**Representation No. 1**

| | |
|---|---|
| **From:** | Gary Luck |
| **To:** | Break O Day Office Admin |
| **Subject:** | Representation to Break O'Day Council Draft Local Provisions Schedule (LPS) |
| **Date:** | Wednesday, 1 December 2021 3:44:00 PM |
| **Attachments:** | Representation to Break O'Day Council Draft Local Provisions Schedule (LPS).docx |

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To: John Brown
General Manager
Break O'Day Council
32-34 Georges Bay Esplanade
ST HELENS TAS 7216

Via email: admin@bodc.tas.gov.au

Representation to Break O'Day Council Draft Local Provisions Schedule (LPS)

Property Owners: Gary Luck and Gayle Smythe
Property Address: 22 Denneys Rd, St Marys 7215
PID: 2593962, Title Refs 121906/1 and 121906/2

**Current proposed land-use classification: Rural Living**
**Requested land-use reclassification: Landscape Conservation**

Dear BoD Council

We are making a representation (**also see attached**) to the Draft LPS for the BODC LGA to change the classification of our property at 22 Denneys Rd, St Marys from Rural Living to Landscape Conservation.

We believe this change is appropriate given the following:

- The majority of our 31.4ha property is protected under a Conservation Covenant (Denneys Rd Reserve) – 57% of Title Ref 121906/1 and 54% of Title Ref 121906/2 protected.
- The remainder of the property is not used for commercial agriculture and there are no plans to initiate this land use.
- The covenanted areas adjoin the 46.5ha Cheeseberry Hill Conservation Area, and are < 1km from the 750ha St Marys Pass State Reserve. Hence, our property contributes to an important and substantial area of protected land near St Marys.
- The covenanted areas and other parts of our property support a *Eucalyptus brookeriana* ecosystem, which is listed as critically endangered under the EPBC ACT https://www.environment.gov.au/cgi-bin/sprat/public/publicshowcommunity.pl?id=77&status=Critically+Endangered
- Our property supports a number of threatened wildlife species including Tasmanian devil, spot-tailed quoll, eastern quoll, platypus, blind velvet worm, white goshawk and wedge-tailed eagle.
- We believe that the classification of Landscape Conservation is most appropriate for properties that are partly covered by a private reserve (> 50%) where the non-reserved part is not used for agriculture. This is completely in accord with the Tasmanian Planning Commission Guidelines.

Sincerely
Gary Luck and Gayle Smythe

Sent from Mail for Windows

To: John Brown
General Manager
Break O'Day Council
32-34 Georges Bay Esplanade
ST HELENS TAS 7216
Via email: admin@bodc.tas.gov.au

Representation to Break O'Day Council Draft Local Provisions Schedule (LPS)

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Sincerely

Gary Luck and Gayle Smythe

**Representation No 2**

| | |
|---|---|
| **From:** | denis |
| **To:** | Break O Day Office Admin; Brett Woolcott |
| **Subject:** | Local Provisions schedule - Break O"Day my draft letter to go to Council |
| **Date:** | Tuesday, 23 November 2021 4:49:10 PM |
| **Attachments:** | new zones with land conservation.pdf |

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Hi Brett , I think I need to get something off to Council even if it is treated as a provisional approach. I will probably revise this so that my claims are not so definitive. from past experience I need to get something in before December 13.regards Denis

attention : the Planning Division,General Manager

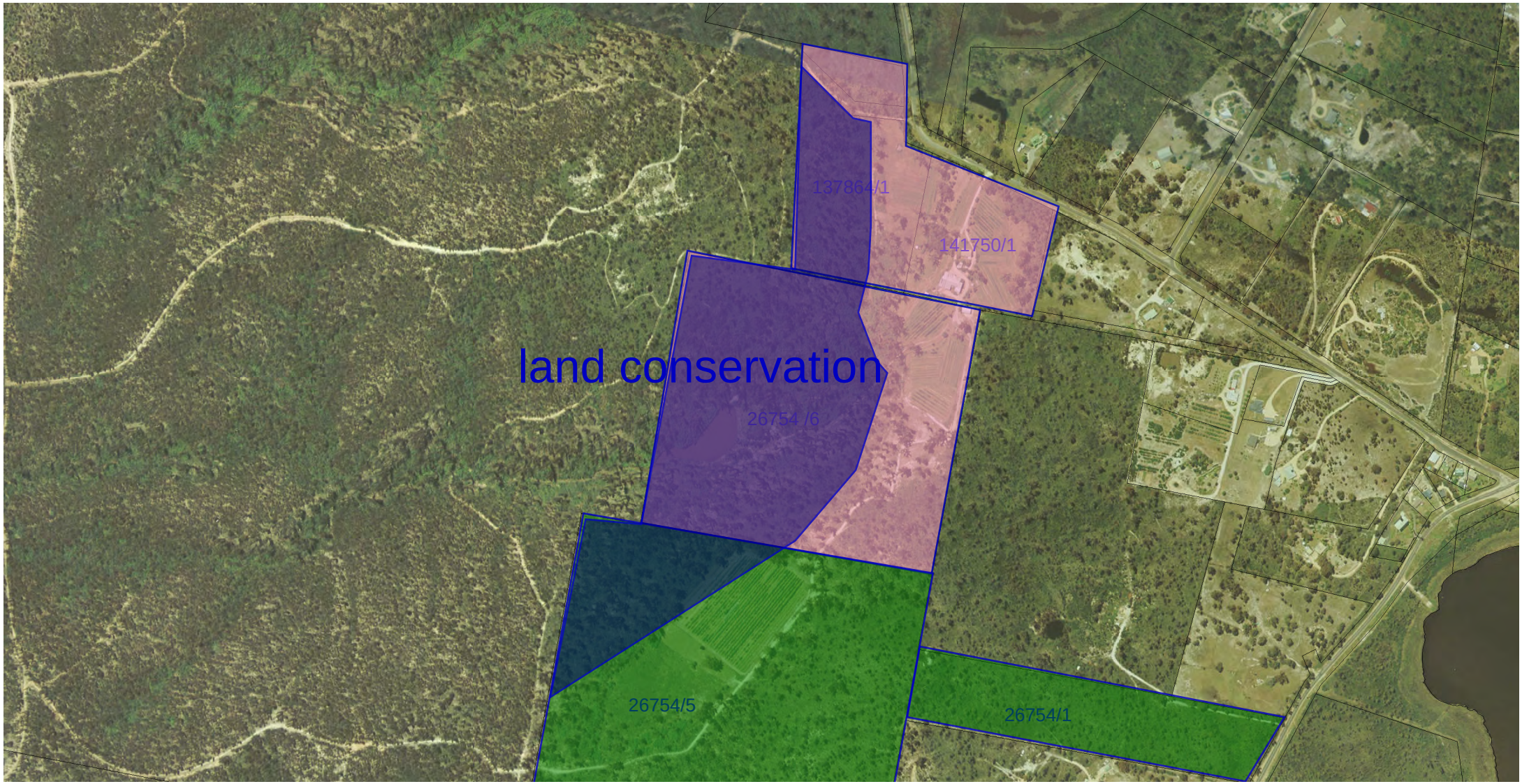
I am writing to you in regard to the draft local provisions schedule for Break O'Day as indicated for the properties grouped as 89 Upper Scamander Road Scamander. I would like to bring to our attention that the land formerly with the title reference 26754/7 has been unsealed and is now comprised of three titles 26754/1, 26754/5 and 26754/6. These titles as well as 137864/1 and 141750/1 are all zoned Agriculture Zone in the draft LPS.

The land capability over lay for these properties as shown in the list map shows that this land is not suitable for cropping (rating is 5 to 6 compared to prime land at 1) . We have many soil analysis to support this claim. As such we are no longer a commercial fruit grower and the orchard located on what is now 26754/5 will be sold for residential development. It is my understanding that all of these properties including our home site were removed from what was the Environmental Zone or its equivalent and grouped into Rural Resource in the Planning Scheme 2013 simply because we were engaging in a horticultural operation and as stated above a large part of the property was sealed and I was told had to be treated as a single entity.

We believe 26754/5 and 26754/1 should now have the same classification as its neighbours namely the Land Conservaton Zone. A small portion of 26754/6 has some agricultural potential and combined with 141750/1 and 137864/1 should be rezoned Rural Living.

Within this group of titles we are expecting to take out a covenant to protect the undeveloped land to the west forming the catchment for our water supply. The amount of land with a native protection order on it could be up to 16hA.

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| | |
|---|---|
| **From:** | denis |
| **To:** | Break O Day Office Admin; Brett Woolcott |
| **Subject:** | Local Provisions scheme. as applied to Eureka Farm |
| **Date:** | Wednesday, 8 December 2021 10:42:06 AM |
| **Attachments:** | Local Provisions Scheme request for change.docx |

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I have done a comprehensive assessment of the proposed zoning changes to be applied in accordance with Break O'Day Local Provisions Scheme and make recommendations that the zones as applied to the existing 5 titles be changed.

Please acknowledge that you have received this email.

regards Denis Buchanan

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https://www.avast.com/antivirus



# Eureka Farm

**89 Upper Scamander Road, Scamander, 7215**
**Tasmania Australia**
**Tel: 03-63725500**

Wednesday, 8 December 2021

# Local Provisions Scheme – draft document as applied to Eureka Farm

## Introduction:

Eureka Farm entrance is at 89 Upper Scamander Road but with road frontage also on the Tasman Highway. Up to very recently the registered property was composed of three titles CT141750/1 , CT 26754/7 and 137864/1.

In the 2011 BODC Planning Scheme all properties were zoned the same as our neighbours- that is the Environmental Living Zone. However when the 2013 Draft BODC Planning Scheme was implemented all of our titles (identified above) were reassigned to the Rural Resource zone whilst our neighbours remained in the Environmental Zone. The rationale I have since been informed is that we are pursuing an agricultural pursuit on some of this land which is outside the scope of the Environmental Living Zone.

We started this Horticultural operation when we bought the property in mid 1991. We were well aware that the soil would not support a horticultural operation without a lot of fertilisers. With much soil and leaf analysis we did manage to change the soil chemistry on a small amount of the property. In connection with this we also had to find a water source and create a irrigation system in what we eventually realised was ostensibly dry land farming.

The outcome of all of our efforts is that less than 10% of our land (5ha) was developed into horticultural paddocks. On this irrigated land we grew fruit trees for both pomme fruit and stone fruit as well as a variety of berries. To supply water a 14 million litre dam was built. A minimum of 2 million litres of water being required per year is needed which limited us to the above acreage. ( water replenishment cannot be guaranteed every year )

## The Situation now:

We have been pursuing the unsealing of the largest title CT26754/7 which when we bought the land was made up of three blocks seared under this title number. We believe the previous owners did this as 2 of the blocks under the sealed plan did not have separate access. Our neighbours Matt Blanchford also was under the same sealed plan.

The title now CT26754/7 now no long exists and for us has been replaced by CT26754/1, CT26754/6 and Ct26754/5.

It has been proposed in the LPS (local provisions scheme) that all of our blocks revert from Rural Resource to a new zone called the Agricultural Zone. Also in the draft maps all of the above mentioned titles have been determined to be in the so called Unconstrained Group. The report supporting these classifications was prepared by the Planning Division of the Tasmanian Government and is titled: " Agricultural Land Mapping Project- Identifying land suitable for inclusion within the Tasmanian
Planning Scheme's Agriculture Zone" . As the title suggests it is to support the mechanisms for separation of the previous Rural Resource zone into 2 zones the Rural Zone and Agriculture Zone. (it also blends the Significant Agricultural Zone into one of these 2 new zones –but I don't need to go into this as it doesn't relate to my zoning).

It should also be pointed out that this document does not give any indication as to how a zoning that existed before can be mapped into anything other than one of the 2 new zones mentioned above.

Let us now explore what the determining factors for blocks of land being moved from Rural Resource into the Agriculture Zone. This report outlines in 6 steps how the new classification was determined.

**Step 1**: The report only analyses properties zoned Rural Resource and Significant Agriculture Zone within the Draft Planning Scheme Break O'Day 2013 v(and of course in other municipalities.) All the titles in Eureka Farm in that scheme were allocated Rural Resource.

**Step 2**: "The project has utilised the Enterprise Suitability Mapping as the basis for most of the analysis in determining the suitability of land for agriculture. Land capability classification data as in the Land Capability Handbook (Grose, 1999) along with the DPIPWE's TASVEG 3.0 mapping was utilised in determining areas potentially suitable for broadacre dryland pastoral areas." The determination of the land capability class is well explained in the above Land Capability Handbook. The classification for the land mentioned in the land titles that make up Eureka Farm vary between 5 and 6. ( in my opinion too the allocations are incorrect. This land capability Class is meant to address those conditions such as soils climate slope etc all features which potentially can lead to sustainable agricultural production. A class of 6 or above means it is unsuitable for either cropping or pastoral suitability. Land uses are limited.
Just briefly the soils on these problems were all very acidic, extremely deficient in nutrients being either sandy or sandy loam. It was envisaged that with a clay or mudstone hardpan however that this might have been overcome once sufficient fertilisers had been added. Extensive testing of leaf and soils was taken in the early years and we did somewhat overcome some of the issues of infertile soil. However in the sandy soils particularly maintaining soil moisture and nutrient levels was difficult.

This is what the document says: "To reflect 'typical' farming enterprises found within Tasmanian agriculture, five broad Enterprise
Suitability Clusters (ES Clusters) were compiled by grouping Enterprise Suitability Mapping and other key datasets, as listed in Table 2 below:

*Table 2 Enterprise Suitability Clusters*

| *Enterprise Suitability Cluster* | *Dataset Used* | *Data and Assumptions* | *Access to Irrigation Water Required* |
|---|---|---|---|
| **(ES1) Irrigated Perennial Horticulture** | Enterprise Suitability Mapping, DPIPWE | Example crops include: table wine grapes, sparkling wine grapes and cherries | Y |
| **(ES2) Vegetable Production** | Example crops include: carrots, onions, poppies, potatoes and pyrethrum | Y | |
| **(ES3) Irrigated Grazing – Dairy** | Rye Grass only | Y | |
| **(ES4) Broadacre – Cropping and Livestock** | Example crops include: wheat, barley, poppies, lucerne and ryegrass | N | |
| **(ES5) Broadacre – Dryland Pastoral** | TASVEG 3.0, DPIPWE | Remaining cleared agricultural land (identified as FAG – Agricultural land in TASVEG 3.0), including native grasslands | N |
| Land Capability data, 1:100,000, DPIPWE | Remaining land with a land capability class of between 1-6 | | |

It would seem of the 5 choices there is only one Enterprise Suitability Clusters that can apply to horticultural operation is ES1.

