this section of the Huon Highway and is already the case for this site. If as granted the effect of Rural adjacent to Agriculture is appropriate in this location and circumstance, then correspondingly there can be no additional adverse effect if the differing zone was Light Industrial. The simple response is the site is already developed as light industrial, thus to continue has no addition effect.

We are aware that in considering Light Industrial as a suitable Zone classification, any additional effect must also be taken into account. As the Use standards for Light Industrial are more stringent than Rural, we note that there will be additional controls surrounding amenity issues, particularly as our site and zone is specifically defined and limited as it is. For example, for any use expansion and development, screening of outdoor storage and landscaping is required. MPW have recently invested in a generous and fully landscaped berm for the site to improve visual amenity along the Huon Highway frontage.

Contrary to the above Light Industrial provisions, a Rural Zone classification provides an acceptable pathway to increase a development area by an additional 30% without consideration of screening for storage or landscaping!

Important to the consideration of zoning effect is the fact that the Huon Highway is a valued scenic road and our site is subject to the Scenic Overlay. Whilst a Light Industrial zone will provide for enhanced management and use of the site, this additional overlay demands an increased focus on ensuring that amenity and visual impacts are managed to a high standard, regardless of zone type. Any development or use within 50m of the road is subject to the Code - that is effectively the whole of our site. If the solution to the zone correction is Light Industrial, this will not be a pathway for detracting of landscape rural amenity and natural values – instead it will only strengthen and enforce this mandatory provision.

The MPW Castle Forbes Bay factory is not out of character in the municipality. Adaptive reuse of facilities and buildings is a well-established practise in the Huon Valley, with some of those being zone corrections when the Interim Scheme was first established. The factory cannot be asked to relocate for new zone mapping reasons and the broadening of our business model and the essential industries that we service does not provide that justification, because to do so would mean that MPW will move to another municipality. A zone response that provides both opportunity and suitable control is necessary and that solution is Light Industrial.

For 4015 Huon Highway, it must be considered that the section 35F report missed the opportunity to fully assess the correction of Agriculture/Rural zoning at Castle Forbes Bay. Light Industrial was not even considered, because it was too quickly assumed that Rural held the solution. The presumed Use in that assessment was not accurate. The site is developed and used in a way that is best described and managed as Light Industrial. The value of the site and its contribution to the local economy is connected to its ability to function for manufacturing and service industry. A zone correction is required to progress the LPS and the chosen solution must consider the effect for the property, adjacent uses, the locality and the municipality. In the context of this site, supporting the current activity and managing the future Use and Development is only achieved within a Light Industrial Zone.

Conclusion

Thank you to yourselves as members of the Tasmanian Planning Commission for staying the course and for establishing the Tasmanian Planning Scheme across our State. We appreciate the opportunity to make this further submission and sincerely invite you to visit and assess our sites in person.

Not only is MPW an important part of the sustainable economy for the Huon Valley, but it is more so a significant part of the unique food and entrepreneurial industry and recycling future for Tasmania.

We look forward to presenting our case to you at our Hearing on 6 July 2023.

EXTRACTS

26/3/2023 – TPC, HVC LPS

The following are extracts from the HVC SECTION 35F report, and B. Mitchell/ CBM representation 2022 as referred to in this response

EXTRACT 1

[HVC Section 35F report, January 2023](#)

GENERAL RESPONSE - AGRICULTURE ZONE The Council acknowledges that the assessment of agricultural potential in the Huon Valley is difficult due to a range of factors. As is the case with the LCZ, topography, land size, existing development and the mixed farming/native vegetation of titles all makes this a complex and almost case by case analysis. Council has applied Guideline No.1 for application of the Agriculture zone however Council acknowledges that:

- A detailed assessment of agricultural potential or constraints has not been carried out.
- The high value of land per ha on smaller titles was not adequately considered.
- Existing use and infrastructure on titles has not been taken into account.
- There was no ground testing of the proposed Agricultural Zoning titles.

EXTRACT 2

[RMCG annotation version re 9 Kiles Road](#)

The title is 3.3ha with a dwelling which is approximately 70m from land managed for orchards on both the eastern and southern boundaries. Whilst we support the points raised in the Rep, changing the zoning of the subject title is not supported as that would be spot zoning. Whilst a cluster comprised of CT 7692/1 and CT 119742/1 could be considered for Rural, this is less preferred (but only marginally) as it leaves CT 7401 somewhat isolated with Rural zoning on 3 sides. The subject titles and all surrounding land is mapped as Class 4 land and Castle Forbes Bay Rd to the north reduces connectivity to Rural zoning on the northern side. For zoning consistency, Ag is preferred (but only marginally). In June 2020 (Group 2) we comment on titles in this area and whilst we do not comment on the subject title we do comment on one further to the east (CT 14578/1) as follows. 'While the title itself is best described as a domestic block, it is adjacent to land that is proposed to be zoned Ag, including orchards. To avoid spot zoning the Ag Zone would be more appropriate. So Guideline AZ2 is applicable'. Also CT 100008/1 is recommended for the Ag zone in our June 2020 comments. Note at that stage CT 119742/1 and CT 7692/1 were proposed for the Rural zone and there is no comment on those two.

