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Enquiries: Planning Department  
Planning ref: Local Provision Schedule

12 May 2020

Executive Commissioner  
Tasmanian Planning Commission

Email to: [tpc@planning.gov.au](mailto:tpc@planning.gov.au)

Attention: Mr John Ramsay, Chair, Delegated Assessment Panel

## GLAMORGAN SPRING BAY LOCAL PROVISIONS SCHEDULE

### Response to clarifications

Dear Sir

Please see the following response to the information request issued by the Chair of the Delegated Assessment Panel dated 28 September 2020.

If you wish to discuss this request, please contact me, on 0418 597 997 or by return email.

Yours sincerely

**Mick Purves**

**Senior Planning Consultant**

## Outstanding Issues Notice responses

### 1a. Heritage listing data.

In process from Denman & Associates, architects with decades of experience in heritage conservation, heritage assessment and architectural projects on heritage properties. To be provided upon completion.

### 1b. LAO mapping for Spring Bay Marina and Louisville Road SAP's

Information provided as a separate attachment accompanying this letter.

## Landscape conservation zoning

### 2a. landscape conservation & Conservation covenants

Each of the representations sought rezoning to Landscape Conservation zoning as they had Conservation Covenants registered on their titles under the Nature Conservation Act.

The s.35 report response at page 6 identifies a clear course of actions:

- Confirm that the priority vegetation overlay applies to vegetation under Nature Conservation covenants on subject properties;
- Seek confirmation of the intent of the relevant SPP provisions from their manager; and
- Support Landscape Conservation zoning where property owners provide consent to the change.

### 2b. additional submissions following statutory exhibition

Review of the additional submissions provided identified that all were copied to the Commission. The following table lists all representations received following statutory exhibition.

Name	Property/Issue	Contact
Esther Catchpoole 2 April 2020	7308 Tasman Highway, Orford	<a href="mailto:esther.lee.catchpoole@gmail.com">esther.lee.catchpoole@gmail.com</a>
Peter Timms 1 May 2020	300 Alma Road, Orford	<a href="mailto:peter.timms@internode.on.net">peter.timms@internode.on.net</a>
Ted & Jayne Pretty 1 July 2020	GSB-S4.0 Coles Bay Swanwick SAP	<a href="mailto:windermereblue@mac.com">windermereblue@mac.com</a>
Leanne Woods 31 July 2020	29 Tasman Street, Triabunna	0439 388 677
<b>Post s.35 Report</b>		
Alistair Hobday and Janet McDonald	Swanston Road, Little Swanport (PID 7324198) Title Refs 214698/1, 211206/1 and 213042/1	<a href="mailto:Alistair.Hobday@csiro.au">Alistair.Hobday@csiro.au</a>
Heather Jones	Seaford Road, Little Swanport (PID 7192818, Title Ref 11194/1)	<a href="mailto:heatherrjones@gmail.com">heatherrjones@gmail.com</a>
Bart Jenniches and Kelly Blackford	Lot 100 Bresnehans Road, Little Swanport (PID 3494210, Title Ref 172771/100)	<a href="mailto:bart.jenniches@gmail.com">bart.jenniches@gmail.com</a>
Lucy and Christopher Landon-Lane	199 Rosedale Road, Bicheno (PID 2934536, 156228/1)	<a href="mailto:londonlane@gmail.com">londonlane@gmail.com</a>

Kip and Diana Nunn	Flacks Road, Coles Bay (PID 2074855, Title Ref 52694/7)	<a href="mailto:info@tasmanianphotography.com.au">info@tasmanianphotography.com.au</a>
Julie Ostberg	McNeills Road, Swansea (PID 5280531) Title Refs 201041/1, 226957/1, 204583/1, 202684/1, 205212/1, 205214/1, 204581/1, 240267/1, 205213/1, 202456/1 and 204511/1	<a href="mailto:julieostberg@gmail.com">julieostberg@gmail.com</a>

### 3 Rural v Agriculture zone

#### a. Advice to representors regarding additional advice

The representors were provided advice within the section 35 report.

Any queries (phone and email) were provided with advice that the Commission was likely to require an assessment of the agricultural assessment of the capacity of the property to sustain agriculture as defined in the SPP's. It was suggested that any such responses provide an assessment against the zone purpose statements and guidelines, particularly guidelines RZ3 and AZ6 that discussed alternative zoning of properties.