**Step3**: The next step is to determine the availability of water for irrigation. Eureka Farm only has one source of water for irrigation. The only freshwater source is the one dam on the property. Its capacity is limited. Its catchment is limited (no more than 40 Ha) and no other potential water sources exist. (the Scamander River if it was available is saltwater near us).

"The Enterprise Suitability Mapping used to compile the ES Clusters outlined in Step 2 assumes ready access to water for irrigation. This is not practically possible for all areas in Tasmania. Land with current or future potential access to irrigation water required identification to further refine the Enterprise Suitability Mapping for the purposes of this project. It was important identified areas of potential access to irrigation water to adequately reflect the possible future potential of the land."

It is in this area that Eureka Farm has severe water limitations. The catchment area has not a continuous flowing stream but needs around about 100mm of rain overnight to start flowing and usually ceases to flow after a few days of dry weather. This can mean that we don't always refill the dam annually. In addition our main orchard where we have been growing apricots ( a frost free area) require a high head pump and usually the trees struggles as the sandy soil is so porous.

**Step 4**: Much of the land that comprises Eureka Farm is in fact still naturally vegetated. Of the approximate 50 Ha we are already setting about 18Ha as a conservation area. This is important to us in order to preserve the scenic values of our property and in order to protect our catchment area. These areas have old growth forests and are already recognised as a bird haven. These areas are generally on steeper slopes and the soil capability would not permit any sustainable agriculture.

Step 5: It would seem that all land making up the cadastre boundaries have been changed to the agriculture zone. “Where a title contained greater
than 50% of land mapped in Mapping Layer 1, the entire title was mapped as potentially suitable for the Agricultural Zone. Titles with areas less than 50% mapped in Mapping Layer 1 were further analysed by Senior Agricultural Consultants for potential inclusion, taking into consideration the areas of mapped ES Clusters.” In none of our properties was the amount of land diverted to agriculture greater than 50%. I don’t believe Senior Agricultural Consultants viewed what actually exists.

## Step 6: potential constraints analysis

In the proposed Local Provisions Scheme all Eureka Titles will be so-called Potentially Unconstrained. For a horticultural operation that limitation is 5Ha. You have to look at figure 4 in the analysis to understand what they are getting at. But first I should point out that the title arrangement has changed. Title 26754/7 has now been unsealed and reverts to 26754/1, 26754/5 and 26754/6.

26754/1 under the analysis is Potentially Constrained. It has no agricultural activity associated with it and should be removed from further consideration and revert to the same zoning as its neighbours i.e. Landscape Conservation Zone. It has a useable area when you remove the right of way less than 5Ha and a capital value great than $50000/Ha.

26754/5 has a area of about 24Ha which according to the criteria 1 which makes it Uncontrained.

26754/6 and the other Eureka farm properties are also regarded as Unconstrained. The smaller titles 141750/1 and 137864/1 are less than 5Ha (see land area ES1), have a capital value greater than $50000/Ha and are adjoined by low density residential . (what is to be called Landscape Conservation Zone) Therefore it could be argued even with all the criteria created that these blocks should be regarded as Potentially Constrained.

## Conclusions about how the mapping of the Eureka Farm Titles has to be resolved

In their section 3.2 the document points out the following: “Despite the sophisticated methodology, the mapping is not intended to be a definitive strategic land use planning tool as it is predominantly a desktop analysis and has only focussed on assessing the agricultural potential of the land. Local planning authorities will need to utilise this data in conjunction with a range of other data sets and information sources in making strategic land use planning decisions about some of the areas identified.”

The point of this document is to question the proposed future zoning of all 5 titles. The Local Provisions Scheme proposes that these all be allocated as Unconstrained and be put in the newly created Agriculture Zone. The presentation made above shows that to do this would be incorrect and that the Break O’Day planning authorities should analyse the zonings applied as recommended by the authors quoted above.

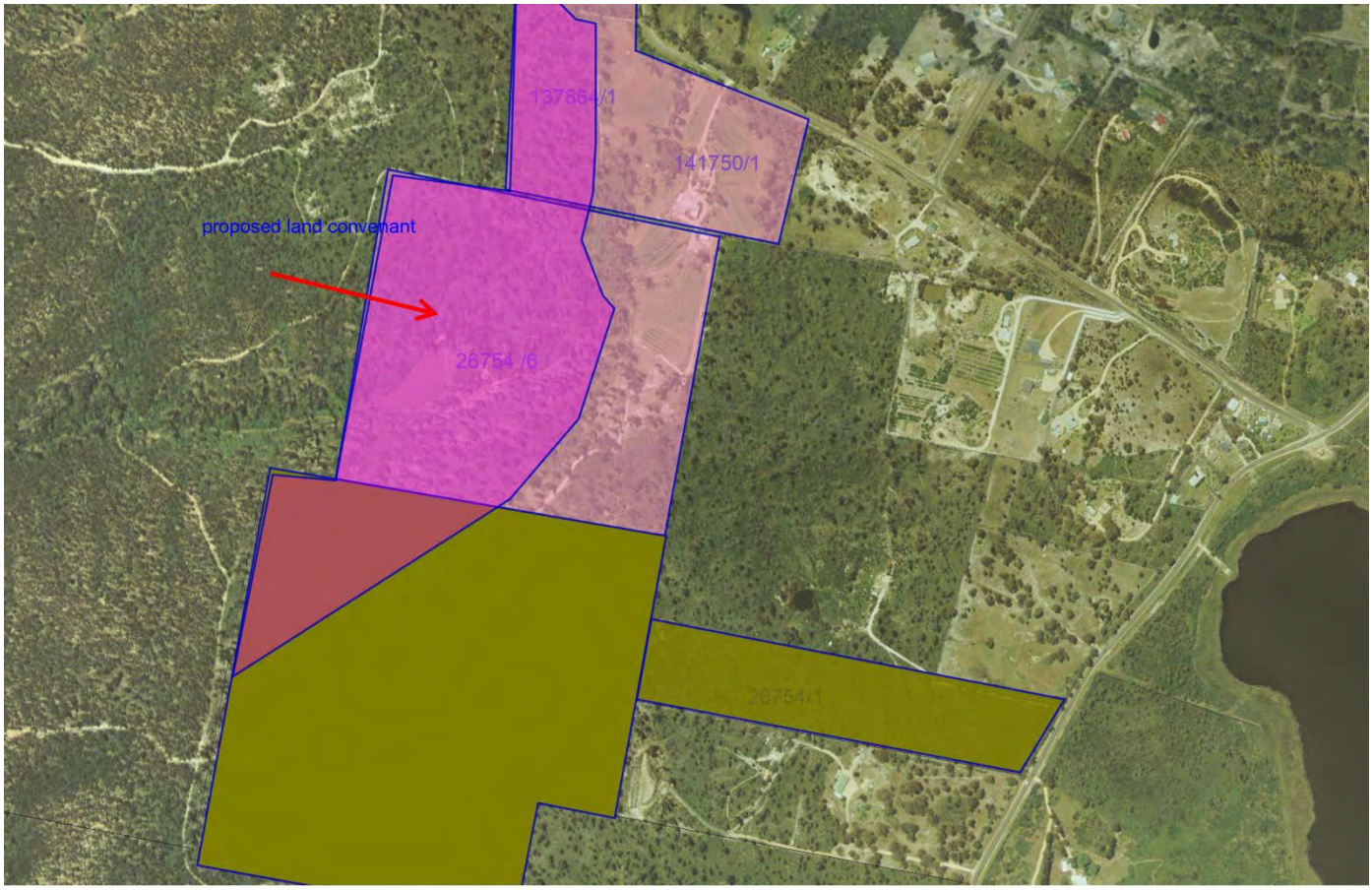
After establishing the farm and continuing operating it for 30 years I have become very aware of the agricultural potential on these titles. We have been managing less than 5Ha of our 50Ha property as a horticultural operation. In that time we have explored many options to make the land sustainable and to produce commercial quantities of fruit. However we have come to realise that our products often did not meet commercial quality due to the infertile soil and water limitations. In more recent times our markets for smaller quantities has also changed. The result is that we are no longer a

commercial producer of fruit.
The main orchard as stated earlier is on the title 26754/5. The size of the operation is about 1.8Ha. The soil here is basically sand with high porosity. The soil analysis before fertilisation was practically zero in phosphorus, potassium and nitrogen. pH was 4.5. We knew this but with heavy additions of fertiliser and further trace element additions have managed to get some species to grow. Shallow rooted trees however have not been successful. In conclusion the water requirements are difficult to maintain and leaching of the added nutrients an added problem making this operation unsustainable. We recommend that this title be changed to Landscape Conservation Zone.
This title and 26754/1 as outlined above would be rezoned Landscape Conservation Zone and would therefore have a similar classification as its adjoining easterly neighbours.

The properties 26754/6, 137864/1 and 141750/1 are all adjoining each other. These properties are generally in a valley and include the dam and some of its catchment area. Much of it is naturally vegetated on steep sloping sides of this valley. These fringe areas are also infertile and not suitable for sustainable agriculture. However in the valley itself the soil tends to be a sandy loam with better water retention capabilities. Whilst it is still deficient in nutrients it is better able to retain added nutrients than the orchard on 26754/5. It should also be mentioned that most of the infrastructure is clustered around the building on 141750/1.

In identifying the appropriate zone we believe this farm fits well into the zone Rural ( Living). We are well aware that there are no other titles in Scamander with this classification. However many exist in the environs of St. Helens.

1. As stated in the planning scheme: The purpose of the Rural Zone is:
   "To provide for a range of use or development in a rural location:
   (a) where agricultural use is limited or marginal due to topographical, environmental or other site or
   regional characteristics;
   (b) that requires a rural location for operational reasons;
   (c) is compatible with agricultural use if occurring on agricultural land;
   (d) minimises adverse impacts on surrounding uses.
2. To minimise conversion of agricultural land for non-agricultural use.
3. To ensure that use or development is of a scale and intensity that is appropriate for a rural location and does not compromise the function of surrounding settlements."




We look forward to discussing our concerns with your planners.

Yours sincerely,

Denis Buchanan

**Representation No. 3**

RECEIVED
10 DEC 2021
BY:

9th December, 202Mr

John Brown,

General Manager,

Break O Day Council,

32-34 St Georges Esplanade,

St Helens Tasmania 7216

Dear Sir,

Re: Local Provisions Schedule and Planning Scheme 2013 as amended 2021

I am **Attaching** a replacement of my submission (dated 6th December, 2021) as I forgot to include Ms Kristi Chapple in the list of Councillors.

Please accept this enclosed submission and I must apologise for leaving her off the first one.

Regards,

Jeanette Peryman

Jeanette56phil@hotmail.com

Philip Peryman

6th December, 2021

**Mr John Brown,**

**General Manager,**

**Break O Day Council,**

And Also The Mayor, Mr. Mick Tucker,

Councillors:

Mr. John McGiveron, Mr. Glenn McGuiness, Mrs. Janet Drummond,

Mrs. Kylie Wright, Lesa Whittaker, Margaret Osborne and Mr. Barry LeFevre, Kristi Chapple.

32-34 Georges Bay Esplanade,

St. Helens 7216

## Re: Local Provisions Schedule St Marys Tasmania.

Thank you for giving me the opportunity of making a submission.

After viewing the maps and information (LPS 2013 amended 2021) supplied by your Planning and Development officers Deb and Jake, I am of the understanding that the Planning Commission and the B.O.D. Council would like my property (**property ID. 6408269 , Title Reference 124755/1**) to be classified as Agricultural land.

My husband and I have been living at this address ,**7110 Esk Main road St. Marys** for some 20 years. We have electricity, water service and garbage service.

The Valuer General has classified the land as "Residential" for those 20 years. We have paid rates to the BOD Council and the Water Board on that classification since 2001.

The allotment is **only 670 sq metres** and it is freehold.

**The small block size would not be suitable for Agricultural activities.**

We ask the Council to consider the land at **7110 Esk Main Road St Marys** to be **classified as Rural, that is, Rural Living.**

Future activities for our land could be many, "work from home" businesses, such as accountant or possibly small scale warehousing which only requires a garage. Also as a base for mobile business such as mobile dog wash.

There are already safe parking options at the front of my property due to recent changes in the highway infrastructure.

I Would like to take this opportunity also to comment on the allotments near mine which were part of the past settlement for miners' homes and built in the early 1950's by the Agricultural Bank.

I believe that the titles have not been extinguished and that since that land has such enormous potential for future development it should also be classified as **Rural Living.**

The blocks already have a water main running past (as per Water Act 78 of 1950) have a frontage to the main power line corridor and have main road access. They could easily be connected to the stage 1 sewerage treatment complex and therefore would be fully serviced.

We would like to point out that our own block has never been part of this old Jubilee Subdivision.

Thanking you for your considerations,

Jeanette Peryman

Philip Peryman

7110 Esk Main Road,

St Marys 7215

**Representation No. 4**

**From:** bandicootblu
**To:** Break O Day Office Admin
**Subject:** Re zoning
**Date:** Tuesday, 7 December 2021 9:34:52 AM

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Subject: Representation on the Draft Break ODay Local Provisions Schedule - J. Weston

Attention: Break O'Day Planning Authority

I am the owner of the property at 686 German Town Road, St Marys on three titles (PID 3450015, CT168012/2, 209977/1, and 54129/1). In the currently exhibited Break O'Day Draft Local Provisions Schedule my property has been rezoned as Rural.