No change. Retain in the Ag zone. A second slightly less preferred option is a cluster comprised of the subject title (CT7692/2) and CT 121882/1 & CT 119742/1 to be changed from Ag to Rural

EXTRACT 3

[B Mitchell/ CBM representation 2022](#)

It is great to see the Huon Valley moving on with planning reform, we in business and industry are very keen to see planning simplified and understand that the new State scheme is intended to deliver that.

We write this submission as response the proposed new scheme as advertised. This response is somewhat last minute however going forward we will have CBM sustainability group is assisting, we ask they be included in correspondence. As discussed with council a more detailed submission developed with assistance of our consultants with them will be provided in due time.

There are several challenges with that we can see when reviewing the proposed mapping against the state scheme. We understand that the transition is generally to be like for like from the current planning scheme into the new State Scheme, but it is important to also consider things that should be changed as we move to a new scheme. Other challenges relate to mapping, the expansion of overlays linked to the new codes can result in a restriction of use not always intended or desired.

A broad issue we have identified is the application of Agricultural Zone for any property that has arable land. The criteria originally used for mapping the existing Significant Agricultural Zone when the interim scheme came in, may not be the same as what is intended for the new Agriculture Zone today. Especially where sites and actual use do not reflect the zone purpose of the Agriculture Zone, more appropriate zones should be considered. The intent of the agriculture zone is to protect productive land, it primarily does this by restricting uses. This may be appropriate for large scheme productive farmland areas, land that is connected to irrigation or land of specifically high agricultural value but doesn't fit well to smaller properties especially those that have, or have potential for, varied uses. It is a general comment that Rural zone is a fairer zone for land that has varied use, it manages the same key interest of protecting arable land but does not prohibit all else. Surely Agriculture zone should be used sparingly and carefully. It is specifically for land that is reserved for the production of food, that is the zone purpose. Rural Zoned land also is productive in agriculture but can create space for diversity in use within the landscape and in the context of local community and industry.

Similarly, the translation of Agriculture zone to properties that may be better defined as Rural Living should be questioned. Protection of food producing land is not achieved by applying the zone, much opportunity is lost for properties that are not broad acre farms. Our property at 9 Kiles Rd is set amongst other similar properties ranging from 1 ha to 10 ha; the local cluster of rural living homes, some with a house paddock, may be better zoned rural if not rural living.

Specifically, we note discrepancies with zoning for our factory site 4015 Huon highway at Castle Forbes Bay. The new scheme proposes zoning that is historic rather than a planning zone reflecting the use and the manner in which the site is developed. The site is a discrete title with a significant built facility that supports industry, primarily agriculture and aquaculture, but others as well. The 1.5ha site is neither Rural nor Agricultural in scale, use, or the way it is developed. A long time ago the site and buildings held produce, but agriculture changed, the facility was no longer needed for that function. Subsequently the site was redeveloped as workshops for supporting industry, the diversification of irrigation and aquaculture has allowed the business to prosper, and the facility improve. The site is commercial/ light industrial in nature and should be zoned as such, it loses its purpose if reserved for agriculture. To be zoned appropriately won't inhibit the site continuing its role in supporting agriculture and aquaculture. To be zoned according to the way it is developed and is used ensures the investment in, and the output of, this productive site is not inhibited by planning but supported.

In respect to other properties and the scheme in general, we have yet to fully consider the effect of the proposed LPS. We thank council for confirming that further comment is welcomed beyond this submission. We do however note that the natural assets code is extensively mapped with layers applied depending on zoning. The coastal refugia overlay appears to exclude residential zoned land but is triggered everywhere else. The way the code as written prohibits nearly all use, it seems to be purposed to create a new nature reserve area, much of which will be on private land. By example, our property at 4013 Huon Hwy has most of its future usable area subject to this overlay. The overlay will prohibit nearly all future development or use, and only based on a current land contour. This is regardless of appropriate land use, good planning or design. The proposed LPS mapping has freehold titles in Environmental Management the zone assigned to national parks and reserves. This does not seem correct when the scheme provides Landscape Conservation, Low Density Living or Village for such purposes. Our land parcel PID 5268444 at Cackle Creek is subject to this question.

We trust that council in preparing the LPS for the new scheme has considered the need for growth in our municipality and land availability. The state scheme has clear provisions, yet it may be that the zones as mapped are more based on history of planning schemes rather than vision for the Huon. We encourage council to move strategically to support diversity and flexibility in land use and development, we have a choice how to map the state planning provisions to our municipality, we should do so in a way that avoids restriction on industry and community.

Trusting there is an opportunity to discuss. Our hope is that the LPS process supports us all moving in the direction we want our Municipality to grow.

