From:	Trent Henderson
To:	Sorell Council
Cc:	Bigpond
Subject:	PID 7410440 Representation - Tasmanian Planning Scheme – Sorell Draft Local Provisions Schedule (LPS)
Date:	Monday, 16 August 2021 12:52:01 PM
Attachments:	Sorell-LPS_RedSealPlanningSubmission_WattleHill_W-Newitt_16-August-2021.pdf

Dear Mr Robert Higgins
General Manager

For the attention of the Planning Department.

On behalf of MrWayne Newitt, please find attached a submission in accordance with Section 35E of the *Land Use Planning and Approvals Act 1993* in relation to the Nugent Road, Wattle Hill, identified by PID 7410440, formed by CT 30406/10 and CT:250516/1.

Kind Regards,

Trent J. Henderson
BA(Hons) GCUrbDgn MEP RPIA

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Red Seal Planning respectfully acknowledge the Traditional Owners of the land, the Muwinina band of the South-East Nation, on which we work and learn, and pay respect to the First Nations Peoples of lutruwita (Tasmania), the Palawa, and their elders, past, present and future.

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2021

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Sorell Local Planning Submission Section 35E – Land Use Planning and Approvals Act 1993:

Nugent Road, Wattle Hill, (PID 7410440)

CT 30406/10 and CT:250516/1

For: Mr. Wayne M. Newitt

BY: TRENT J. HENDERSON

BA(Hons) GCUrbDgn MEP RPIA

Principal Planner

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Planning Institute Australia

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Appendix A – GES Wattle Hill Land Capability Assessment
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Summary

Project:	Sorell Local Provision Schedule Planning Submission relating to the properties: Nugent Road, Wattle Hill, PID 7410440, formed by CT 30406/10 and CT:250516/1
Planning Authority:	Sorell Council
Planning Policy:	Section 35E - *Land Use Planning and Approvals Act 1993*
Date of Assessment:	August 2021

At Issue:

a) There appears to be a core error in the decision tree to determine the allocation of Agriculture Zone, resulting in:

   i. Not using Certificate of Titles to base the Agriculture Zone resulting in a misguided image of the lot layout,
   ii. Not factoring poor soil quality combined with the two previous errors results in small lots that are zoned agriculture, which will not sustain agricultural use or be positioned to be incorporated by a larger sustainable farm.

b) It appears that existing approvals have not been considered in assuming that the 'Land Potentially Suitable for Agriculture Zone' layer in the LIST is correct, therefore resulting in zoning implications that will inhibit the capacity for the lots to be able to be developed.

Therefore, pursuant to Section 35E (3)(b) of the *Land Use Planning and Approvals Act 1993*, the draft LPS should not apply the zone Agriculture in accordance with the provisions of the SPP Part 21, to the land known as:

- Nugent Road, Wattle Hill, PID 7410440, formed by CT 30406/10 and CT:250516/1,

and that the land that formed Sealed Plan SP: 30406 should be considered for Rural Living Zone as this reflects the land use character.

1 Introduction

Red Seal Urban & Regional Planning along with Geo-Environmental Solutions have been engaged on behalf of Mr. Wayne M. Newitt to review the exhibition documents of the Sorell draft Local Provisions Schedule (LPS) in relation to the property at:

- Nugent Road, Wattle Hill, identified by PID 7410440, formed by CT 30406/10 and CT:250516/1.

1.1 Background

We would like to commend the Sorell Council and its planning staff on the huge body of work and effort evident in getting the LPS to this stage. Given the extent of work required for such a project, it is conceivable that some aspects of the zone mapping have erred due to the base data not being specific to each site.

Therefore, pursuant to Section 35E of the *Land Use Planning and Approvals Act 1993* (the Act), the following representation is made to assist Sorell Council and the Tasmanian Planning Commission (TPC) in implementing zoning by providing onsite clarification for the properties of concern.

Under the draft documentation the site is proposed to have the zone 'Agriculture' apply to the land. However, it is our position that pursuant to Section 35E (3)(b) of the Act, the draft LPS should not apply the Part 21 Agricultural Zone of the SPPs to the area of land specified by the above listed land titles since the properties are constrained and unsuited for the purpose of "significant agriculture activities". The combination of poor soil, topographical character, potential occurrence of significant vegetation communities, inability to provide practical or suitable irrigation options, coupled with the lot sizes including subdivision plans approved and under implementation, in addition to the proximity to sensitive uses and residential zoned land, means that the specified land is not suitable to be zoned Agriculture.

To assist Council, this representation will provide in-depth site analysis for each property and associated parcels, drawing on information available on the LIST Maps and supplemented by an assessment for a Geotechnical Specialist.

1.2 Observation

It is observed that the that within the Tasmanian Planning Scheme: Zones: Sorell Council Local Provisions Schedule mapped zoning has been based on a property's PID numbering. Whilst basing the agricultural and rural zones decision tree on such information may initially appear to make a logical base for the determination of the zoning, it creates a fundamental error. Although there is the assumption in the Background of the Agriculture Mapping that smaller lots will be integrated into larger properties, the fault in the decision tree is not understanding that lots can be sold or that some smaller lots, as is the case with these two, are not of a capacity to be useful for an adjoining larger farm to warrant amalgamation.

2 Wattle Hill Property

The two lots are positioned between the historic site of the Former Wattle Hill School and the junction of Nugent Road and Delmore Road, forming part of a cluster of 13 smaller lots in comparison to the surrounding area, see figure 1.