The property contains 56.8 ha of the 81.1 ha Seaview Farm Reserve protected by conservation covenant which has therefore been identified by both the State and Commonwealth Governments for protection and conservation of the biodiversity it contains. The 81.1 ha Seaview Farm Reserve covers parts of two properties and links the 935 ha German Town Regional Reserve to its north and the 361 ha St Marys Pass State Reserve to its east and south.

On my property Seaview Farm Reserve covers all of CT 209977/1 and part of CT 168012/2. The non-reserved part of CT 168012/2 and all of CT 54129/1 are used for farming. Therefore, we propose that all of CT 209977/1 and the reserved part of CT 168012/2 which adjoins it are rezoned to Landscape Conservation, with the balance of CT 168012/2 and all of CT 54129/1 to remain as Rural Zone as proposed in the Draft Zone Map. The two small pockets of reserved land on CT 168012/2 would be included in the Rural Zone to avoid small spot zones. Because Seaview Farm Reserve across the two properties links the two public reserves zoned Environmental Management, split zoning is justified to maximise the application of the Landscape Conservation Zone on the land with similar values. The zone boundary on CT 168012/2 is easily defined by three cadastral points.

In its representation Conservation Landholders Tasmania has presented a detailed case for rezoning of the reserved parts of the two properties containing the Seaview Farm Reserve to Landscape Conservation, based on Guidelines LCZ1 and RZ1, and the Tasmanian Planning Commission's advice posted on the Planners Portal on 22 April 2021. I support their case for rezoning parts of both properties and agree to the reserved parts of my property being rezoned to Landscape Conservation.

Could you please acknowledge receipt of my representation?

Julia Weston
0417 382 876

**Representation No. 5**

| | |
|---|---|
| **From:** | LeissaandPeter Dane |
| **To:** | Break O Day Office Admin |
| **Subject:** | Representation on the Draft Break O"Day Local Provisions Schedule - P. and L. Dane |
| **Date:** | Sunday, 5 December 2021 4:45:52 PM |

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Dear admin staff
could this email be forwarded to the appropriate department please?
Many thanks
Peter and Leissa Dane

Attention: Break O'Day Planning Authority
5th December 2021

We are the owners of the conservation property at 225 Lower German Town Road, St Marys (PID 2563878, CT 142906/2). In the currently exhibited Break O'Day Draft Local Provisions Schedule our property and surrounding conservation properties have been rezoned as Rural.

Our 3.2 ha property contains the Lower German Town Road St Marys Reserve #2 protected by conservation covenant which has therefore been identified by both the State and Commonwealth Governments for protection and conservation of the biodiversity it contains. The non-covenanted land on our property is unsuitable, and not used, for agriculture. The five adjoining Lower German Town Road St Marys reserves, including ours, have a combined area of 38.9 ha and cover 59% of the 65.5 ha of the five titles. Reserve #3, #4 and #5 adjoin the 361 ha St Marys Pass State Reserve zoned as Environmental Management.

In its representation, Conservation Landholders Tasmania has presented a detailed case for rezoning the five adjoining properties to Landscape Conservation based on Guidelines LCZ1 and RZ1, the Tasmanian Planning Commission's advice posted on the Planners Portal on 22 April 2021, and the use of Landscape Conservation Zone by Break O'Day Planning Authority for similar-sized non-reserved titles to the east and southeast of St Marys. We support their case for rezoning the five properties and agree to our property being rezoned to Landscape Conservation.

Could you please acknowledge receipt of our representation? A signed hard copy of this email will be posted to your office.

Yours sincerely
Peter and Leissa Dane

**Peter and Leissa Dane**
**PO Box 26**
**St Marys TAS 7215**

**L - 0458 648 927**
**P - 0408 208 658**

**Representation No. 6**

J&L Harris
13 Oberon Place
Scamander 7215

Date; 2.12.21

Break O Day Local Planning Provisions

To whom it may concern

This submission is in regard to the zoning of PID 2948700 Oberon Place, Scamander which is currently General Residential and needs to be rezoned to Open Space Zone in line with the original intention of the subdivision which was for Public Open Space.
As a local resident my wife and I were attracted to this area purchasing land and building the family home in Oberon Place because of such facilities as the public open space within the subdivision. The Break O Day Council and relevant Councilors were made fully aware that the local rate payers wanted this land zoned Open Space Zone to reflect the original subdivision intention of the subdivision which was for the benefit of the local residents and their families to enjoy.

Regards

Jim Harris

Representation No. 7

**From:** Rod Drummond
**To:** Break O Day Office Admin
**Subject:** Representation to Break O'Day Council Draft Local Provisions Schedule (LPS)
**Date:** Thursday, 2 December 2021 2:32:02 PM
**Attachments:** Representation LPS.docx

CAUTION: Do not click links or attachments unless you recognize the sender and know the content is safe

Please find attached a representation to the Break O'Day Council Draft Local Provisions Schedule (LPS) on behalf of myself and Mrs Janet Drummond, landowners at 121 Lower German Town Road, St Marys TAS 7215. If you would acknowledge receipt of this email I would be grateful.

With thanks and kind regards,

Rod Drummond
121 Lower German Town Road
St Marys TAS 7215
03 6372 2851

**Representation No. 7**

For the attention of John Brown, General Manager
Break O'Day Council
32-34 Georges Bay Esplanade
ST HELENS TAS 7216
Hand Delivered Friday 3rd December 2021

VED
3 DEC 2021

**Representation to Break O'Day Council Draft Local Provisions Schedule (LPS)**

Property Owners: Rodney and Janet Drummond

Property Address: 122 Lower German Town Road, St Marys 7215

PID: 3402945, Title Ref 168898/1

**Current proposed land-use classification: Rural Living**

**Requested land-use reclassification: Landscape Conservation**

Dear Break O'Day Council

As landowners this representation to the Draft LPS for the Break O'Day Council LGA is to change the classification of our property at 121 Lower German Town Road, St Marys from **Rural Living to Landscape Conservation.**

We believe this change is both appropriate and important given the following:

- Our property of 1.0580ha adjoins the St Marys Pass State Reserve to the east.
- We have several covenanted properties near our property and as property owners we wish to contribute to the important and substantial area of protected land close to the township of St Marys, this includes the 46.5ha Cheeseberry Hill Conservation Area to the northwest of us.
- The is no potential to undertake any commercial agriculture on the property and there are no plans to initiate this land use into the future.
- We believe that to transfer properties in Lower German Town Road, and also in the Gray area, to landscape conservation would offer protection to the unique ecological biodiversity in the area and provide connectivity as an important wildlife corridor into the future.
- Our property is registered as a "Garden for Wildlife" under the Private Land Conservation Program and we have spent the last 14 years rehabilitating and improving the land as a refuge for wildlife in general but also threatened wildlife species and threatened native vegetation communities.
- A part of our property supports a small *Eucalyptus brookeriana* ecosystem, which we have been working to enhance and which is listed as critically endangered under the EPBC ACT https://www.environment.gov.au/cgi-bin/sprat/public/publicshowcommunity.pl?id=77&status=Critically+Endangered
- Our property also supports, which we can substantiate through sightings, several threatened wildlife species including spotted-tailed quoll, eastern quoll, Tasmanian devil, and the blind velvet worm.
- We believe that the classification of Landscape Conservation is most appropriate for this land and that this is in accordance with the Tasmanian Planning Commission Guideline No. 1 June 2018.

Yours sincerely,

R. Drummond.

Rodney and Janet Drummond

2nd December 2021

**Representation No. 8**

| | |
|---|---|
| **From:** | Tilman Ruff |
| **To:** | Break O Day Office Admin |
| **Cc:** | John Thompson; Tilman Ruff |
| **Subject:** | Representation on the Draft Break ODay Local Provisions Schedule regarding West Pyengana Reserve - Tilman Ruff |
| **Date:** | Thursday, 2 December 2021 10:34:24 PM |

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John Brown
General Manager
Break O'Day Council
32-34 Georges Bay Esplanade ST HELENS TAS 7216

Via email only

Dear Mr Brown,

Attention: Break O'Day Planning Authority

I am the owner of the conservation property at Forest Lodge Road, Pyengana (PID 6805299, CT 240592/1). In the currently exhibited Break O'Day Draft Local Provisions Schedule I understand this property has been rezoned as Rural.

93.5 ha (94%) of the 99.7 ha property is covered by the West Pyengana Reserve protected by conservation covenant and has therefore been identified by both the State and Commonwealth Governments for protection and conservation of the biodiversity it contains. As the great majority of the property is private reserve and the three small non-reserved areas are unsuitable and not used for agriculture, Guidelines LCZ1 and RZ1 together indicate that the property should be rezoned to Landscape Conservation.
The West Pyengana Reserve is entirely surrounded by the Mount Victoria Regional Reserve, zoned as Environmental Management.

In its representation to Council, Conservation Landholders Tasmania has presented a detailed case for rezoning my property. I support their case and agree to my property being rezoned to Landscape Conservation – indeed this is my strong preference.

Could you please acknowledge receipt of my representation and inform me of the outcome?

Thank you,
Yours sincerely,

Tilman Ruff

Tilman A Ruff AO
MB, BS (Hons), FRACP

Co-President, International Physicians for the Prevention of Nuclear War (Nobel Peace Prize 1985)

Co-founder, founding international and Australian Chair, Australian Committee member,
International Campaign to Abolish Nuclear Weapons (ICAN, Nobel Peace Prize 2017)

Honorary Principal Fellow, School of Population and Global Health, University of Melbourne

I acknowledge the Boonwurrung People of the Kulin Nations, the Taungurung people and the Muwinina people as the traditional custodians of the lands where I live and work.

tar@unimelb.edu.au
m +61 438 099 231
Australian Eastern Daylight Time UTC/GMT +11

**Representation No. 9**

Attention: John Brown

Break O'Day Council

21st November 2021

Dear BODC,

We are writing this letter and formally making a representation to have our property zoned as Landscape Conservation. Our property is located at 203 Lower Germantown Road St Marys. It is currently zoned as Rural Resource and in the recent exhibited Draft Zone Maps the proposed rezoning is to the new TPS zone Rural.

We believe the new zone of Landscape Conservation is more appropriate for our property and for titles fully covered by a private reserve or partly covered by a Private Reserve where the non-reserved part is not used for agriculture. We are of the view that the new Landscape Conservation Zone should be applied to our property as the Lower German Town Road St Marys is part of a cluster of covenanted properties on the road which adjoins the 361 hectares St Marys Pass State Reserve.

We believe we are entitled to request the rezoning of the property to Landscape Conservation during the current 60 day Public Exhibition period provided by your Council which closes on 13th Dec. 2021.

Conservation Landholders Tasmania has also submitted a representation to Break O'Day Council on 8th November 2021 on our behalf requesting our property to be zoned Landscape Conservation as well.

Yours sincerely

Julie and Brett Owers

Julie Owers: 047873566

owej@ngs.nsw.edu.au

Brett Owers

0423624133

brett_owers@optusnet.com.au

**Representation No. 10**

**From:** Dion Agius
**To:** Break O Day Office Admin
**Subject:** Representation - regarding 546 Upper Scamander Rd, Upper Scamander,
**Date:** Friday, 19 November 2021 10:10:15 AM

---

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Good morning!

My name is Dion Agius of 546 Upper Scamander Rd, Upper scamander.

There is a new zoning proposal underway statewide and 546 Upper Scamander Road is proposed to be newly zoned as Agricultural.

I would like to voice my concern with this new proposal, as I was planning to submit an application of community meeting to have the opportunity to be able to host weddings on my rural property in the future. It would be great if this property could remain zoned as rural for this reason, we already have approval for 4 units to be built in the future, one of which is already up and running and generating a great deal of visitors, press and visibility to the Scamander region in its first few months. We foresee wedding events will be an extension of this experience which will bring people, and business to lots of other small business on the coast, in partially this region. We would like to please submit an application to keep the zoning rural.

Thankyou!
Kind regards,
Dion

**From:** Dion Agius
**To:** Break O Day Office Admin
**Subject:** Re: Representation - regarding 546 Upper Scamander Rd, Upper Scamander,
**Date:** Friday, 19 November 2021 10:47:13 AM
**Attachments:** image.png
RRZ-to-RZ-or-AZ.pdf

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I would also like to add that my property can fit into the Rural Zone criteria. (I've attached the criteria below)

And that my property also joins up to the surrounding Rural area across the river- see map attached.

Kid regards,

D



> On 19 Nov 2021, at 10:10 am, Dion Agius <dionagius@icloud.com> wrote:
>
> Good morning!
>
> My name is Dion Agius of 546 Upper Scamander Rd, Upper scamander.
>
> There is a new zoning proposal underway statewide and 546 Upper Scamander Road is proposed to be newly zoned as Agricultural.
>
> I would like to voice my concern with this new proposal, as I was planning to submit an application of community meeting to have the opportunity to be able to host weddings on my rural property in the future. It would be great if this property could remain zoned as rural for this reason, we already have approval for 4 units to be built in the future, one of which is already up and running and generating a great deal of visitors, press and visibility to the Scamander region in its first few months. We foresee wedding events will be an extension of this experience which will bring people, and business to lots of other small business on the coast, in partially this region. We would like to please submit an application to keep the zoning rural.
>
> Thankyou!
> Kind regards,
> Dion

RRZ-to-RZ-or-AZ.pdf
.pdf File

Map information in [7574197]

Titles 1

| | |
|---|---|
| PID | 7574197 |
| Parcel Address | 546 UPPER SCAMANDER RD |
| CT | 38787/1 |
| Tenure Type | Freehold Title |

Overlays

Bushfire Prone Areas
Waterway and Coastal Protection
Coastal Inundation Hazard

*NOTE: Additional codes are not mapped and may be triggered based on description*

Links

Priority Veg Report

Zones 1



**Representation No. 11**

| | |
|---|---|
| **From:** | vanessa webb |
| **To:** | Break O Day Office Admin |
| **Cc:** | thompsonjohng@gmail.com |
| **Subject:** | Representation on the Draft Break O'Day Local Provisions Schedule – M & V Webb |
| **Date:** | Thursday, 18 November 2021 11:35:18 AM |
| **Importance:** | High |

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Attention: Break O'Day Planning Authority

We are the owners of the conservation property at 433 Catos Road, Upper Scamander (PID 3336765, Title Refs. 242163/1 and 242164/1).
In the currently exhibited Break O'Day Draft Local Provisions Schedule both titles on our property have been rezoned as Rural.