MAPS

26/06/2023

Tasmanian Planning Commission - HVC LPS

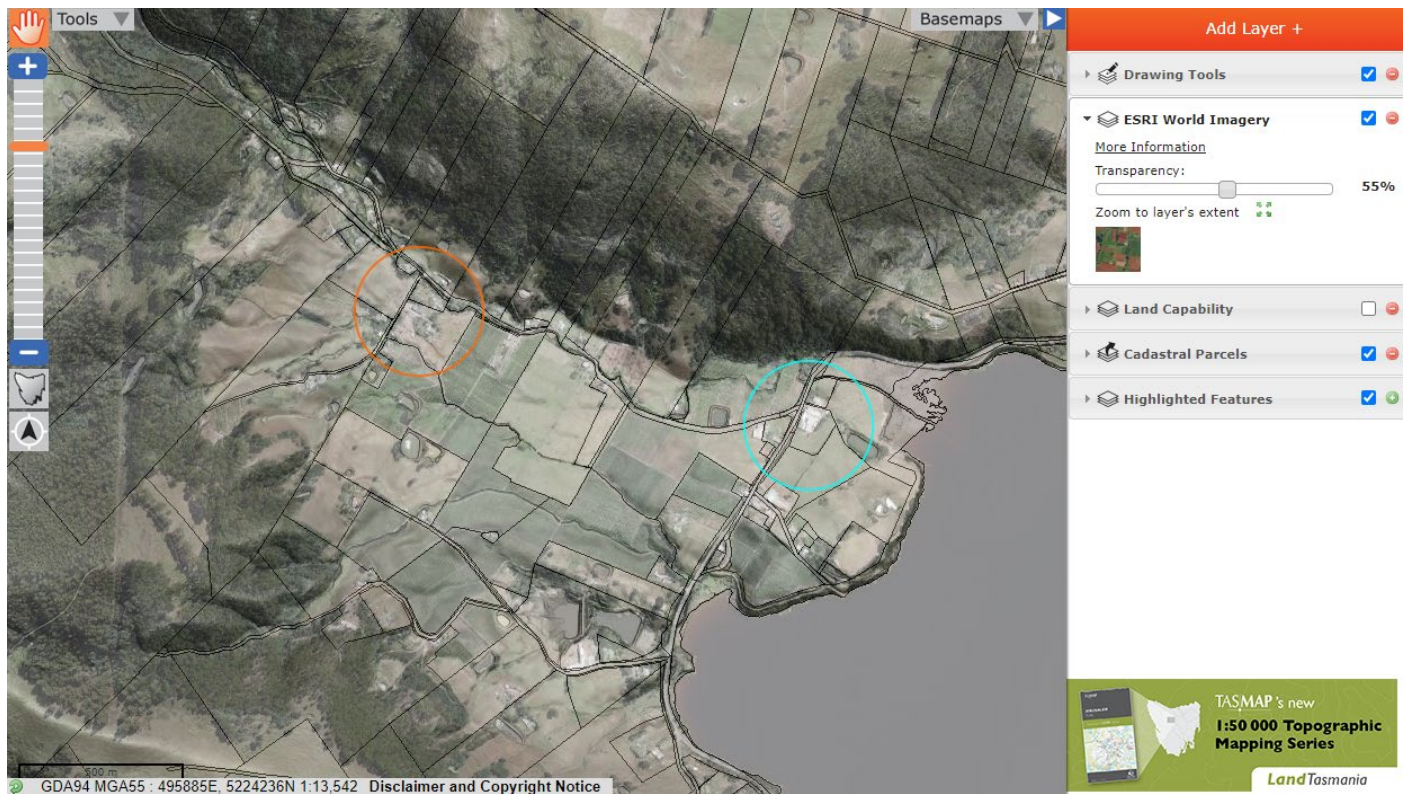
Proposed HVC LPS -Tasmanian Planning Commission Assessment and Hearing

B.Mitchell / CBM Submission– ASSOCIATED MAPS

The following Maps and Diagrams are supplementary to the submission by B.Mitchell and CBM They identify the sites, context and planning mapping referred to in the submission.

All base maps used are created by The LIST MAP, Tasmania, and the Discover Communities Tasmania Planning Scheme Consultation tools. Annotations by CBM.