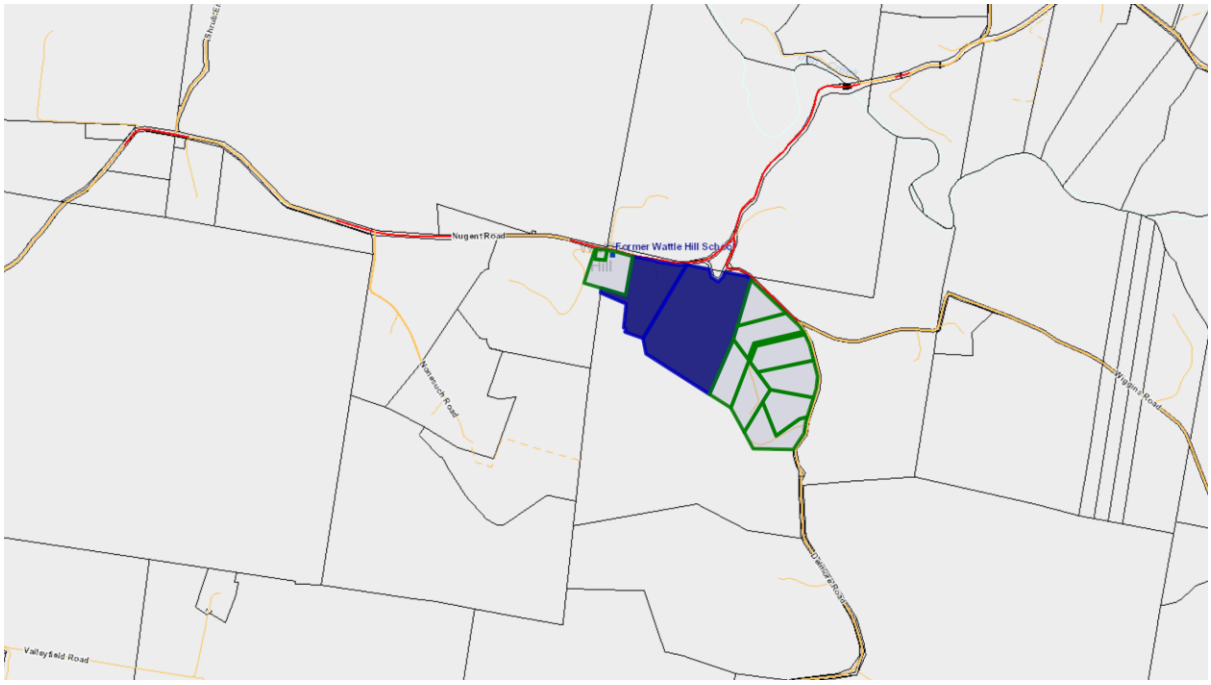

Figure 1 –The two subject lots are highlighted bule in the centre. The lots that are outlined in green to the east are between 1 to 2.2 hectares in size, with all except for one having a residential dwelling present.

The specific property concerned PID 7410440, made up of 16 hectares in total, which includes CT 30406/10 is a 12-hectare lot that is part of Sealed Plan SP:30406, containing nine 1.5 to 2.2 hectare lots, effective from May 1987. Lot 10 is the remaining parcel that was intended to be further divided into an additional 11 one-hectare lots as part of the larger Sealed Plan. The further subdivision of the site did not progress at the time due to a gravel quarry present on the lot immediately to the west CT:250516/1. The quarry has since closed and been rehabilitated, leaving no reason for the subdivision not to progress in line with the previous approvals.

2.1 Current Planning Provisions

The current Sorell Interim Planning Scheme 2015 provisions for the Wattle Hill Property are as follows:

- Zoned: Rural Resource
- Code Overlays:
  - Bushfire Prone Areas Code E1,
  - Landslip Hazard Area E.3,
  - Biodiversity Code E.10,
  - Waterway and Coastal Protection Code E.11.

The biodiversity overlay appears to correlate with the TASVEG Live layer (LIST Map), which indicates that the feature native vegetation type is (DGL) *Eucalyptus globulus* dry forest and woodland; a threatened native vegetation community under Schedule 3A, *Nature Conservation Act 2002*.

Landslide hazard overlay has sections of the two lots mapped as “Low” level risk.

Currently the large bock to the south is zoned Rural Resource and is use only for livestock grazing due to soil quality and gradient. The land to the west and north is zoned Significant Agriculture as this land is of a gentler gradient and of a better soil capability at Class 4.

2.2 Agricultural Land Capability

Dr John Paul Cummings of Geo-Environmental Solutions (GES) has provided an Agricultural Land Capability assessment for the property and has noted within this assessment, the soil quality is considered extremely poor.

Land Capability Survey of Tasmania mapping cites this land as predominately Class 5 and Class 6, which is essentially only marginal cropping ground and suitable for grazing. However, the assessment by GES does confirm that the site has essentially no capacity for cropping and that it is generally considered unsuitable for such agricultural activities.

2.3 Draft Local Provisions Schedule (LPS)

It is recognised that Sorell Council has implemented the Agriculture Zone in accordance with the Ministerial “*Guidelines No.1 Local Provisions Schedule (LPS): zone and code application*”, which require the zoning to be applied to all unconstrained land within the ‘Land Potentially Suitable for Agriculture Zone’ unless ruled out, see Figure 2.

We propose that the “decision tree” established by Consultants engaged by the Southern Group of Councils[1] has an anomaly in its mapping decisions resulting in an error in the zoning of Agriculture over lots within close proximity and/or abutting to other similar grouped lots of a small size. As a result, it has misinterpreted the on-ground reality for which the zoning is based.

This is particularly the situation with the 13 grouped lots in the Wattle Hill settlement, where eight (8) dwellings have already been established. Not one of these specific lots is being used for a small holding let alone for larger agriculture and are at best described as a rural bush residential block in type.