77.2 ha (96%) of the 80.7 ha Title Ref 242163/1 is covered by the Catos Creek Reserve protected by conservation covenant and has therefore been identified by both the State and Commonwealth Governments for protection and conservation of the biodiversity it contains.

As the great majority of this large title is private reserve and the small non-reserved part of the title is unsuitable and not used for agriculture, Guidelines LCZ1 and RZ1 together indicate that the property should be rezoned to Landscape Conservation. The Catos Creek Reserve adjoins the Avenue River Regional Reserve to its southwest which is zoned Environmental Management and there is also a Sustainable Timbers Tasmania Informal Reserve to its east.

In its representation Conservation Landholders Tasmania has presented a detailed case for rezoning Title Ref 242163/1 on our property. We support their case and agree to Title Ref 242163/1 being rezoned to Landscape Conservation with Title Ref 242164/1 to remain as Rural Zone as exhibited.

Could you please acknowledge receipt of our representation?

Yours sincerely

Martin and Vanessa Webb
Mobile: 0438 664 197
Home Phone: 63 725 785

**Representation No 12**

**From:** Phil McConnell
**To:** Break O Day Office Admin
**Subject:** Rezoning of property
**Date:** Saturday, 13 November 2021 11:40:06 AM

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Thankyou for your letter advising the local provisions schedule.

As owners of a covenanted property at Ben Nevis North,
ID 6417093, certificate of title reference 169864/1
we wish to advise a request to have the property rezoned as a
Landscape Conservation Zone.

The property address is on Schulhof's Rd,
Upper Blessington Tas 7212

Thankyou in anticipation,
Phillip and Barbara McConnell

**Representation No 13**

Peter Power-Lawrence
182 Gillies Road, St Marys, Tas 7215 Ph: 0459701406 E: lawrencepower@bigpond.com.

10/11/2021

# Tasmanian Planning Scheme Submission

Local Provisions Schedule (LPS)

Break O'Day Council Planning Dept.
32-34 Georges Bay Esplanade
St Helens, Tas 7216

My name is Peter Power-Lawrence and am a resident of Break O'Day municipality, my property at 182 Gillies Rd St Marys is affected by the proposed LPS zone changes.
My property is currently zoned Rural Residential and the proposed changes are to change it to Environmental Management Zone (EMZ)

My property backs onto the St Patricks Head State Reserve and my property has a Private Nature Reserve Covenant which my partner and I applied for in 2003.
The property is 29.4 hectares, of which 25 hectares is listed under the Private Nature Reserve covenant (St Patricks Head Private Nature Reserve).
The balance of 4.94 hectares is not under any covenant which was purposely created to be able to have land that can be used for multiple uses. Currently there is a residential house and there are also three council approved short term accommodation cabins which were built and approved in 2003.

I have been advised that our property is proposed to be listed as an Environmental Management Zone which would not be suitable and I would like it to be zoned Rural Zone.

I assume that the proposed change of zoning to the EMZ is due to my property listed as a Private Nature Reserve (St Patricks Head Private Nature Reserve) and the EMZ zone proposal has been zoned due to our property being a Private Nature Reserve and located next to the St Patrick Head State Reserve.

I would like the option and security of being able to maintain the flexibility to further develop my property STCA if required, and for the future sale of my property without restrictions for potential new owners.
Most of the adjoining properties will be zoned Rural, therefore my property should be zoned accordingly.
I am available for consultation most business hours and can be contacted on 0459701406.

Sincerely,
Peter Power-Lawrence

**Representation No 14**

**PROPERTY AT AKAROA**
**CT32902/1**
**Page 68 Draft LPS Supporting Report**

## BASIS FOR OBJECTION

The Report indicates a transition from Environmental Living Zone (ELZ) to Low Density Living Zone (LDRZ) that makes perfect sense. The Report also states that LDRZ is the most practical zone given the removal of ELZ, and the existing and surrounding development pattern.

The purpose of this objection is to correct an anomaly related to our land located at Simeon Place forming part of an existing residential developed area. The report mentions environmental factors claimed to be unique to our land that does not take into consideration that it effectively comprises three distinct areas that are not conjoined. A large portion to the Western end of the land is fully developed as a residential home and has been this for over 37 years and bounded by other residential homes designated as LDRZ. The area to the East with frontage to Simeon Place road is not developed but is adjacent to and opposite to long established residential dwellings and therefore should be subject to the same residential zone designation as its neighbouring properties. The third area is low lying land some of which is subject to tidal water and not considered suitable for development but could be retained as an environmental habitat for native wildlife.

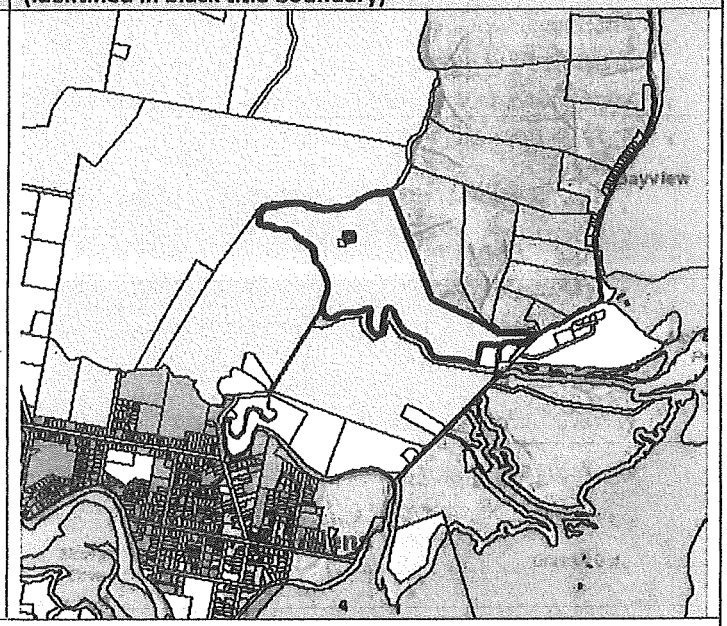
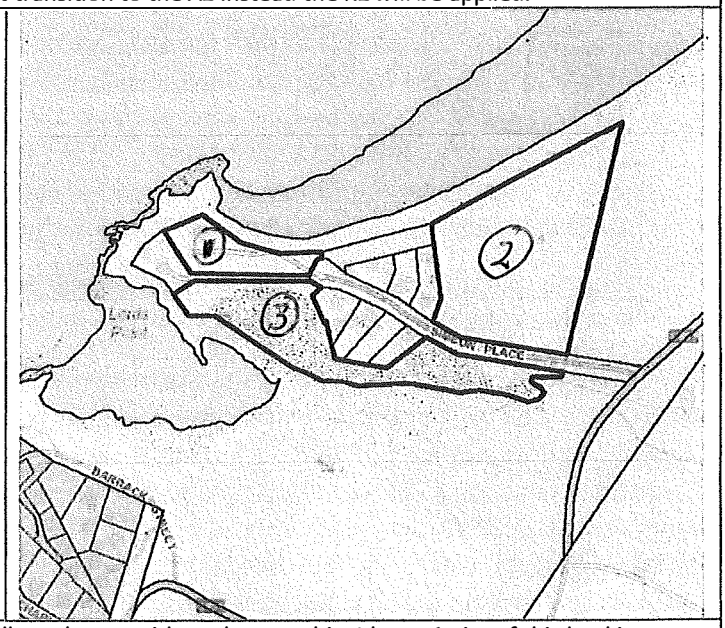
The Report seeks to apply the Landscape Conservation Zone (LCZ) designation to all our land ignoring the fact that a large portion of this is fully established and developed as a residential residence and has been for many years and is located among neighbouring properties designated LDRZ. This is inconsistent with the guidelines for this zone that states "should not be applied to land where the priority is for residential use". Simeon Place is quite clearly a residential area. In addition it is not consistent with other guidelines such as:

- Important scenic values
- Large areas that contain threatened native species or vegetation

It is proposed that the land be provided with a more appropriate Zone being that of LDRZ in line with adjacent and surrounding residential blocks apart from that portion to the South that has a clear separation from other portions of our land. This portion to the South some of which is subject to tidal water could be considered as Landscape Conservation (LCZ) and could be achieved by separating this land from the existing title.

John Campbell-Smith
Simeon Place
Akaroa
jcampbellsmith@iice.net.au

jcampbellsmith@iice.net.au
John Campbell - Smith
Simeon Place Akaroa
PID 7386524

| LOCATION Title/PID | IPS ZONE | DRAFT LPS ZONE | REFERENCE (identified in black title boundary) |
|---|---|---|---|
| St Helens CT126959/12 | RRZ | LCZ |  |
| **Justification** | Despite the identified title being mapped as Potentially Unconstrained, the AZ is not considered to be the appropriate zone. The site is subject to topographical and environmental constraints. Along with the ELZ land to the north the LCZ Is considered the most suitable zone for this land. This application is consistent with AZ 6, LCZ 1, LCZ 2 and LCZ 3. As previously detailed, the title to the south that is also mapped as Potentially Unconstrained, will not transition to the AZ instead the RZ will be applied. | | |
| Akaroa CT32902/1 | ELZ | LCZ |  |
| **Justification** | The land highlighted falls under one title and ownership. The majority of this land is not developed, highly vegetated and includes foreshore tidal areas. There is a house and outbuilding located on the most western aspect of the title. The surrounding titles are less constrained and more developed. As described in the LDRZ section of this report these have transitioned from the ELZ to the LDRZ. Given the removal of the ELZ and the environmental values of this title, the LCZ is considered to be most appropriate. This is consistent with LCZ 1, LCZ 2 and LCZ 3. | | |

(1) Residential Home
(2) Not Developed
(3) Low lying land

**Representation No 15**


**From:** Coffee Mug
**To:** Break O Day Office Admin
**Cc:** Joanne Howe; Justin Howe

**Subject:** Representation -PID 6410772, Title Reference 176949/1
**Date:** Friday, 29 October 2021 10:48:55 AM


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Good Morning Mr Brown,

PID 6410772, Title Reference 176949/1

I would like to accept Break O'Day Council's invitation to request consideration to have my vacant land situated at 27 Fraser St, Fingal rezoned to general residential under the local government planning scheme.

The property is a 1012m2 block of land positioned on the western side of Fingal. With the homes across the street to the east zoned residential the precedent is in place.

My property is one residential sized block sectioned off a larger allotment and on a corner block.

The property has mains water available and we currently pay TasWater charges for this privilege.

I request your consideration to rezone this property to general residential due to it's residential size, it's within a residential area and there is town water available.

Regards

Joanne Howe

**Representation No 16**


**From:** John Thompson
**To:** Break O Day Office Admin
**Cc:** RolandBrowne@fablawyers.net.au

**Subject:** Representation on the Draft Break ODay Local Provisions Schedule - J. Sielhorst
**Date:** Sunday, 12 December 2021 11:00:31 PM


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Attention: Break O'Day Planning Authority

As a representative of Animal Rescue, Jenny Sielhorst has asked me to submit the following representation on her behalf as she does not have access to email in order to meet the Draft LPS Exhibition deadline.

The conservation property at Ansons Bay Road, Ansons Bay (PID 7184148, CT 101081/1 and 101080/1) is registered under the name Animal Rescue Inc. In the currently exhibited Break O'Day Draft Local Provisions Schedule this property has been rezoned as Rural.

The property is fully covered by the 163.3 ha Ansons River Reserve protected by conservation covenant which has therefore been identified by both the State and Commonwealth Governments for protection and conservation of the biodiversity it contains.

In its representation Conservation Landholders Tasmania (CLT) has presented a detailed case for rezoning this property to Landscape Conservation based on Guidelines LCZ1 and RZ1, and the Tasmanian Planning Commission's advice posted on the Planners Portal on 22 April 2021. Jenny supports CLT's case for rezoning this property and undertakes to provide to the Northern Midlands Planning Authority written consent by Animal Rescue Inc as soon as possible.

Could you please acknowledge receipt of this representation?

Regards

John Thompson on behalf of Jenny Sielhorst


--
John Thompson
220 Raymond Rd
Gunns Plains TAS 7315

Phone 0424 055 125

**Representation No. 17**

**From:** Liz Dean
**To:** Break O Day Office Admin
**Subject:** Property Zoning
**Date:** Sunday, 12 December 2021 10:48:45 PM

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To Whom it may concern & the General Manager, John Brown

I would like the council to consider he re-zoning of my property at 99 Mt Elephant Road, Property No:7896487 from Rural Living to Land Conservation please.

I believe my property of 22ha is situated ideally in a corridor of significant landscape values.
I purchased this land in 1995 & have maintained the native bushland & wildlife habitats of the area, joining the "Land for Wildlife" program for the protection of the wildlife species present.
We have sightings of tasmanian devils, spotted tailed quoll, masked owls, wedge tailed eagles & are within the blind velvet worm & stag beetle areas of interest. People from the University of Tasmania frequent the property from time to time to conduct counts.
We have a diverse wet & dry eucalypt forest with a stand of brookeriana forest also.
I would support the re-zoning of the whole area from Chain of Lagoons , Lower Marshes Creek through Mt Elephant , South Sister/ Germantown & Mt Nicholas Range to maintain the high conservation values for both bushland & wildlife.
I hope you will look at my request favourably.
I look forward to hearing back from you at your earliest convenience.