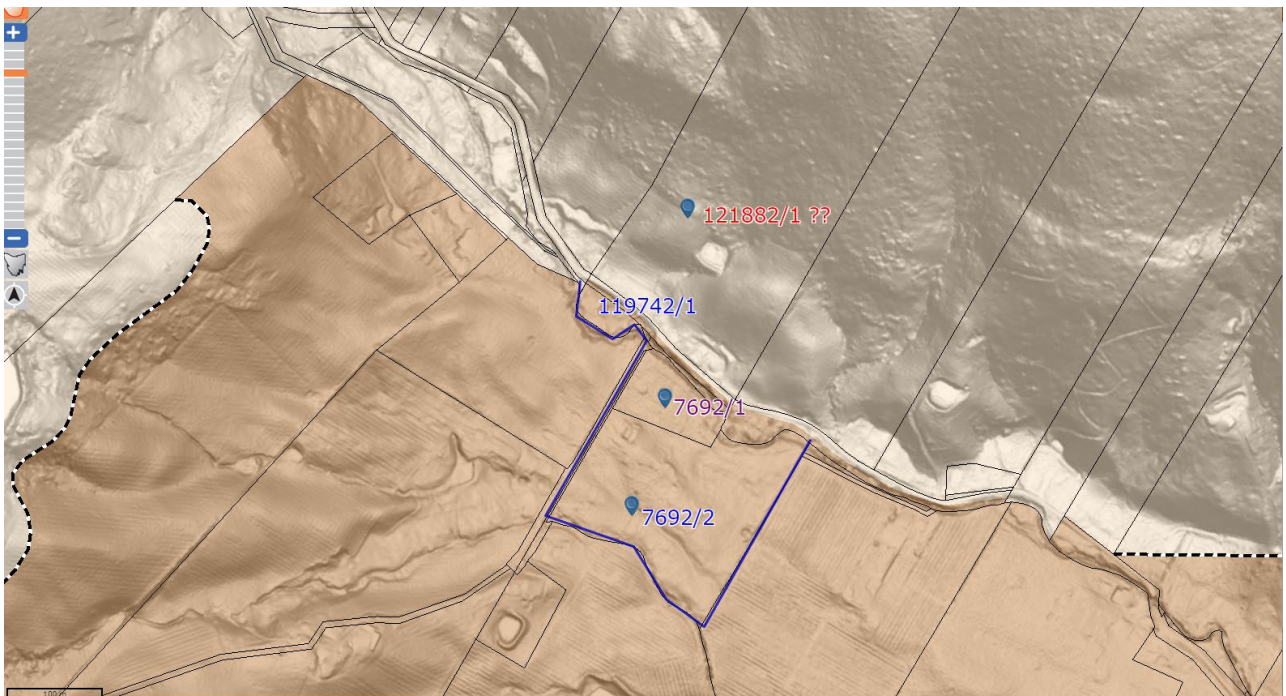
KILES RD and CASTLE FORBES BAY, HVC LPS assessment maps.



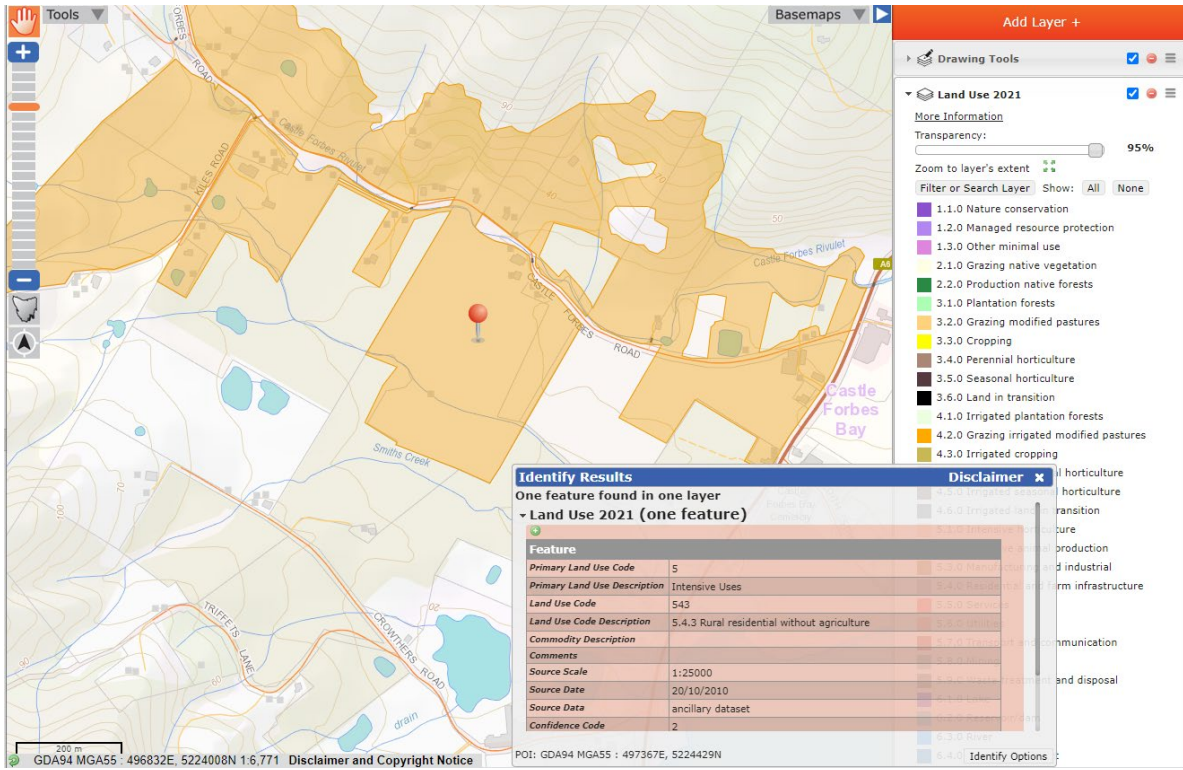
MAP 1 – LOCATION – 9 Kiles Rd (orange) and 4015 Huon Highway (blue) Castle Forbes Bay