[1] Sorell Council (updated 2021) “Tasmanian Planning Scheme Local Provisions Schedule – Supporting Report’, sourced 7 August 2021, from Local-Provisions-Schedule-Supporting-Document-Sorell-updated-April-2021.pdf

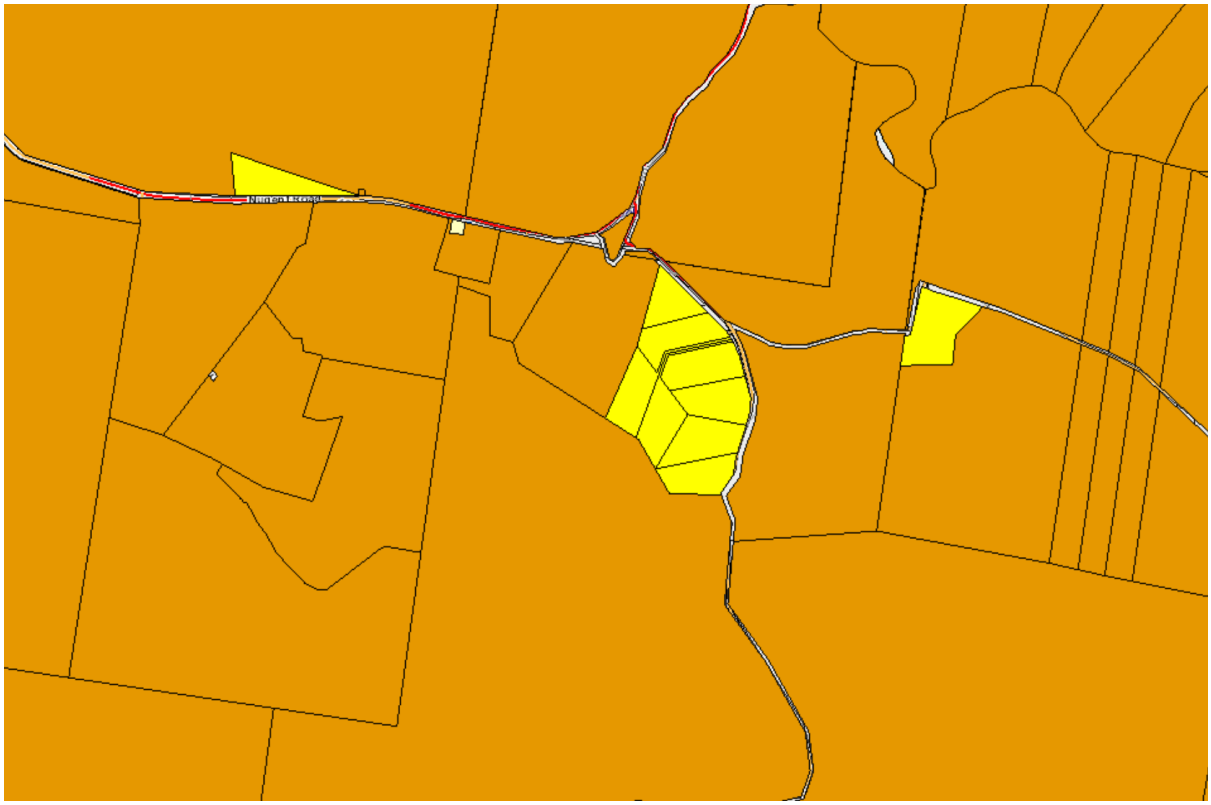

Figure 2 – LIST Map layer "Land Potentially Suitable for Agriculture Zone" showing the lots to the east of the site as Potentially Constrained (Criteria 2A) meaning has residential dwelling established.

It is noted that within the Tasmanian Planning Scheme: Zones: Sorell Council Local Provisions Schedule mapping zoning has been based on properties PID numbering, see Figure 3. Whilst basing the agricultural and rural zones decision tree on such information may initially appear to make a logical base for the determination of the zoning, it creates a fundamental error. Although there is the assumption in the Background of the Agriculture Mapping that smaller lots will be integrated into larger properties, the fault in the decision tree is not understanding that lots can be sold or that some smaller lots, as is the case with these two, are not of a capacity to be useful for an adjoining larger farm to warrant amalgamation.

The principal concern here is that these two lots do not have a residential dwelling constructed on them, yet as previously established, it has been the intention of the property owner to develop. And it is noted that there are a few of the other lots still to have a dwelling constructed on them.