A list of representors that this information was provided to is not able to be provided.

#### b. assessment of representations seeking Rural zoning per listed items:

Rep / Property	S.8A Guideline	AK decision tree	AK Peer review <sup>1</sup>	Outcome
37 Peacock Bolton's Beach	AZ6 & RZ3 may apply. Requires expert report.	Land class 4	Suggests Ag zone,	Expert assessment required
13 Cape Herbert	AZ6 & RZ3 may apply. Requires expert report.	Supports RUZ or LCZ for protected natural values	Not applicable	Expert assessment required
15 Adam Greenhill	AZ6 & RZ3 may apply. Requires expert report.	Supports RUZ or LCZ for protected natural values	Not applicable	Expert assessment required
23 Wallaroo Contracting	AZ6 & RZ3 may apply. Requires expert report.	Mixed suitability for the various titles	Not applicable	Expert assessment required
26 Keveldon – Tempus site	Not relevant	Not relevant	Not relevant	No change
26 Keveldon – Gala Vineyard	Agriculture zone	Agriculture zone for multiple categories	No applicable	No change
27 State Growth CT's 162203/1, 162203/4, 162203/5, 233658/1, 100173/1 and 162203/6)	PTR's facilitated in Rural and Agriculture zones.	Supports Agriculture zone for forestry use on unconstrained lands	Not applicable	No change

50 Browning 13593 Tasman Highway, Swansea	AZ6 & RZ3 may apply. Requires expert report.	Unclear	Not applicable	Expert assessment required
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Note 1 – AK Peer review document provided a set of specific comments to a version of the zoning maps. General comments on the zoning approach were not provided. Not applicable in the previous table identifies that no comments were provided for the subject properties.

Note 2 – the Bayport land is subject to a Specific Area Plan that confirms the strategic conversion of the land for a golf course and residential estate.

#### 4 Authority for attendees to present for the Planning Authority

As noted, the delegation provides for the delegate to attend and represent the Planning Authority or to appoint a representative to attend and represent the planning authority.

An instrument of appointment was prepared to appoint Mick Purves to appear for and represent the Planning Authority, as attached. Mick will be the primary representative of the Planning Authority at the hearings. Other delegates may attend from time to time.

A copy of the instrument will be provided once executed.

#### 5. S.34(2) justification for Fisheries PPZ

##### Section 32(4) assessment

The SAP seeks approval under 34(2)(a) of the Act:

- (a) *a use or development to which the provision relates is of significant social, economic or environmental benefit to the State, a region or a municipal area*

Section 32(4) (a) applies due to the particular qualities applying to the Fisheries, as follows:

- Its location within the Freycinet National Park;
- the scenic qualities and landscape values of the Freycinet Peninsula;
- absence of reticulated services and limited capacity of the area to accommodate use and development entitlements proscribed within the standard SPP zones;
- the pattern of development acknowledged in the Regional Land Use Strategy as dependent on local strategy and typified by lower than usual density of development across residential settlements.

The SSQs further the objectives in Schedule 1 of the Act by providing for the fair, orderly and sustainable development of land that is already developed for the purpose of residential accommodation, while recognising the extremely sensitive location and qualities of the area. This allows reasonable development of the existing lots without compromising other objectives.

##### Environmental Factors

It is considered that the particular environmental and spatial values of the Fisheries area within Freycinet National Park, are of such unique circumstance and significance to that area of land within the State, that the standard suite of zones do not provide a regulatory framework that is capable of delivering the objectives of the Act through their application.

The scenic and landscape values of the Freycinet Peninsula are recognised nationally, if not globally, and considered to contribute to the desirable nature of the area as a tourism destination at all levels from the local area to global markets. Management of these resources is recognised under the Schedule 1 Objectives to the Act, the Regional Land Use Strategy and within the policy and provision structure do the SPP's.

As noted in the s.35 report, the Low Density Zone provides superficial compatibility for environmental consideration, but further review of the standards identify that it affords use and development opportunities that are not consistent with the constraints of the Fisheries.

The Fisheries area does not have reticulated water, sewer or stormwater services. Road access to the area is 3.7km within the National Park and relies on access to individual lots by unsealed roads of varying standards once leaving the access road to the Visitor Centre. These limitations do not support the use and development opportunities that are provided under the SPP zoning regime.