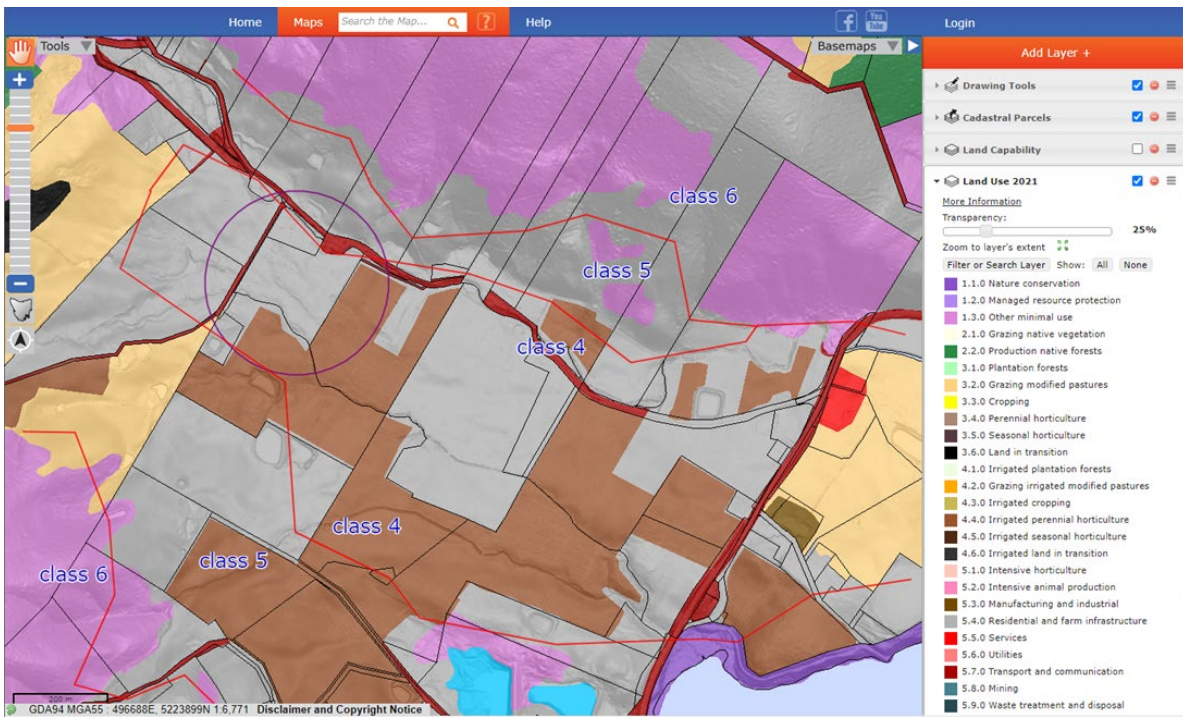
MAP 2 – LOCATION 9 Kyles Rd (7692/2) in the context of Kyles Rd Junction Properties.