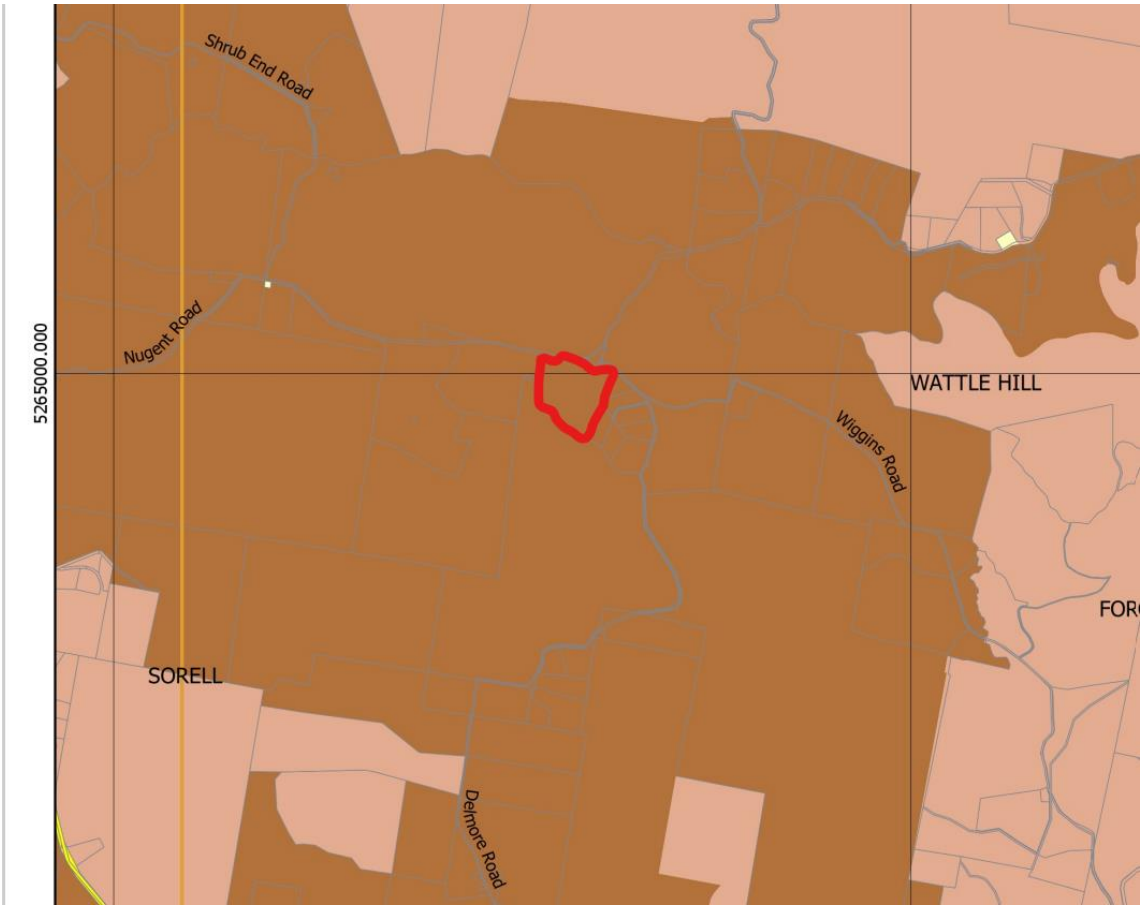

Figure 3 – extract from Page 5 of 10 for the Tasmanian Planning Scheme: Zones: Sorell Council Local Provisions Schedule. The property in question is outlined in red in the centre and is zoned Agriculture. It is observed that the zone mapping has been based on Property ID and not that of Certificate of Titles, which has a risk of misguiding the zone allocation. It is noted that the property to the west is not reflected in layout of land titles.

The issue in zoning these specific lots Agriculture is seen in the provisions of the Tasmanian Planning Scheme for the Zone. As the intent is "to provide for agricultural activities and avoid unrelated non-agricultural activities"[2], the provisions restrict such development. If the Decision Tree is based on the Certificate of Titles and not the PID it would provide a more realistic understanding of the potential development loss that will occur from the change from the Interim Planning Scheme to the Tasmanian Planning Scheme. Additionally, it would also be more appropriate to include other guideline criteria in determining the allocation of zones.

2.4 Proposed Alternative Zoning

The subject lots at the junction of Nugent and Delmore Road, Wattle Hill, identified by PID 7410440, are also of insufficient size to be classified Rural as the underling soil type is too poor. The lots in themselves are more characteristic of rural residential in type than primary industries use. Therefore, it is proposed that this group of 13 lots should be Rural Living Zone (B), as this is more reflective of their character.

Such an approach is consistent with the Zone Application Guidelines for Rural Living RLZ 4(b), which states that the Zone can be applied to land identified in the 'Land Potentially

[2] P. 103, Sorell Council (updated 2021) "Tasmanian Planning Scheme Local Provisions Schedule – Supporting Report', sourced 7 August 2021, from Local-Provisions-Schedule-Supporting-Document-Sorell-updated-April-2021.pdf

Suitable for Agriculture Zone' if the land contains important landscape values that are identified for protection and conservation, such as bushland areas, if the values can be appropriately managed through the application and operation of the relevant codes.

As previously stated, the land is subject to the biodiversity overlay and covers the native vegetation type (DGL) *Eucalyptus globulus* dry forest and woodland, which is a threatened native vegetation community under Schedule 3A, *Nature Conservation Act 2002*. If this land were to be zoned Agriculture, under these provisions the Natural Assets Code will not apply to the protection or management of the vegetation, and as the land is not being used for agriculture there is a question as to how the clearance of native vegetation exemption for agriculture would apply to these lots. The result is the property owners would be in a technical loophole.

Additionally, the Rural Living Zone can be justified in accordance with or "supported by more detailed local strategic analysis consistent with the relevant regional land use strategy and endorsed by the relevant council". It is noted that this is not a new provision being sought requiring an additional strategic line of thought as the lots have been established since the mid-1980s. Recognising the actual property size and the established use will facilitate the capacity for lots that are of similar size and use to be grouped together, particularly within historic settlement areas such as Wattle Hill.

Such a strategic pattern is not inconsistent with that previously used by Councils that have already implemented the Tasmanian Planning Scheme, such as Meander Valley LPS, Circular Head LPS, and to an extent Burnie LPS.

3 Conclusion

This representation provides site specific clarification for the following parcels of land:

It is our submission that the decision tree that has been used to determine the delineation of Agriculture Zone and Rural Zone has not examined the detail of the potential land use conflicts, underlying soil quality and topography of the land in determining the zoning. Given the topographical, environmental, and small lot sizes based on the quality of the soil, zoning the land Agriculture would inhibit the diversity of allowable use permissible on the land.

Principle concern is seen when cross referencing the zoning with the State Planning Provisions. With the intent of the Agriculture Zone for development including residential that is reliant on agricultural activity on the property (Clause 21.3.1 Use Standards: Agriculture Zone), concern is that with the properties not being of a sufficient size and with unsustainable soil type to support agricultural use, the properties will not be able to be developed.

Therefore, pursuant to Section 35E (3)(b) of the *Land Use Planning and Approvals Act 1993*, the draft LPS should not apply the zone Agriculture in accordance with the provisions of the SPP Part 21, to the land known as:

- Nugent Road, Wattle Hill, PID 7410440, formed by CT 30406/10 and CT:250516/1,

and that the surrounding land that formed Sealed Plan SP: 30406 should be considered for Rural Living Zone (B) as this reflects the land use character.

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Limitations

Red Seal Urban & Regional Planning provides town planning advice based on the information provided by the Client, which is assumed correct in relation to the provisions of the Tasmanian Resource Management Planning System.