Yours Sincerely
Elizabeth (Liz) DEAN
99 Mt Elephant Rd
GRAY
0439 001 533

**Representation No 18**

| | |
|---|---|
| **From:** | Anna & Michael |
| **To:** | Break O Day Office Admin |
| **Cc:** | Michael Fox work |
| **Subject:** | representation re Break o"Day draft LPS |
| **Date:** | Sunday, 12 December 2021 9:42:12 PM |
| **Attachments:** | NVA_thrtd-flora_Steiglitz.pdf<br>ChimneysLagoonConsPriority.png<br>Conospermum-hookeri.pdf<br>NVA_Conospermum-hookeri_ParnellaHeights.pdf<br>2021 PoveyFox Submission re BreakoDay draft LPS.pdf |

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Dear Sir,

Please find attached our representation together with referenced maps and threatened species information.

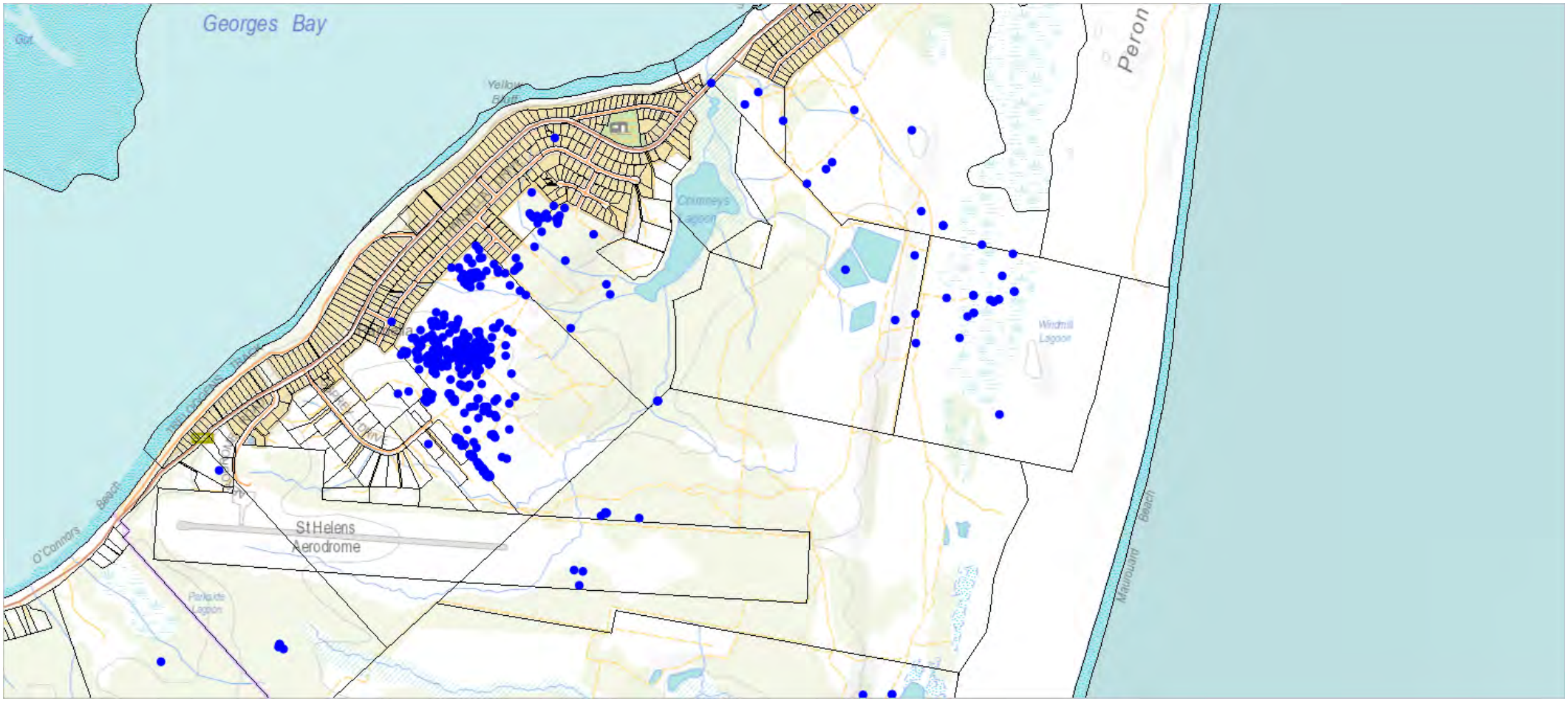
Yours sincerely,

Anna and Michael

Anna Povey and Michael Fox
fovey@intas.net.au
0498 800 611

# Natural Values Atlas Search Map

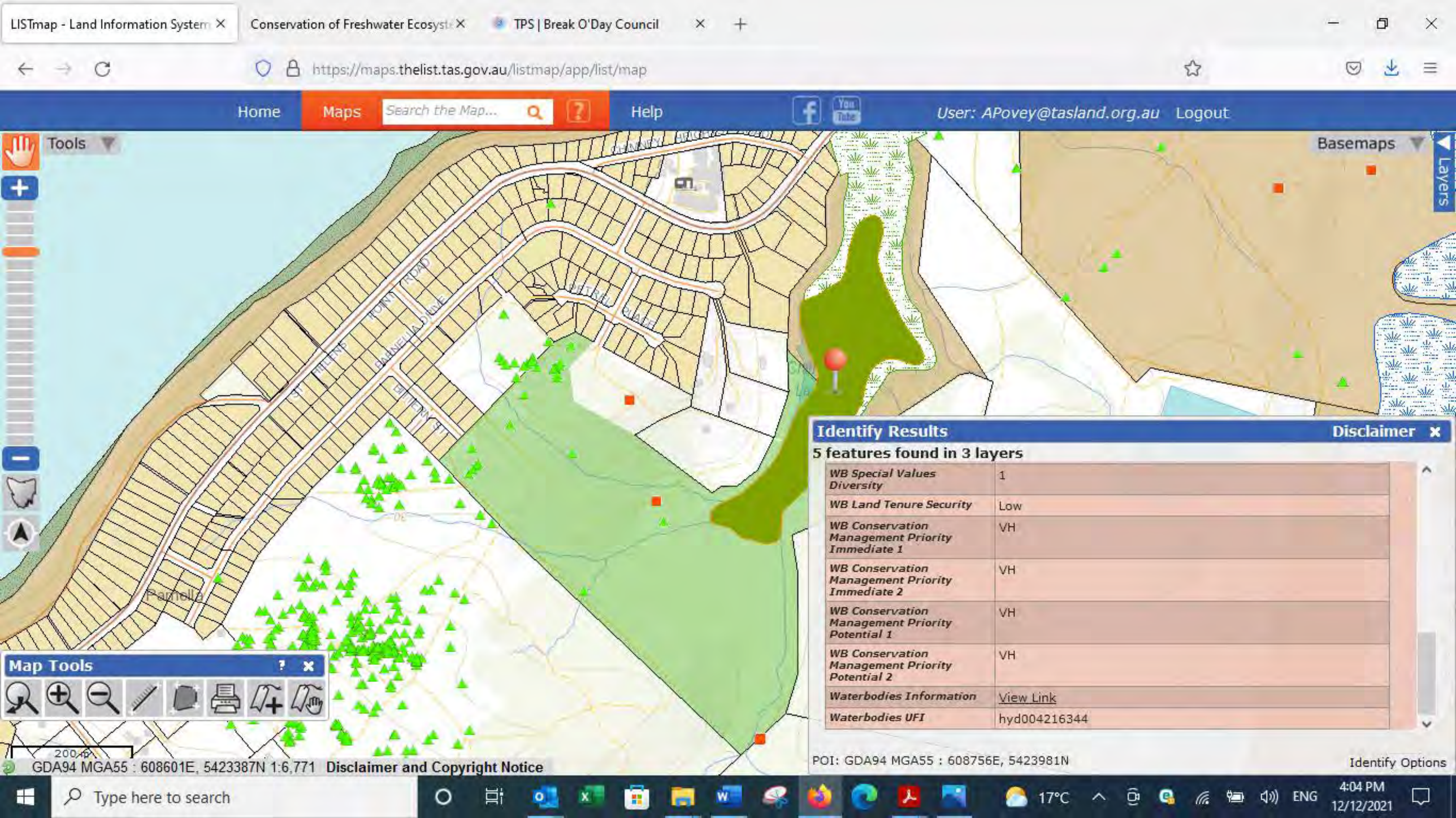
611759, 5424793




606358, 5422333

Please note that some layers may not display at all requested map scales

Map generated using data from www.naturalvaluesatlas.tas.gov.au and www.thelist.tas.gov.au for annapovey at Sun Dec 12 16:17:05 AEDT 2021


LISTmap - Land Information System
Conservation of Freshwater Ecosyste
TPS | Break O'Day Council
https://maps.thelist.tas.gov.au/listmap/app/list/map
Home
Maps
Search the Map...
Help
User: APovey@tasland.org.au
Logout
Tools
Basemaps
Layers
Identify Results
Disclaimer
5 features found in 3 layers
WB Special Values Diversity
1
WB Land Tenure Security
Low
WB Conservation Management Priority Immediate 1
VH
WB Conservation Management Priority Immediate 2
VH
WB Conservation Management Priority Potential 1
VH
WB Conservation Management Priority Potential 2
VH
Waterbodies Information
View Link
Waterbodies UFI
hyd004216344
Map Tools
POI: GDA94 MGA55 : 608756E, 5423981N
Identify Options
GDA94 MGA55 : 608601E, 5423387N 1:6,771
Disclaimer and Copyright Notice
Type here to search
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12/12/2021



# *Conospermum hookeri*

## tasmanian smokebush

TASMANIAN THREATENED SPECIES LISTING STATEMENT

Photos: Naomi Lawrence

**Scientific name:** ***Conospermum hookeri*** (Meisn.) E.M.Benn., *Fl. Australia* 16: 485 (1995) (Meisn.)

**Common name:** tasmanian smokebush

**Name history:** previously known in Tasmania as *Conospermum taxifolium*.

**Group:** vascular plant, dicotyledon, family **Proteaceae**

**Status:** *Threatened Species Protection Act 1995*: **vulnerable**

*Environment Protection and Biodiversity Conservation Act 1999*: **Vulnerable**

**Distribution:** Biogeographic origin: **endemic to Tasmania**

Tasmanian NRM regions: **North, South**

Tasmanian IBRA Bioregions (V6):
**South East, Northern Midlands, Ben Lomond, Flinders**

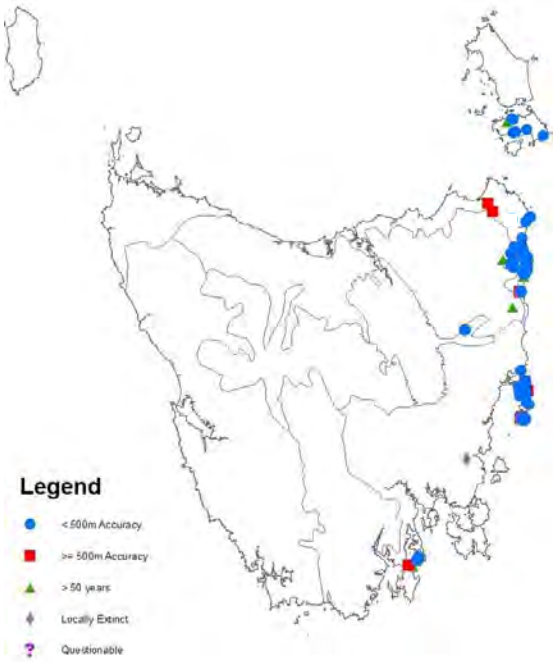



**Figure 1.** Distribution of *Conospermum hookeri* showing IBRA (V6) bioregions



**Plate 1.** *Conospermum hookeri* in flower.

**SUMMARY:** *Conospermum hookeri* (tasmanian smokebush) is a small shrub in the Proteaceae family. It is endemic to Tasmania, occurring along the East Coast from Bruny Island to Cape Barren Island in 10 locations, two presumed locally extinct and another of uncertain status. The number of subpopulations is estimated to be 40, with five presumed locally extinct or of uncertain status. Most subpopulations are small and localised in a widely scattered distribution, with only two approaching 1,000 mature individuals as a result of mass germination events, one in response to soil removal and gravel extraction and the other in response to fire. The total number of mature individuals is estimated to be between 4,600 and 6,000, occupying in the order of 30 ha. The species usually occurs in coastal heathland and heathy forest/woodland on granite or sandy, acid, low nutrient soils. It is at risk from habitat loss from subdivision and recreational infrastructure and works in reserves, degradation of habitat from recreational activities, roadside maintenance, introduction and spread of the root rot pathogen and weeds, rubbish dumping, and an increase in the frequency and intensity of fires and drought as a consequence of climate change, likely leading to an increased rate of local extinctions, particularly for smaller occurrences.

## IDENTIFICATION AND ECOLOGY

*Conospermum hookeri* is a small shrub that typically flowers from September to November with fruit set by early to mid summer. Fertile seed drops to the ground where it can contribute to a dormant soil seed store. Germination of soil stored seed is likely to include fire-related cues such as heat and smoke derivatives as observed in other *Conospermum* species. Germination events, sometimes in mass, have been noted for *Conospermum hookeri* at a number of sites in response to fire or ground disturbance. However, little is known of seed longevity in the soil. Mature plants have also been observed to resprout after fire though their response to fire intensity is unknown.

*Conospermum hookeri* may be limited by low seed production rates. Other species of *Conospermum* are known to have low reproductive outputs. Approximately 50% of flowers of *Conospermum* species form fruit though only a small proportion of these produce viable seed (Morrison *et al.* 1994).

*Conospermum hookeri* makes a highly significant contribution to phylogenetic diversity in Tasmania, being the only representative of the genus in the State. It is one of 33 native Tasmanian taxa in the Proteaceae family (de Salas & Baker 2019).