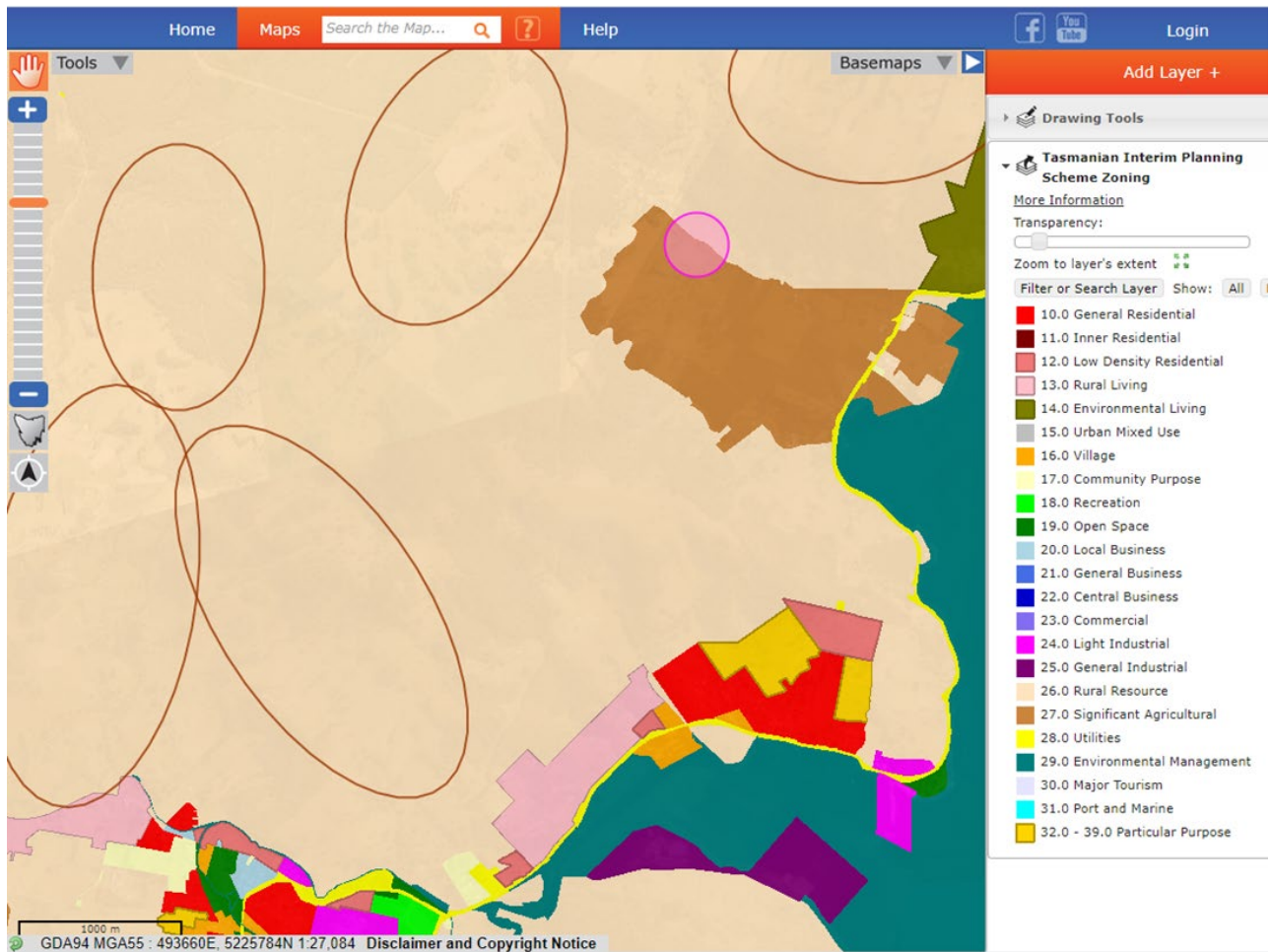
MAP 3 – ZONE BOUNDARY 9 Kyles Rd, proposed solution zone boundary between Ag Zone and Rural Zone



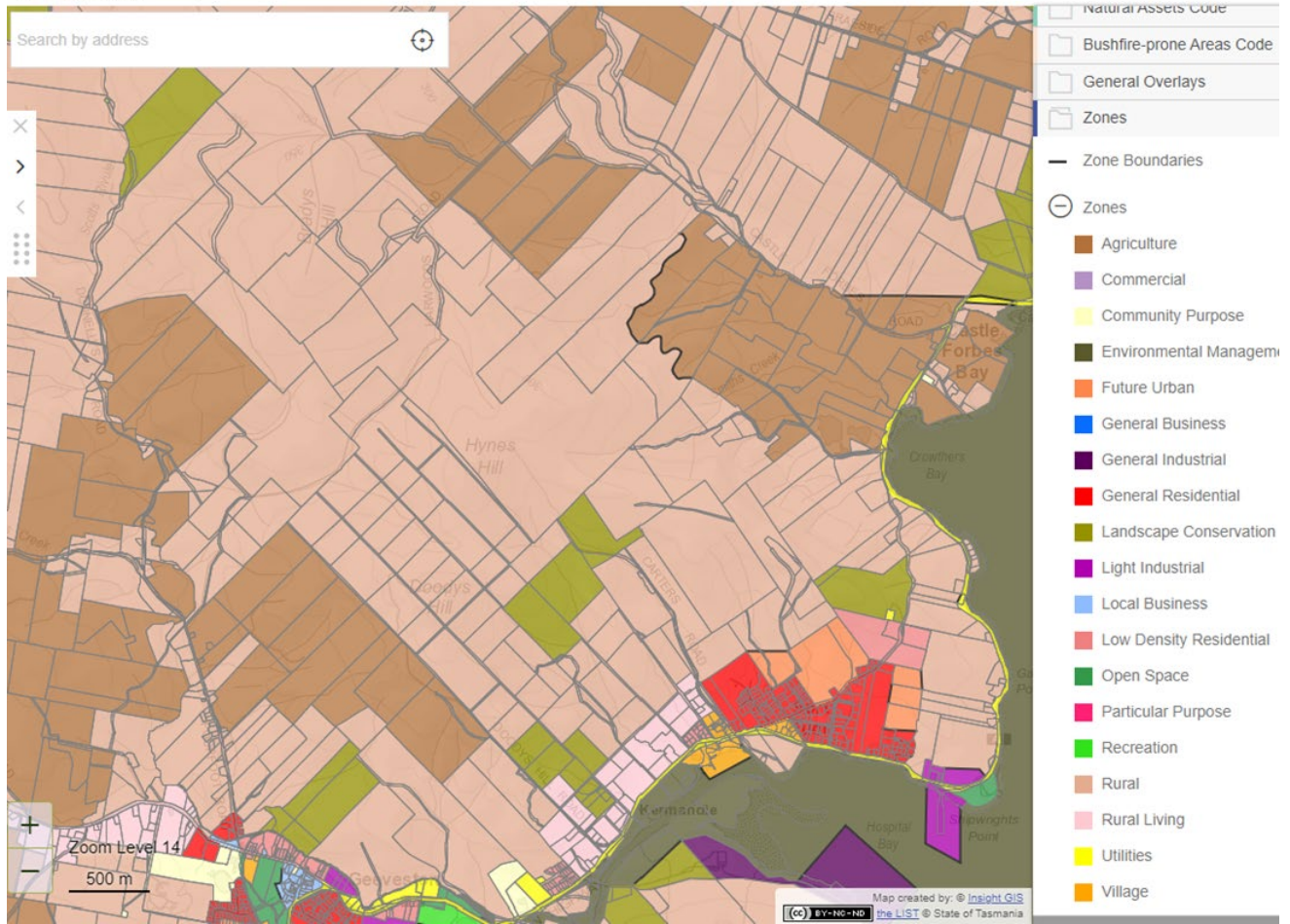
MAP 4 – EXISTING LAND USE 2021, Rural Residential without agriculture aligned to Kiles Rd/ Castle Forbes Rd