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SOLUTIONS

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Appendix A

RE: Agricultural land Capability – PID 7410440 – Nugent Road, Wattle Hill

I am a Certified Professional Soil Scientist (CPSS) and I have completed the assessment of numerous agricultural properties in Tasmania over the past 20 years including a number in the Sorell and wattle Hill area. I have completed a review of my files for the local area and the subject property and can provide the following information.

- The property is located on Nugent Road and extends over an area of over 16ha and is bordered by rural residential properties to the east and west, and agricultural properties to the south (see figure 1 site location).
- Th property is underlain by Jurassic dolerite with shallow duplex soils on the steep slopes of the property (see figure 2 soil mapping).
- The property is mapped as predominantly class 5 & 6 agricultural land however the large area that has been excavated as a quarry would also be classified as Class 6 (see figure 3 land capability mapping).
- The steep slopes on the site and shallow stony soils make the property unsuitable for tillage for pasture renovation or cropping, and as a result the property has remained largely under native vegetation unlike properties on the opposite side of Nugent Road on gentler slopes with better soils on Basalt that have been cleared
- The land suitability mapping for the area which shows that the property could be suitable for pasture production and grazing from typical ryegrass pastures provided adequate erosion control could be implemented for any tillage operations (see figure 4 ryegrass pasture suitability).
- The soil types on the property have a number of identified soil limitations to agricultural use, and in particular due to the sandy textured topsoils on much of the property wind erosion poses a significant risk if surface cover is removed and tillage is undertaken to attempt pasture renovation (see figure 5 erosion hazard mapping).
- Previous assessment of soils in the local area identified a number of limitations to agricultural use of the main soil type on the property

- The area of soils on dolerite mapped as Podzolic soils on dolerite (Pdi) the following limitations have been identified
    - Soils on hill slopes, especially north facing slopes like the subject property are shallow with a high stone content and poor rooting depth
    - Soils generally have a strong texture contract with potential for shallow perched seasonal water tables
    - Subsoils are imperfectly drained with limited irrigation potential
    - Sandy topsoils have an acidic pH trend, weak structure and can be prone to surface erosion
    - On steep slopes native pastures and sparse native vegetation is normally retained for limited grazing at low stocking rates
- From my review of the information relating to soil and land quality on the property it is my conclusion that the land has limited agricultural capability
- As the property is not in a declared irrigation district and there is no established water resource in the area the lack of rainfall also severely limits the productive potential of the land
- The property is small in area and is located on two sides by several small titles with current rural residential use, therefore any future agricultural use of the property is significantly fettered
- Given the agricultural capability of the property is highly constrained, future zoning as part of the state-wide planning scheme must be carefully considered to ensure the optimal future use of the land resource.