Further, natural values mapping under the LPS identifies significant issues for consideration across codes including the area. The Priority Vegetation Overlay covers the entire settlement and extends across the adjoining National Park.

Further, it is suggested that the location of the Fisheries within the Freycinet National Park was not a situation contemplated for use of the suite of residential zones under the SPP's during their development.

As a result of these considerations, it is submitted that the development entitlements within the suite of SPP zones do not provide suitable consideration of the relevant environmental issues. A Particular Purpose zone was therefore prepared to provide limited land use options and manage development impacts in a manner appropriate to the unique location.

### Economic

The Freycinet Peninsula is considered to have a significant economic impacts to the local, municipal, state and national economies. Development of private lands within the Freycinet National Park has an unusually high opportunity to deliver adverse impacts to the scenic and landscape values that underpin the economic significance of this area.

The contribution of the tourism industry to the economy of the east coast was well documented in 'Regional Tourism Satellite Account – East Coast 2015-16' prepared by Deloitte Access Economics and as noted in response to other issues in the supporting report. The East Coast was ranked first overall in the overall comparative importance of tourism across Tasmania's regions, contributing an output of \$241.5 million and \$185.4 million in direct and indirect tourism outputs and has a total contribution of employing 77.2% of employed people, with 44.3% being employed directly.

As discussed in response to other representations, there are strategic and policy responses to the significance of landscape and scenic qualities of the Southern region and east coast. Use of a Particular Purpose zone for the Fisheries is consistent with those strategies and policies, as much as is reasonably possible, within the constraints of the SPP's.

This limited discussion identified that the Freycinet area and the Fisheries have significant economic impacts at the municipal, regional and state levels that supports management of development opportunity for the Fisheries through a particular purpose zone.

## Social Factors

While there is little formal documentation, it is clear that Freycinet has significant social values associated with recreation, scenic landscapes and tourism at municipal, regional and state levels. This is supported by the representations that were submitted to the LPS exhibition process.

Social values of Freycinet and the Fisheries are represented through the use of the recreational facilities by populations from most parts of Tasmania, the iconic status that the area has to Tasmanians and the reputation of the area as a tourism destination at the State, National and International levels. The Fisheries provides an exclusive residential enclave within this area.

Use and development of private lands within the National Park have significant opportunity to impact those values. Review of the SPP suite of zones within the S.35 report identified that a Particular Purpose zone was the most appropriate tool to consider those impacts and minimise negatively impacts those values.

## Conclusion

It is considered that the tourism and scenic values of the Freycinet Peninsula and specifically, the Fisheries, are significant to the local, regional and state economic, social and environmental values.

The management of use and development opportunity for existing titles, and existing land use character through the use of a Particular Purpose zone represents a significant environmental, economic and social outcome for resident and visitor populations. Use of the Particular Purpose zone to deliver these outcomes is consistent with the requirements of the Act and RLUS.

## 6 Other matters

### a. a specific response to the request to incorporate flood prone areas overlay based on Saltwater Creek Flood Study 2018

A specific response was provided to this request, as detailed on page 27 of the section 35 report. This response identified that no overlay would be prepared based on such a limited information base.

Discussions with Council's Managers confirmed that this approach is preferred until such time as the Tasmanian Flood Mapping Project delivers a consistent flood hazard overlay for the State. Council is the only party that can determine acceptable risk levels for the organisation under the relevant statutory controls.

Significant risk exists with mapping a natural hazards overlay on such a limited basis. The SPP's do *not* allow for recognition of the limited basis of available mapping. It is reasonable for any person to identify the overlay mapping and conclude that properties not identified in it are not subject to flood risk, particularly for out of area or state parties investigating properties.

Council can request information from applications under clause C12.2.3 to confirm whether a flood hazard exists on a property and the Saltwater Creek Flood Study 2018 can inform such requests. This approach is preferred pending more complete mapping.

If the State were able to provide better or more complete mapping, this request could be supported.