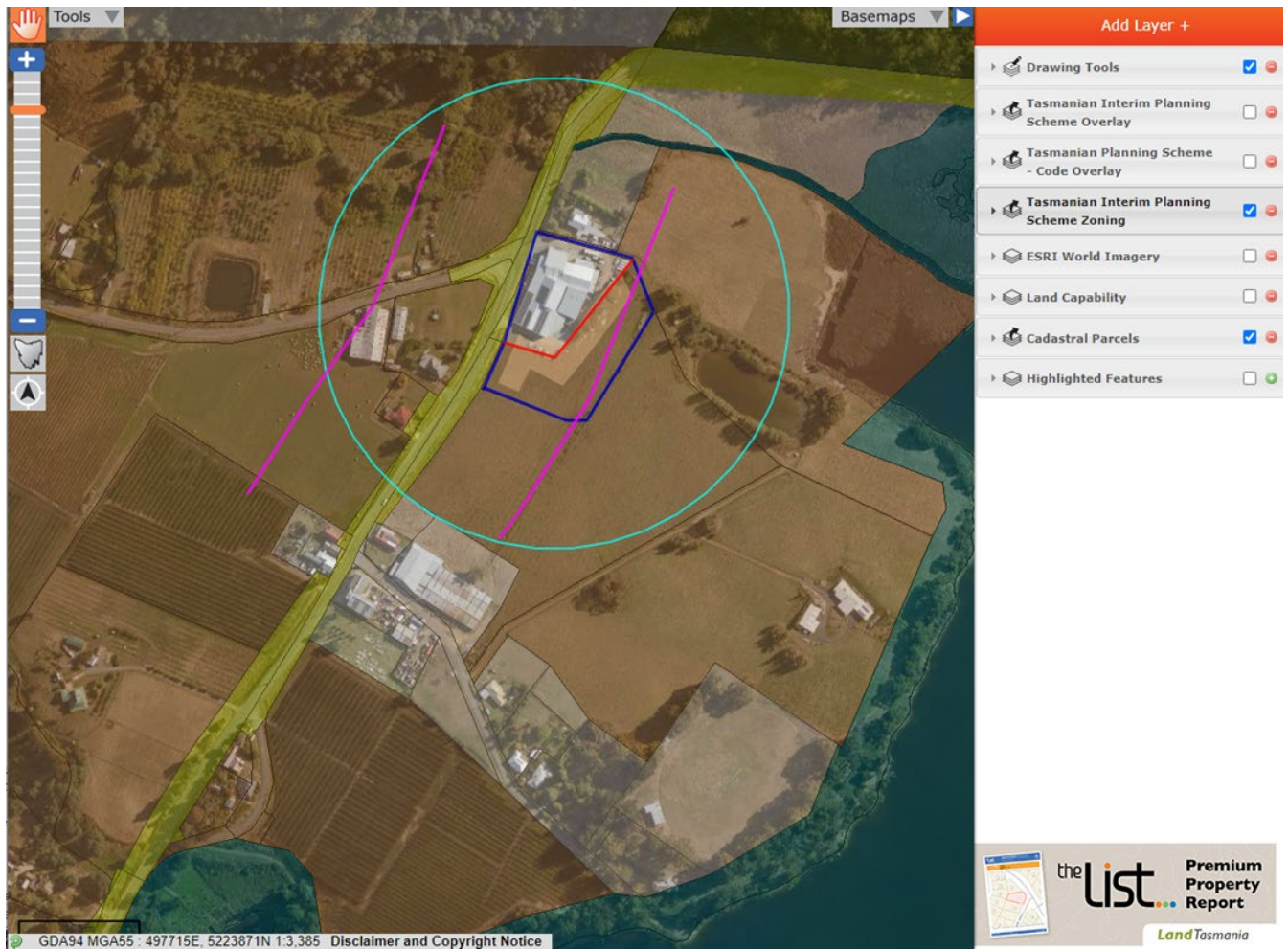
MAP 5 – LAND USE 2021/ LAND CAPABILITY, Land Use and class 4 to 6 land capability overlaid