Kind regards,

Dr John Paul Cumming B.Agr.Sc (hons) PhD CPSS GAICD
Director

Figure 1 – Site location

Figure 2 – Soil mapping

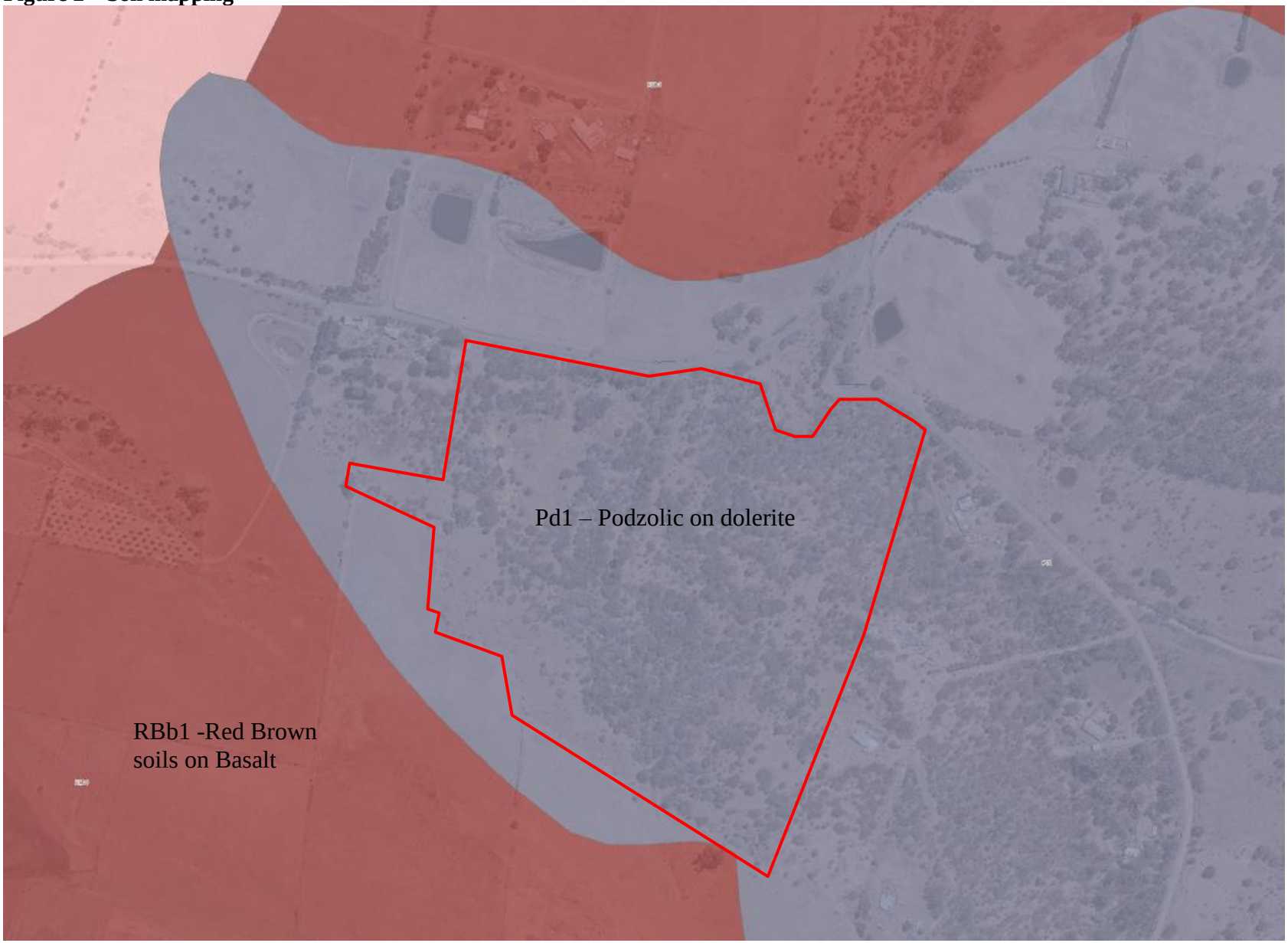


Figure 3 – Land capability mapping