**Recommendation:**      **no change.**



b. [Use of Environmental Management zone to Whalers Lookout, Bicheno \(PID 5282967\)](#)

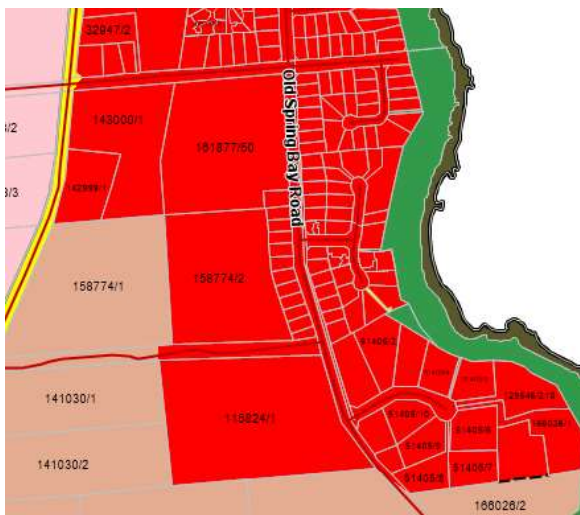
The subject site is zoned Environmental Management under the Interim Scheme, and proposed for the Open Space zone on map sheet 2 of 22 for the LPS. The supporting report identifies that the Open Space zone was preferred for consistency with other spaces in the area and compliance with the Guidelines (page 20).

Review of respective use tables identifies that the Environmental Management zone has a much wider range of discretionary uses. Tests on discretionary uses in each zone differ, with neither providing a clear benefit. EMZ tests consider suitability of the proposal to the site for discretionary uses while OSZ use tests consider operating hours and lighting. In this respect, Environmental management zone is preferred.

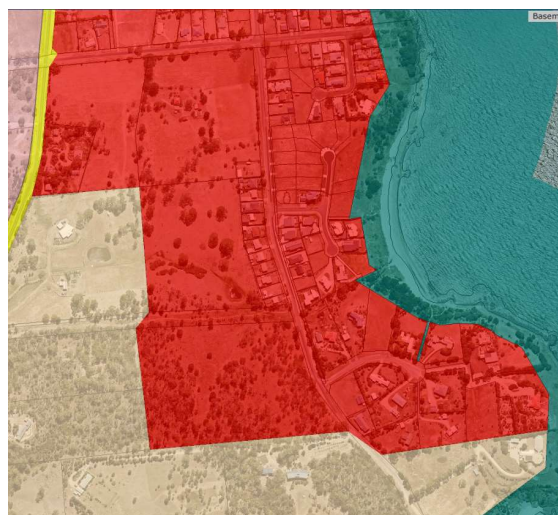
**Recommendation:**      **rezone PID 5282967 Environmental Management**

c. [Tasman Highway / Cathcart Street zoning](#)

The subject lands are contained in CT158774/2 and CT115824/1 and adjoining road reservation. The zoning of this area provides for a translation of the interim scheme zoning regime, as shown in the following images.



*Proposed LPS zoning*



*Current Interim Scheme zoning*

The LPS also proposes to have the Priority Vegetation Overlay applied to the subject road reservation and adjoining properties to the north, south and west (as shown, right). This provides for consideration of biodiversity issues through development of the land for subdivision purposes. Biodiversity issues are managed within the site through the appropriate tool under the SPP's.

Representation 42 submits the lack of drainage infrastructure in this area does not support the requested zoning, where the zoning is not proposed to change. Storm



water infrastructure is normally provided to Council through the subdivision process by the developer of the lands, as are infrastructure upgrades that result from an application. The concern would be addressed through the assessment of any application.

In terms of the decisions required under the act, this issue in representation 42:

- is not recommended for any change to the LPS;
- is considered to have no impact on the operation of the LPS as a whole; and
- the recommendation is considered to be consistent with the LPS Criteria in the Act.

Representation 56 raised similar concerns to representation 42, also identifying that the land was previously approved for subdivision in 2016 that has not been acted upon. Representation 56 also requested that the subject lands not be zoned General Residential. A specific to this issue under representation 54 was not requested. It is noted that the outcome would be the same as representation 42.

No change is recommended to the zoning of the as a result of representations 42 and 54.

**Recommendation: No change.**

d. [Council position on representations submitted following Section 35F report.](#)

As noted in the s.35 report, Council supports the representations lodged to the LPS following completion of the formal exhibition process. Council supports assessment of late representations.

In addition, Council received numerous representations following submission of the s.35 report as noted in this submission.

The LPS process is not ideal for facilitating engagement and public involvement. All reasonable measures to facilitate public involvement are supported, consistent with the Schedule 1 Objectives of the Act.

**Recommendation: Assess late representations.**