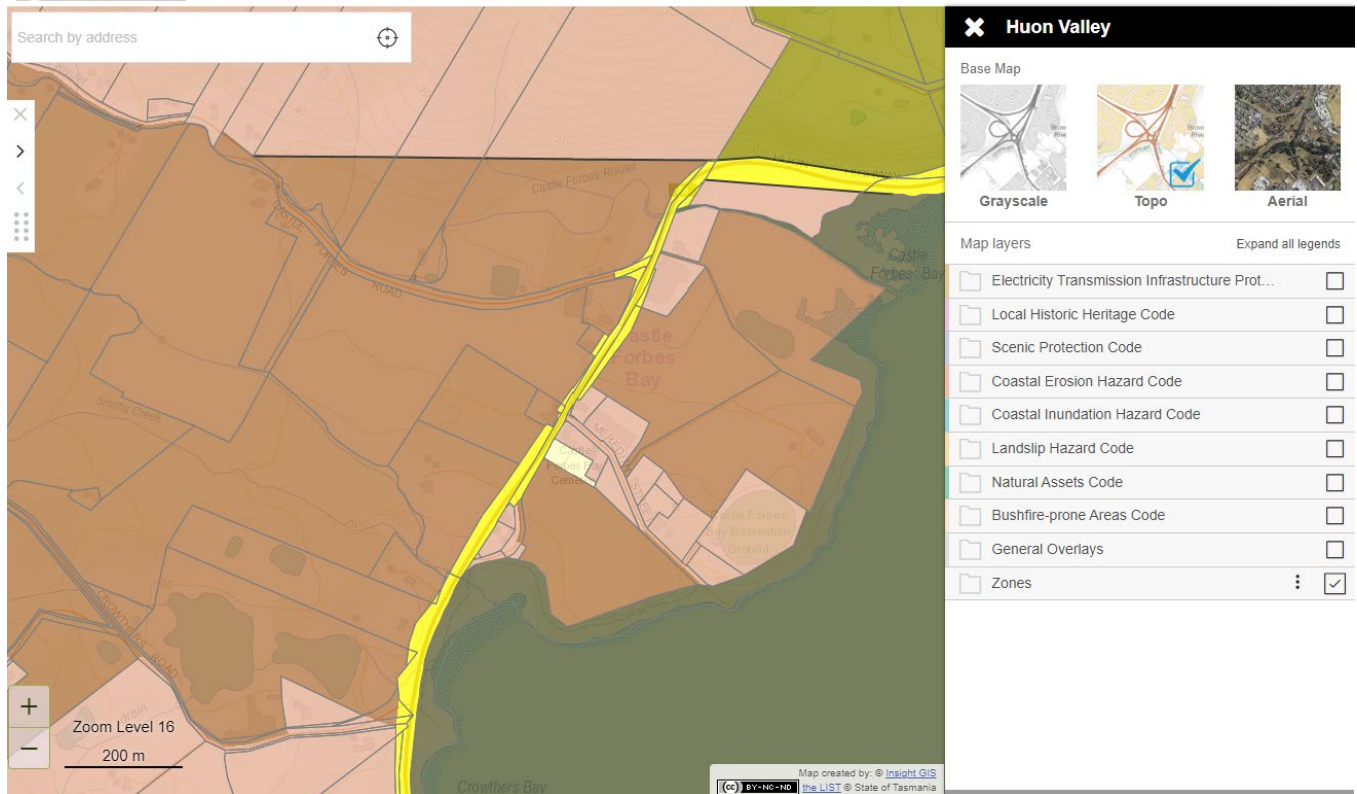
MAP 6 – GEEVESTON/ CASTLE FORBES Current Zone Map, proposed new Ag Zone expansion areas indicated



MAP 7 - GEEVESTON/ CASTLE FORBES Proposed LPS Zone Map, Ag/ Rural Zone alternating and interspersed



MAP 8 – LOCATION CASTLE FORBES BAY, Factory Site (Blue), Zone Split (red) and Scenic Overlay (pink) indicated



MAP 9 – LPS PROPOSED ZONES accepted form, Ag Zone predominant and interspersed non conflicting zone.

END