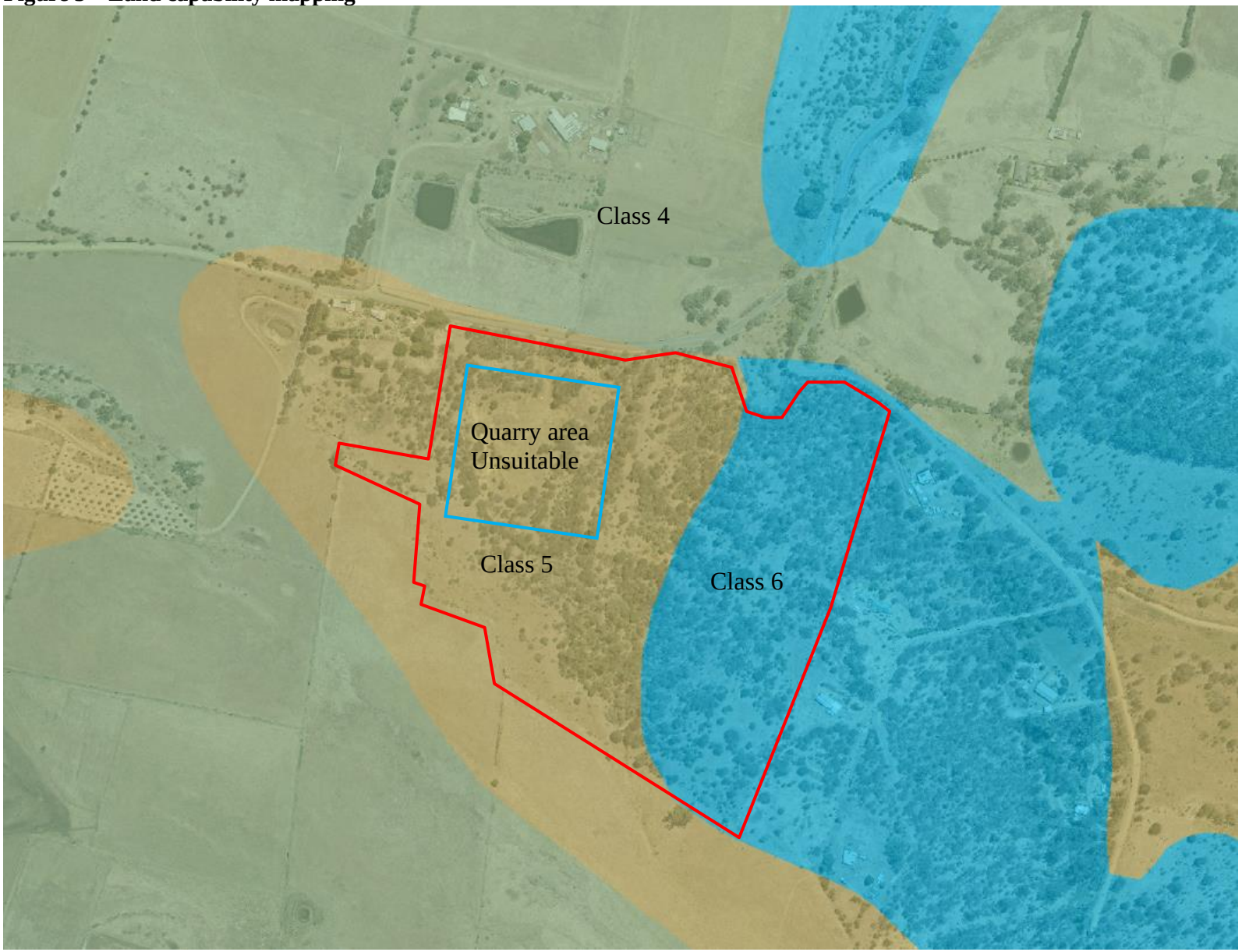


Figure 4 – Ryegrass pasture suitability mapping

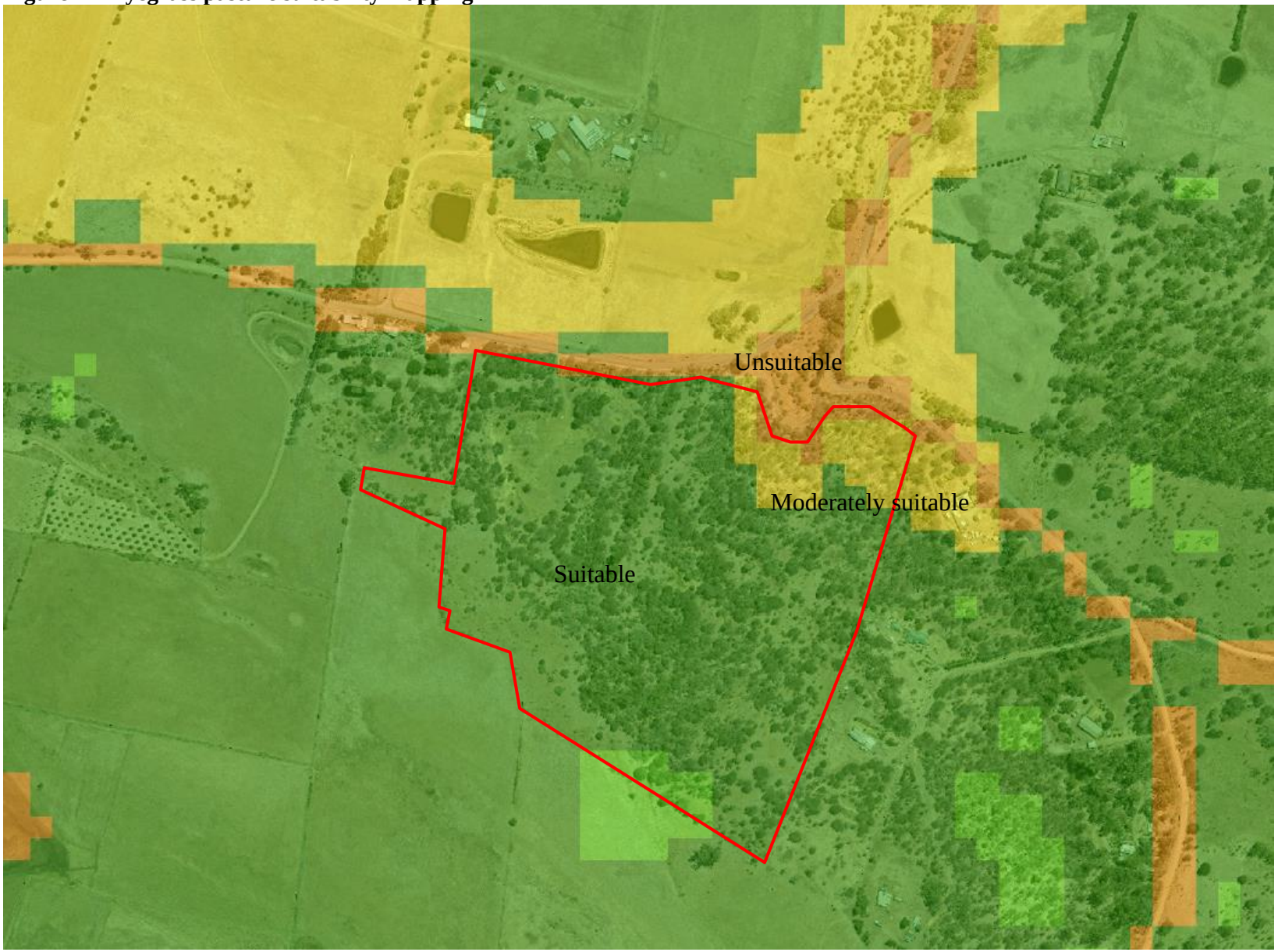
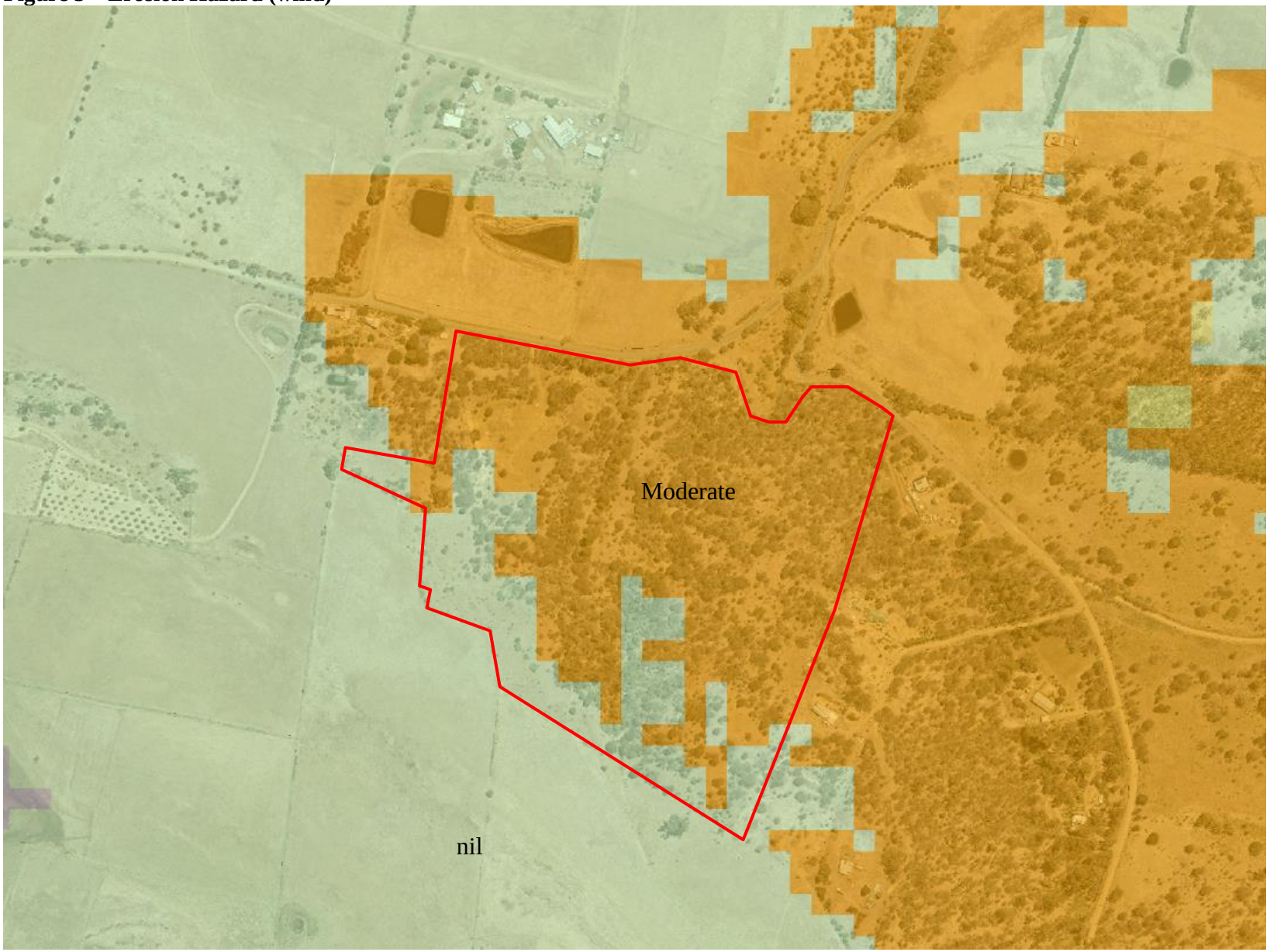
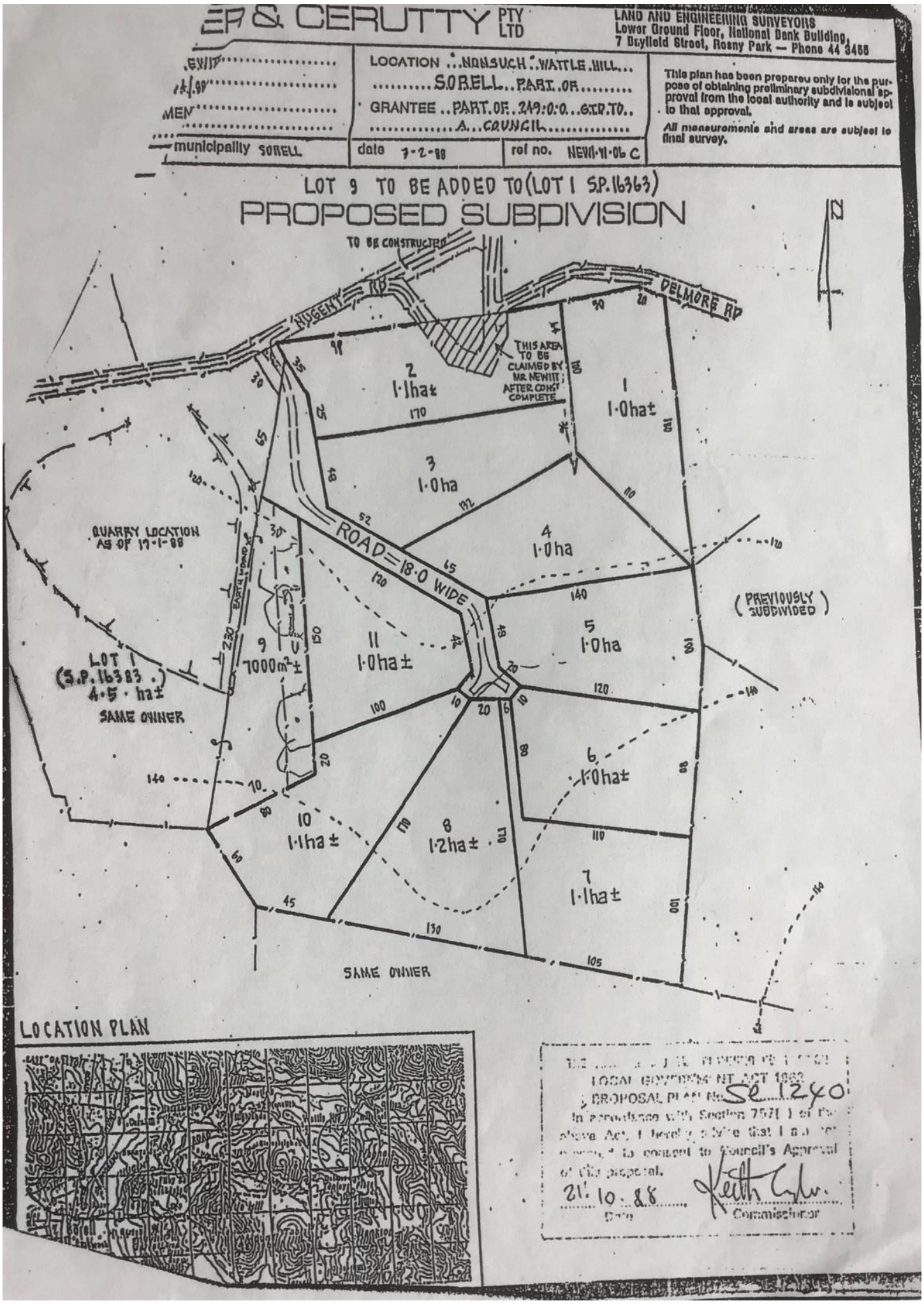