*Conospermum hookeri* can be identified at all times of the year and is readily recognised by its upward-directed grey-green leaves on emergent branches. However, it is best surveyed for during the flowering season when plants can be easily observed from a distance



**Plate 2.** *Conospermum hookeri* flower detail.

### Description

*Conospermum hookeri* is an erect, slender, pubescent shrub, usually 50 to 150 cm tall at maturity. It has grey-green, crowded, erect or slightly spreading leaves that are linear or narrow oblanceolate (broadest at the tip end). They are 1 to 3 cm long and pale with silky hairs pressed closely against the leaf surface. The creamy white flowers are clustered on stalks that are subtended by the upper leaves. They are composed of a sparsely hairy tube that splits about two-thirds along to form two lips. The upper lip is up to 2.5 mm long and 2 mm wide, with the tip curving backwards acutely. The lower lip is united for 1.5 mm before dividing into three lobes that are each up to 1.4 mm long and 0.8 mm wide. The bracts are

broadly triangular with a narrow point, and silky. They are about half as long as the flowers and persist to envelop the developing fruit, where the sharp tip of the bract curves backward. The fruits are single seeded cone-shaped nuts about 2 mm long and 2.25 mm wide. They are reddish-brown with a circumference of hairs.

[description based on Curtis (1967) and Bennett (1995)]

## Confusing species

None in Tasmania. Bennett (1995) considered *Conospermum hookeri* to be endemic to Tasmania and the only species in the genus to occur in the State. However, collections from Cape Barren Island have affinities to *Conospermum taxifolium* (Neville Walsh, pers. comm. 2005), a species recorded from Victoria, New South Wales and Queensland. The identity of at least one collection from Freycinet is also in question. The two species can be distinguished by their leaves which are spathulate (broad at the tip end) and more or less incurved for *Conospermum hookeri*, and flat, occasionally spathulate, but not incurved for *Conospermum taxifolium* (Bennett 1995). All *Conospermum* material from Tasmania is considered here to be *Conospermum hookeri* in accordance with the Tasmanian vascular plant census (de Salas and Baker 2019).

## DISTRIBUTION AND HABITAT

*Conospermum hookeri* is endemic to Tasmania and occurs along the East Coast from Bruny Island in the south to Cape Barren Island in the Furneaux Group in the north, with an outlying inland subpopulation near Avoca in the Fingal Valley.

The species usually occurs in coastal heathland and heathy forest/woodland on granite or sandy, acid, low nutrient soils. Associated eucalypts include the Tasmanian endemics, *Eucalyptus amygdalina* and *Eucalyptus tenuiramis*. The species has an altitudinal range from sea level to 460 m.

## POPULATION PARAMETERS

*Number of locations:* 10 (2 extinct, 1 status uncertain)
*Number of subpopulations:* 40 (5 extinct or status uncertain)
*Extent of occurrence:* 12,500 km$^2$
*Linear range:* 330 km
*Area of occupancy:* < 0.09 ha
*Area of occupancy (as per IUCN criteria):* 4 km$^2$
*No. of mature individuals:* 4,600 to 6,000

*Conospermum hookeri* has a linear range of about 330 km and an extent of occurrence of 12,500 km$^2$. Occurrences are generally small and localised within a widely scattered distribution, sometimes with outliers radiating out from larger occurrences. This metapopulation structure is perhaps indicative of a once wider distribution with the species retreating to sites more conducive to above ground persistence and replenishment of the soil seed store over time and/or fragmentation with changes in land use.

To match the population parameters used in the criteria for the assessment of the conservation status, the data has been interpreted in terms of locations and subpopulations, the latter split into sites to accommodate the reporting of abundance estimates over time (Table 1). Sites are generally up to 1 to 1.2 km apart, with subpopulations generally at least 1 km apart. Ten locations are identified, two presumed locally extinct and another of uncertain status. The number of subpopulations is estimated to be 40, with five presumed locally extinct or of uncertain status. Together with one site presumed to have become extinct and another of unknown status in recent years, a continuing decline is indicated.

The recorded estimates of abundance for *Conospermum hookeri* often require interpretation as observers have not always differentiated between mature and immature individuals. This can be problematic when mass recruitment from seed occurs following disturbance, where the density is such that significantly fewer seedlings would be expected to survive to maturity.

An accurate count of 827 to 920 mature individuals was made in 2005 for the largest subpopulation known until recent years (near Avoca), with the high number of plants thought to be an artefact of severe disturbance with mass germination following soil removal and gravel extraction. The 2013 estimate of greater than 1,000 plants (maturity unspecified) at this site cannot confidently be used to demonstrate that this subpopulation exceeds the threshold of 1,000 mature individuals used in the assessment criteria.

More recently, a mass germination event occurred in the subpopulation behind the Freycinet Lodge and The Fisheries in the Freycinet National Park following prescribed burns in 2006 and 2008, with numbers approaching the 1,000 mature individual threshold. Surveys undertaken in 2016 and 2017 to determine the impact of proposed track works estimated between 1,000 and 2,000 plants, with about 50% mature, though the upper limits of estimates in 2012 and 2013 were 500 and 1,000 plants respectively, reducing confidence that the subpopulation exceeds the 1,000 mature individual threshold, particularly as a permit was issued in early 2019 to take between 150 and 250 plants of unspecified maturity for the track works.

The data presented in Table 1 indicates that the total population of *Conospermum hookeri* comprises between 4,600 and 6,000 individuals. Given considerable botanical and impact assessment activity throughout the range of the species, it is considered unlikely that new locations will be found, though given the patchy distribution, often in rugged habitat, it is conceivable that further subpopulations or sites will be found with further survey. However, it is considered unlikely that estimates of mature plant numbers will approach or exceed 10,000.

The recorded estimates of the area of occupancy of *Conospermum hookeri* are also open for interpretation as estimates may either be the sum of the area occupied by individual plants or the extent of the site containing plants. The latter may be an overestimate if plants are scattered over a wider area.

The data presented in Table 1 suggest an area of occupancy in the order of 30 ha. The species has been recorded in 58 grid cells of 2x2 km (giving an area of occupancy as defined by the IUCN conservation status assessment criteria of 232 $km^2$).

**RESERVATION STATUS**

Reserved within the Mt William National Park, Freycinet National Park, Mt Pearson State Reserve, Bay of Fires Conservation Area, St Helens Conservation Area, Coles Bay Conservation Area, Humbug Point Nature Recreation Area, Cameron Regional Reserve, Doctors Peak Regional Reserve, and areas on two private land parcels protected by Conservation Covenants under the *Nature Conservation Act 2002* (Table 1).

**CONSERVATION ASSESSMENT**

*Conospermum hookeri* was originally listed as rare on schedules of the Tasmanian *Threatened Species Protection Act 1995* but was uplisted to vulnerable in 2001 meeting the following criterion:

C. Total population estimated to number fewer than 10,000 mature individuals and;

2. a continuing decline, observed, projected, or inferred, in numbers of mature individuals and population structure in the form of:

(a) severely fragmented (i.e. no subpopulation estimated to contain more than 1,000 mature individuals.

A reassessment of the conservation status in 2019 also determined that the species meets Criterion B for vulnerable as:

B. Area of occupancy estimated to be less than 50 hectares and:

1. severely fragmented or known to exist at no more than ten locations.

2. continuing decline, inferred, observed or projected, in:

(c) area, extent and/or quality of habitat;

(d) number of locations or subpopulations.

The species was listed as Vulnerable on the Commonwealth *Environment Protection and Biodiversity Protection Act 1999* in 2007.

**THREATS, LIMITING FACTORS & MANAGEMENT ISSUES**

Few occurrences of *Conospermum hookeri* are free of the threats detailed below, irrespective of land tenure, and local extinctions additional to those detailed in Table 1 are anticipated. While mass germination events have occurred at some sites in response to disturbance, sometimes severe, the species will not always respond favourably to seemingly suitable disturbance events, which is perhaps an indication of a limited amount of seed stored in the soil.

One mass germination event occurred following soil removal and gravel extraction (i.e. near Avoca) and others following burns (e.g. behind the Freycinet Lodge to The Fisheries). However, a site at Parnella Heights that was illegally burnt and bulldozed only recovered to previous numbers of plants following rehabilitation orders and another site, albeit small, (Henderson Lagoon) did not recover following wildfire. Improvements to the consideration of impact avoidance measures and cumulative and indirect impacts in regulatory processes would benefit the species.

**Development and associated disturbance:** Land clearance, through subdivision of private land along the East Coast of Tasmania, threatens several occurrences of *Conospermum hookeri*. Some properties supporting the species have been subject to often repeated subdivision proposals. One occurrence was illegally burnt and bulldozed in response to failed subdivision proposals and the property is likely to be subject to further development proposals following the end of rehabilitation conditions imposed under the *Environment Protection and Biodiversity Conservation Act 1999* in early 2020.

Many subpopulations are also subject to impacts of adjacent existing or proposed subdivision through fire protection measures, access and infrastructure requirements, off road vehicle use, wood hooking, garden escapes and rubbish dumping. These activities increase the risk of direct damage to plants and indirect impacts through the introduction and spread of disease and weeds and increased fire frequency.

Of note is damage to occurrences along Argonaut Road from the dumping of rubbish and garden waste and culvert replacement works, and along the Tasman Highway near Clio Hill from slashing, spraying and spread of *Erica lusitanica* (spanish heath).

Several sites of *Conospermum hookeri* have been subject to clearing under permit from dam and water management proposals. Part of an offset for the loss of threatened plants and habitat associated with works in the Coles Bay Conservation Area to improve the water supply for tourist accommodation proposals was to prepare and submit a nomination to list *Conospermum hookeri* on the *Environment Protection and Biodiversity Conservation Act 1999*, resulting in the listing of the species in 2007.

The Stieglitz occurrence was subject to a number of development proposals when the tenure was unallocated Crown land but was included in the St Helens Conservation Area in 2018. However, the area is still subject to impacts of adjacent housing and recreational activities.

The increase in tourism along the East Coast in recent years has been accompanied by increased proposals for track and other tourism infrastructure works on public land supporting *Conospermum hookeri*. Permits have been issued to destroy between 150 to 250 plants for a shared use bike and walking track, and an unspecified number of plants to upgrade the Wineglass Bay track in the Freycinet National Park. A mountain bike track through the Mount Pearson State Reserve and the Bay of Fires Conservation Area has been constructed recently despite likely impacts to *Conospermum hookeri*. Tourism infrastructure works long proposed for the Crown land informal reserve adjacent to the Coles Bay Conservation Area may not proceed, given that the area supports *Conospermum hookeri* and numerous other threatened species, and adjacent areas in the Conservation Area contain lesser values.

**Small size of occurrences:** Most sites of *Conospermum hookeri* contain fewer than 50 mature plants (Table 1) making them prone to stochastic risk and inadvertent losses.

Small occurrences may not be able to sustain even small losses from stressors such as disease, fire and drought.

The potential for the persistence of occurrences at a site may also be limited by low seed production rates as has been reported for other *Conospermum* species (Morrison *et al.* 1994), and it is likely that seed production rates are lower for smaller occurrences. This could perhaps be tested by comparison of fruit retention rates on plants in occurrences of different sizes as infertile fruits are retained on the shrubs (James Wood, pers. comm.).

**Inappropriate fire regimes:** Fire appears to be an important factor in maintaining subpopulations of *Conospermum hookeri*, as several sites have been recorded in regenerating post-fire heath and woodland. The species has been observed to resprout and/or recruit from seed after fire. However, regeneration following fire may not be assured as evidenced by the small subpopulation at Henderson Lagoon that was recorded in 2001 but became locally extinct following a fire in 2006 (Table 1).

Frequent fires are a potential threat. The period between fires must be long enough to enable viable seed production to replenish the soil seed store. This period may be relatively long for the species as seed production rates for many *Conospermum* species have been shown to be low (Morrison *et al.* 1994). The possibility exists that the potential for the production of fertile seed is reduced in small occurrences. This could perhaps be tested by comparing the retention of seed on plants between occurrences of different sizes given the low retention rates of fertile seed. Infertile seed tends to persist on the shrub (James Wood, pers. comm.).

The absence of fire may also be a threat should mortality rates exceed non-fire induced recruitment from seed, or the interval between fires exceeds the longevity of soil stored seed. Fire regimes that favour *Conospermum hookeri* are yet to be determined, but in the absence of further study, may be conservatively estimated to be between 10 to 30 years in heathy woodland/forest vegetation.

The number of plants in sites in subpopulations 21 and 22 that were assessed in 2019 appear to be in decline (Table 1), and as they have not been burnt in the last 40 years, a fuel reduction burn is being planned for autumn 2020. However, more frequent fires (wildfires and fuel reduction burns) and more intense wildfires are anticipated as a consequence of climate change, likely leading to an increased rate of local extinctions, particularly for smaller occurrences.

***Phytophthora cinnamomi* (root rot pathogen):** *Conospermum hookeri* and its typical habitat are susceptible to the introduced soil-borne pathogen *Phytophthora cinnamomi* (Schahinger *et al.* 2003) and symptoms of infection have been noted in a number of occurrences. While the mortality rate in occurrences due to *Phytopthora cinnamomi* appears to be low (Mark Wapstra pers. comm.), the pathogen contributes to cumulative impacts, and small occurrences may not be able to sustain even small losses. *Phytophthora cinnamomi* infection also contributes to the degradation of habitat.

The mountain bike track recently constructed through the Mount Pearson State Reserve and the Bay of Fires Conservation Area threatens an occurrence of *Conospermum hookeri* with the potential for introduction and spread of *Phytophthora cinnamomi,* as the Mount Pearson State Reserve is a designated *Phytophthora cinnamomi* Management Area (Schahinger *et al.* 2003). The small occurrence in the Bay of Fires Conservation Area also occurs within a designated *Phytophthora cinnamomi* Management Area (Schahinger *et al.* 2003). The large subpopulation in the Fingal Valley occurs in an area climatically less suited to *Phytophthora cinnamomi* expression because of low rainfall, and it is therefore regarded as one of the more secure subpopulations in Tasmania (Schahinger 2004). The southernmost occurrence on Bruny Island is currently free of symptoms of *Phytophthora cinnamomi* despite considerable tracks through the occurrence, with tracks normally a conduit for introduction and spread of the pathogen.