Figure 5 – Erosion Hazard (wind)



Appendix B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LOCATION ..NONSUCH..WATTLE HILL...
.....SORELL..PART OF.....
GRANTEE ..PART OF..249:0:0..G.T.R.TO..
.....A...COUNCIL.....
municipality SORELL
date 7-2-88
ref no. NEWI-11-06 C
This plan has been prepared only for the purpose of obtaining preliminary subdivisional approval from the local authority and is subject to that approval.
All measurements and areas are subject to final survey.
LOT 9 TO BE ADDED TO (LOT 1 S.P.16363)
PROPOSED SUBDIVISION
TO BE CONSTRUCTED
NUGENT RD
DELMORE RD
THIS AREA TO BE CLAIMED BY MR. NEWITT AFTER CONST COMPLETE
2 1·1ha±
1 1·0ha±
3 1·0ha
4 1·0ha
5 1·0ha
6 1·0ha±
7 1·1ha±
8 1·2ha±
9 7000m²±
10 1·1ha±
11 1·0ha±
ROAD = 18·0 WIDE
(PREVIOUSLY SUBDIVIDED)
QUARRY LOCATION AS OF 17-1-88
EARTH MOUND
LOT 1 (S.P.16383) 4·5 ha±
SAME OWNER
SAME OWNER
LOCATION PLAN
LOCAL GOVERNMENT ACT 1962
PROPOSAL PLAN No. SE 1240
Date
Commissioner