**Climate change:** *Conospermum hookeri* is at risk from an increase in the frequency and intensity of fires (both wildfires and strategic or asset protection fuel reduction burns) and drought, now evident across the range of the species as a consequence of climate change.

## MANAGEMENT STRATEGIES

### *What has been done?*

- Funding accessed by the St Helens Landcare and Coastcare group allowed the main occurrence behind Stieglitz to be fenced to reduce impacts from adjacent residential and recreational activities (known as the Smokebush Compound).
- The efforts of the North East Bioregional Network resulted in approximately 100 ha of unallocated Crown land containing the Smokebush Compound and other occurrences to be included in the St Helens Conservation Area.
- The Threatened Plants Tasmania group has helped with survey and monitoring of a number of occurrences.
- Seed has been collected from four occurrences of *Conospermum hookeri* (Doctors Peak, the Smokebush Compound, Avoca and behind Freycinet Lodge to the Fisheries) for long term conservation storage at the Tasmanian Seed Conservation Centre (based at the Royal Tasmanian Botanical Gardens, Hobart).

### Management objectives

The main objective for the **recovery** of *Conospermum hookeri* is to prevent the loss and degradation of habitat at known sites, maintain or increase the number of mature individuals at known sites, and survey for new occurrences.

### *What is needed?*

Agencies, groups or individuals may assist with some or all of the following recovery actions. Coordinated efforts may achieve the best and most efficient results.

- provide adequate information and extension to relevant Natural Resource Management committees, local Councils, Government agencies and the local community on the localities, significance and management of known occurrences, as well as identification and management of potential habitat;
- consider avoidance of impacts to the species for proposed developments taking cumulative losses and indirect impacts into consideration;
- undertake surveys at known sites (especially Cape Barren Island and Great Northern Plain) to update and improve estimates of abundance and area occupied;
- survey potential habitat for new occurrences;
- determine the relationship between production of fertile seed and occurrence size and age of plants to enable consideration of regeneration potential when planning fire management;
- improve the understanding of the impact of fire on the species;
- identify occurrences for priority fire management;
- identify and monitor key occurrences for recruitment, senescence and responses to disturbance;
- participate in long-term programs for the management of *Phytophthora cinnamomi* in key habitat;
- collect seed from the main occurrence on Bruny Island for long term conservation storage;
- clarify the status of *Conospermum taxifolium* in Tasmania.

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**Prepared** in 2006 under the provisions of the Tasmanian *Threatened Species Protection Act 1995*. Revised in 2008 and December 2019. Reapproved by the Secretary in September 2020.

**Cite as:** Threatened Species Section (2020) *Listing Statement for* Conospermum hookeri *(tasmanian smokebush).* Department of Primary Industries, Parks, Water and Enviroment, Tasmania.

**View:** www.naturalvaluesatlas.tas.gov.au
www.dpipwe.tas.gov.au/threatenedspecieslists
www.threatenedspecieslink.tas.gov.au/

**Contact details:** Threatened Species Section, Department of Primary Industries, Parks, Water and Environment, GPO Box 44 Hobart Tasmania Australia 7001.
threatenedspecies.enquiries@dpipwe.tas.gov.au

**Permit:** It is an offence to collect, disturb, damage or destroy this species unless under permit.

**Table 1. Population summary for *Conospermum hookeri***

| Location (year first seen) | Subpopulation | Tenure | No. of sites | NRM Region | 1:25 000 mapsheet | Year of last (first) NVA record | Area occupied (ha)** | Number of mature plants* |
|---|---|---|---|---|---|---|---|---|
| **1. Cape Barren Island** | **1. Rews Hill** | Aboriginal land | 1 | North | Anderson | 2008 (1988) | 0.008 | 4 rare |
| | **2. Mount Munro** | Aboriginal land | 1 | North | Anderson | 1891 | presumed extinct | |
| | **3. N of Nautilus Cove** | Aboriginal land | 1 | North | Kerford | 1985 | unknown | several |
| | **4. Battery Bay** | Aboriginal land | 2 | North | Barretts/ Kerford | 2004 | unknown | unknown |
| | **5. Jamiesons Point** | Aboriginal land | 1 | North | Thirsty | 2004 | unknown | unknown |
| **2. Great Northern Plain** | **6. Near Gladstone** | unknown | 1 | North | Gladstone | 1971 | status uncertain | |
| | **7. Great Northern Plain** | Cameron Regional Reserve | 1 | North | Musselroe | 1993 | status uncertain | |
| **3. Mount William National Park** (1983) | **8. Eddystone Point** | Mount William National Park | 2 | North | Eddystone | 2012 (1995) | 0.25 | < 20 |
| | **9. Ansons Bay** | Mount William National Park | 1 | North | Ansons Bay | 1999 | 0.0001 | 1 |
| **4. Binalong Bay/St Helens** (1876) | **10. Gardens Lagoon** | Bay of Fires Conservation Area | 1 | North | The Gardens | 2002 | 0.0001 | 1 |
| | **11. Doctors Peak** | Doctors Peak Regional Reserve | 3 | North | Binalong | 2013 (2007) | 0.1-0.5 0.012 | 30 100 |
| | **12. Halfway Hill** | Crown land (forestry) | 1 | North | Blue Tier | 2006 | 0.0032 | 2 |
| | **13. W of Taylors Beach** | Bay of Fires Conservation Area | 1 | North | Binalong | 2008 | 0.08 | 100-200 |
| | **14. W of Sloop Lagoon** | Mount Pearson State Reserve | 4 | North | Binalong | 2003 | 0.0875 | 20 |
| | **15. W of Swimcart Lagoon** | Mount Pearson State Reserve | 1 | North | Binalong | 2016 | unknown | >20 |
| | | | 2 | North | Binalong | 2003 | 0.58 | 35 |
| | | | 3 | North | Binalong | 2016-2019 (2009) | <1 | at least 80 |
| | **16. Doctors Creek** | Mount Pearson State Reserve | 1 | North | Binalong | 2009 | 0.0001 | 2 |
| | **17. Grants Lagoon** | private land with conservation covenant | 1 | North | Binalong | 2018 | 0.0002 | 2 |
| | | Bay of Fires Conservation Area | 1 | North | Binalong | 2012 | unknown | 5 |
| | **18. S of Grants Lagoon** | private land | 1 | North | Binalong | 2003 | 4 | 150-200 |
| | | Mount Pearson State Reserve | 1 | North | Binalong | 1995 | unknown | unknown |
| | **19. Binalong Bay** | Humbug Point Nature Recreation Area | | North | Binalong | 1998 | 0.0001 | 1 |
| | **20. E of Clio Hill** | Crown land (unallocated) | 1 | North | Pyengana | 2003 | 0.004 | 12 |
| | | Crown land (forestry) | 1 | North | Pyengana | 2014-2015 | 1 | 120-150 |
| | **21. Argonaut Road** | Crown land (forestry) | 1 | North | Pyengana | 2005 | 0.06 | ~10 |
| | | | 2 | North | Pyengana | 2019 2014 2010 (2006) | 0.5 | 199 385 ~500 |
| | **22. Trafalgar Track** (W of St Helens) | informal reserve (forestry) | 1 | North | Pyengana | 2019 2004 (2002) | 0.01 1.0 | 4 90-180 46 |
| | | Crown land (forestry) | 1 | North | Pyengana | 2019 2014 | 1-2 | 89 507 |

| Location (year first seen) | Subpopulation | Tenure | No. of sites | NRM Region | 1:25 000 mapsheet | Year of last (first) NVA record | Area occupied (ha)** | Number of mature plants* |
|---|---|---|---|---|---|---|---|---|
| | **23. St Helens Point** | St Helens Conservation Area (Moriarty Lagoon) | 1 | North | St Helens | 2009 | unknown | 20 |
| | | St Helens Conservation Area (Stieglitz) | 2 | North | St Helens | 2007<br>2006<br>2001<br>(1988) | 0.3<br>< 0.01 | ~50<br>157<br>180<br>uncommon |
| | | Crown land (Stieglitz) | 1 | North | St Helens | 2013 | 0.0001 | 1 |
| | | private land[1] (Chimneys Lagoon) | 1 | North | St Helens | 2001 | status uncertain | |
| | | private land (Parnella Heights) | 1 | North | St Helens | 2009<br>2003<br>(1988) | 3.5 | 234<br>240 |
| | | private land (Parnella Heights) | 1 | North | St Helens | 2008 | 0.02 | 21 |
| | | private land (near aerodrome) | 1 | North | St Helens | 2013 | 0.0002 | 2 |
| | | Council land (aerodrome) | 1 | North | St Helens | 2011 | 0.0625 | 17 |
| | | private land (Jocks Lagoon) | 2 | North | St Helens | 2017<br>1998<br>(1990) | 0.01 | 2<br>6 |
| | **24. N of Dianas Basin** | private land (N of Little Basin) | 1 | North | St Helens | 2017<br>(2005) | 0.05 | 16 |
| | | private land (Little Basin) | 1 | North | St Helens | 2017<br>(1998) | 0.0002<br>0.06 | 2<br>7 |
| | | private land (N of Dianas Basin) | 1 | | Beaumaris | 2015<br>2008<br>(1880) | 0.01 | 50<br>~50 |
| **5. Scamander** | **25. Henderson Lagoon** | private land with conservation covenant (Winifred Curtis Reserve) | 2 | North | Falmouth | 2001 | 0.03 | 10–15 |
| | | | | | | now considered locally extinct | | |
| **6. St Marys** | **26. St Marys** | unknown | 1 | North | St Marys | 1938 | status uncertain | |
| **7. Avoca** | **27. Avoca** | Crown land/ private land | 2 | North | St. Pauls Dome | 2013<br>2005<br>(1994) | >1<br>0.4 | >1000<br>827–920 |
| **8. Freycinet** (1932) | **28. Friendly Beaches Road** | Freycinet National Park | 1 | South | Friendly | 2013 | 0.0002 | 2 |
| | **29. Middleton Creek** | Freycinet National Park | 7 | South | Friendly/ Coles Bay | 2002<br>(1985) | 3.7 | >389 |
| | **30. Coles Bay** | Coles Bay Conservation Area (Hepburn Point) | 1 | South | Coles Bay | 2019<br>2012<br>2003-2005<br>(1998) | ~1 | ~60-120<br>125<br>88 |
| | | Coles Bay Conservation Area (E of Swanwick)) | 1 | South | Coles Bay | 2019<br>(2003-2005) | | 100<br>121 |
| | | private land (Saltwater Creek) | 1 | South | Coles Bay | 2008 | 0.05 | 41 |
| | | Coles Bay Conservation Area (Saltwater Creek) | 1 | South | Coles Bay | 2018 | unknown | 15 |
| | | Coles Bay Conservation Area (Saltwater Creek) | 1 | South | Coles Bay | 2008 | 0.008 | 4 |
| | | Crown land (informal reserve) | 1 | South | Coles Bay | 2018<br>2014<br>2008<br>(2003) | | 3<br>7<br>7 |

| Location (year first seen) | Subpopulation | Tenure | No. of sites | NRM Region | 1:25 000 mapsheet | Year of last (first) NVA record | Area occupied (ha)** | Number of mature plants* |
|---|---|---|---|---|---|---|---|---|
| | **31. Sleepy Bay** | Freycinet National Park | 1 | South | Coles Bay | 2003<br>1981<br>(1974) | | frequent |
| | **32. Freycinet Lodge to Fisheries Creek** | Freycinet National Park | 5-10 | South | Coles Bay | 2016-2017<br>2013<br>2012<br>(2010) | >10 | ~1000<br>100-500<br>500-1000 |
| | **33. Mount Mayson and lower slopes** | Freycinet National Park | 6 | South | Coles Bay | 2014<br>1999<br>(1981) | > 0.25 | < 45 |
| | **34. Wineglass Bay** | Freycinet National Park | 1 | South | Coles Bay | 1989 | 0.1 | 20–100 |
| | **35. Mount Graham** | Freycinet National Park | | South | Graham | 1985 | unknown | unknown |
| | **36. Gates Bluff** | Freycinet National Park | | South | Graham | 1987 | < 1 | few |
| | **37. Schouten Island** | Freycinet National Park | 10 | South | Schouten | 2005<br>(1978) | unknown | 140+ |
| **9. Orford** | **38. Prosser River** | unknown | 1 | South | Orford | 1959 | presumed extinct | |
| **10. Bruny Island** (1929) | **39. W of Lagoon Hill** | private land | 1 | South | Great Bay | 2013<br>(2006) | 2.2<br>1 | 400-500<br>300 |
| | **40. W of Bains Lagoons** | private land | 1 | South | Great Bay | 2013<br>(1985) | 0.0016 | 7 |

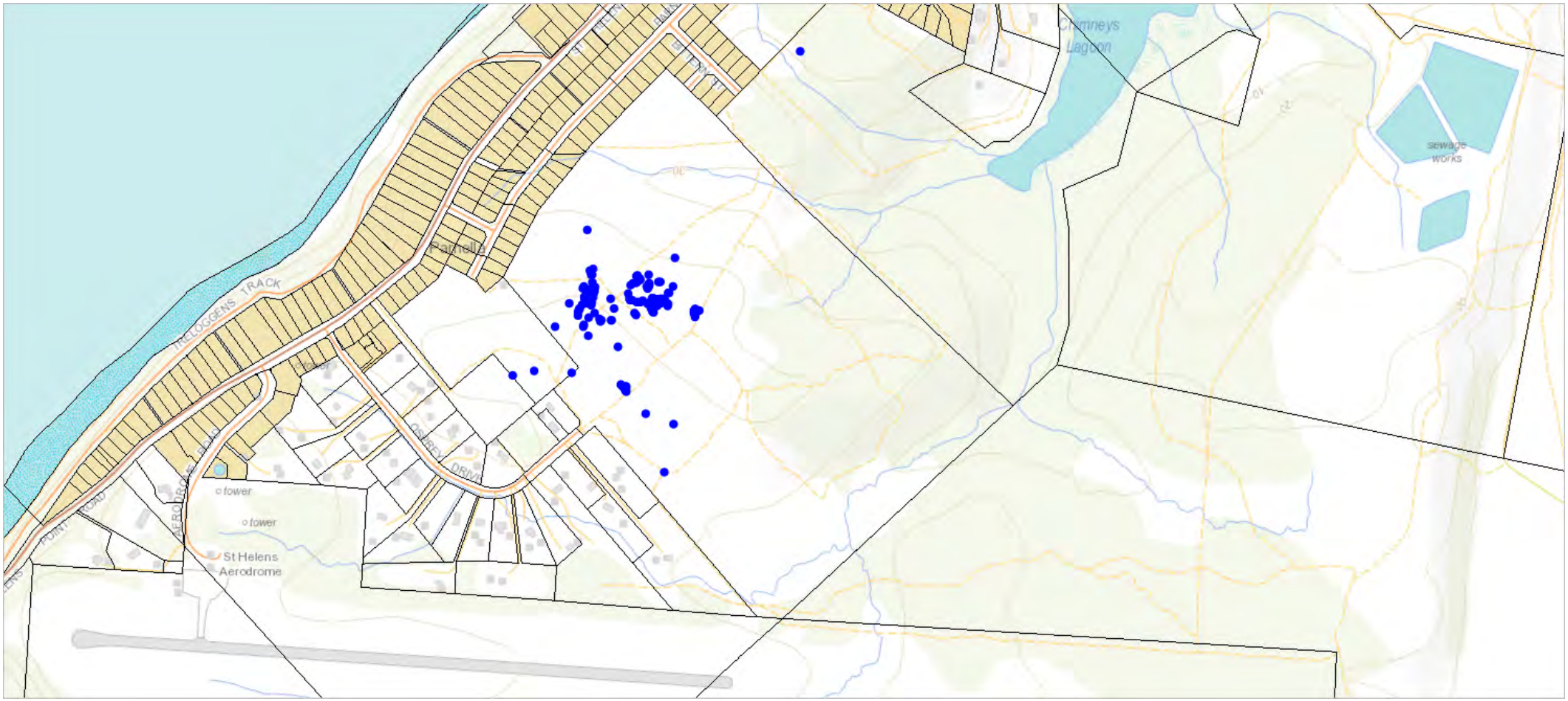
*estimates may have included immature plants

**estimates may either be the sum of the area occupied by individual plants or the extent of the site containing plants

[1] soon to be subject to a conservation covenant following acquisition by the Tasmanian Land Conservancy's Revolving Fund and resale

# Natural Values Atlas Search Map

609547, 5424086




606847, 5422856

Please note that some layers may not display at all requested map scales

Map generated using data from www.naturalvaluesatlas.tas.gov.au and www.thelist.tas.gov.au for annapovey at Sun Dec 12 16:31:25 AEDT 2021

19 Gorge Rd
Trevallyn TAS 7250
fovey@intas.net.au
0498 800 611
24th November 2021

John Brown
General Manager
Break o'Day Council
34 Georges Bay Esplanade
St Helens TAS 7216
Via email: admin@bodc.tas.gov.au

re: Draft Break o'Day Draft Local Provisions Schedule (LPS)

Dear Sir

We are writing to request that several parcels of land be zoned differently from how they are drafted in the draft LPS zone maps, and to support some zoning as drafted, for the better protection of important natural values.

1. **Our own land at 11 Shearwater Avenue, Stieglitz (PID 7828046),** currently has split zoning, and is drafted to be zoned both Landscape Conservation and General Residential. We request that the whole title be zoned Landscape Conservation, for the reason that most of it is covered by a conservation covenant (under the Nature Conservation Act), such that use of the land is constrained and is more compatible with Landscape Conservation zoning, based on **Guideline LCZ1** ("*The Landscape Conservation Zone should be applied to land with landscape values that are identified for protection and conservation*" where landscape values means either natural or scenic values) and **Guideline LCZ2** ("*The Landscape Conservation Zone may be applied to: (a) large areas of bushland or large areas of native vegetation which are not otherwise reserved, but contains threatened native vegetation communities, threatened species or other areas of locally or regionally important native vegetation; (b) land that has significant constraints on development through the application of the Natural Assets Code or Scenic Protection Code*")…. Almost the whole title has been mapped as Priority Vegetation Area. The northern part of the title, which is mapped to be General Residential, supports many known threatened species, including rare *Hibbertia virgata*, rare *Euphrasia collina subsp. deflexifolia*, rare *Acacia ulicifolia* and vulnerable (under both state and federal legislation) *Conospermum hookeri*. See natural values map (NVA-thrtd-flora-Stieglitz)

2. **105 St Helens Point Rd, Stieglitz (PID 7688776**), currently has split zoning, similarly, and is drafted to be zoned both Landscape Conservation and General Residential. We submit that the whole title should be zoned Landscape Conservation, for the reason that there are an extraordinary number of threatened species found on the land (as shown in the attached Natural Values Report), especially in the northern part that is zoned General Residential, such that use of the land is constrained by the Tasmanian *Threatened Species Protection Act*

and Commonwealth *Environmental Protection and Biodiversity Conservation Act*, and development has been prevented before because of these threatened species. This title is more compatible with Landscape Conservation zoning, based on **Guideline LCZ1** ("*The Landscape Conservation Zone should be applied to land with landscape values that are identified for protection and conservation*" where landscape values means either natural or scenic values) and **Guideline LCZ2** ("*The Landscape Conservation Zone may be applied to: (a) large areas of bushland or large areas of native vegetation which are not otherwise reserved, but contains threatened native vegetation communities, **threatened species** or other areas of locally or regionally important native vegetation)*. Almost the whole title has been mapped as Priority Vegetation Area. The northern part of the title, which is mapped to be General Residential, supports many known threatened species, including rare *Hibbertia virgata*, rare *Euphrasia collina subsp. deflexifolia*, rare *Acacia ulicifolia,* rare *Pterostylis grandiflora* and vulnerable (under both state and federal legislation) *Conospermum hookeri*.

The number of the latter species is such that this property is listed as a major sub-population in the *Conospermum hookeri* Threatened Species Listing Statement (attached). In fact, it is highlighted due to the immediate threat of development to the site, development being a key threat to this species;

"However, a site at Parnella Heights that was illegally burnt and bulldozed only recovered to previous numbers of plants following rehabilitation orders "…"One occurrence was illegally burnt and bulldozed in response to failed subdivision proposals and the property is likely to be subject to further development proposals following the end of rehabilitation conditions imposed under the Environment Protection and Biodiversity Conservation Act 1999 in early 2020."

Amongst the recommended management strategies to improve conservation of this species are the following:

- "provide adequate information and extension to relevant Natural Resource Management committees, **local Councils**, Government agencies and the local community on the localities, **significance and management of known occurrences**, as well as identification and management of potential habitat;
- consider **avoidance of impacts to the species for proposed developments** taking cumulative losses and indirect impacts into consideration"

The location of this and the other recorded threatened species on this title shows that they are concentrated on the area zoned General Residential (see maps attached; NVA-thrtd-flora-Stieglitz and NVA-Conospermum-hookeri-Parnella-Heights). I urge the council and the Planning Commission to take these into account, as recommended in the Listing Statement for vulnerable Conospermum hookeri (attached). For protection of all these threatened species, it is clear that Landscape Conservation zoning is a much more appropriate zone for the whole title.

3. We agree with the Landscape Conservation zoning of 7 Shearwater Avenue (PID 3343404) due to its proximity to Chimneys Lagoon, and its continuity with the Landscape Conservation zoning on our own land. Development, if not carefully done, can have large impacts on the water quality and habitat of a wetland like Chimneys Lagoon, so land immediately adjacent

to it should be zoned appropriately. According to Conservation of Freshwater Values on Listmap (see attached ChimneysLagoonConsPriority), the lagoon has Very High Conservation Management Priority under CFEV Waterbodies. Under the Natural Assets Code, this land is covered by Priority Vegetation and Waterway and Coastal Protection overlays.

4. We support the Open Space zoning for 36 Parnella Drive, Stieglitz (PID 7391024), as it is supposed to be a council-owned area and it is important to the protection of natural values that remain in the area following subdivision. It is appreciated by the public for its extraordinary wildflowers and native vegetation. It is contiguous with our own conservation covenant, which enhances the viability of both. It is covered by Priority Vegetation Area overlay, and it has numerous recorded threatened flora species (see map NVA-thrtd-flora-Stieglitz), including rare *Hibbertia virgata* and rare *Acacia ulicifolia.*

5. We disagree with the proposed change of the Environmental Management zoning of the council-owned St Helens Aerodrome title 214209/1 to Utilities zone. This title is currently split zoned so that the actual airstrip is appropriately zoned Utilities, while the remainder of the title, covered by natural bushland, is zoned Environmental Management, and this is what we submit that it should remain under the new planning scheme, or else Landscape Conservation to be consistent with the surrounding land. The land supports several records of the vulnerable threatened species, *Conospermum hookeri* (see map NVA-thrtd-flora-Stieglitz). Although this land currently has an effluent disposal sprinkler system on it, it still remains largely intact and healthy native vegetation. This long strip of land also extends into surrounding bushland which has been appropriately zoned Landscape Conservation as the whole area forms part of a contiguous and almost undeveloped bushland area that covers most of the St Helens Point peninsula, in such a way that its management has a proportionately greater impact than expected for a 20-odd hectare title. The Ramsar-listed wetland, Jocks Lagoon, is only 500m southeast of this title. Current slashing management of the airstrip and land immediately around it has lead to infestations of the environmental weeds, Spanish Heath, Acacia paradoxa and Kunzea ericoides, which are capable of invading and threatening intact native vegetation over time. To develop the aerodrome further, like a finger into the depths of the surrounding native vegetation, would be to risk extending weed invasion, reducing the quality of the surrounding land and interrupting wildlife movements along the peninsula. Any use of the title should be governed by environmental management principles, such as under Environmental Management or Landscape Conservation zoning.

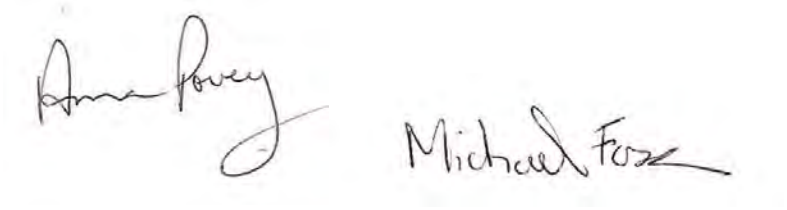
6. Similarly, we submit that the other titles of the St Helens Aerodrome, (titles 112855/1 and 45005/2) should be zoned Landscape Conservation or Environmental Management, rather than Utilities, due to the area of native vegetation that they encompass, that is part of the contiguous native vegetation of the peninsula. There is at least one population of rare *Hibbertia virgata* on this land and likely other threatened species if surveys were done. Both titles are covered by Priority Vegetation Overlay. There is also a CFEV-listed wetland that is covered by the Natural Asset Code's Waterway and Coastal Protection overlay.

We would also like to make some more general points regarding the planning scheme over the municipality.

A. It is critical to maintain or strengthen current restrictions on subdivision of land within 1km of the coast. The importance of this coastal protection has not changed, so it is necessary to find a suitable mechanism under the new planning scheme – we suggest a Specific Area Plan, combined with abundant use of Landscape Conservation and Environmental Management zones. With the recent increased development interest in Break o'Day, it is critical at this time that we maintain the natural and landscape values that have drawn people to the area and that have supported native flora and fauna on land and in the sea (which is, of course, impacted by management of the land) for time immemorial. We must ensure that the area is not damaged by piecemeal subdivision and development. Of course, each landowner and developer wants to develop a place from which they can admire the view, but individuals do not take account of the collective impact on others' enjoyment or on natural and landscape values – that is why we need the planning scheme to protect the coastal zone for everyone's continued enjoyment.
B. The ability to use loopholes to develop within this coastal zone (and Landscape Conservation zone generally) through strata title and visitor accommodation developments must be stopped, as they subvert the intention of this zone.
C. There should be a thorough analysis and protection of landscape values through implementation of a Scenic Protection overlay that protects all important visual amenity such as naturally vegetated hills and naturally vegetated coastlines, and other areas such as Medeas Cove and other such waterbodies. These are critical and should be protected by more than just a façade of protection along road corridors.
D. We are supportive of the areas already draft zoned as Landscape Conservation in the municipality and congratulate council on their pro-active protection of important areas this way.
E. Some gaps, however, that should be addressed include key landscape areas of Mt Elephant (PID 2542268) which should be zoned either Environmental Management or Landscape Conservation.

Thankyou for doing your best to maintain and protect the natural and landscape values that make Break o'Day the special place it is.

Yours sincerely,



Anna Povey and Michael Fox

# Representation No 19

| | |
|---|---|
| **From:** | Jenn Roberts |
| **To:** | Break O Day Office Admin |
| **Subject:** | Submission to Break O"Day council - rezoning 774 German Town Road ST Marys |
| **Date:** | Sunday, 12 December 2021 9:33:21 PM |
| **Attachments:** | image003.emz<br>image004.png |

CAUTION: Do not click links or attachments unless you recognize the sender and know the content is safe

12.12.2021

John Brown
General Manager
Break O'Day Council
32 – 34 Georges Bay Esplanade
St Helens Tasmania 7216

Dear Mr Brown,

Re: Submission to Break O'Day Council - Local Provisions Schedule

**Introduction**

I am the owner of the property at 774 German Town Road, St Mary's title reference PID 3314080, Title Ref 179552/1 ('the property').

**Current property zoning**

The property is currently zoned 'Rural Resource'. I understand that under the new Tasmanian Planning Scheme it is proposed that it be rezoned 'Rural '. The property includes 24.3 ha of Private Reserve Land ('***PRL***') which is part of the Seaview Farm Reserve protected by conservation covenant.

**Conservation Landholders Tasmania submission**

I understand that on or about 8 November 2021 'Conservation Landholders Tasmania' lodged a representation with the Break O'Day Council ('***BOC***') recommending that the property should be *'split zoned'* and that the 24.3 Ha PRL should be rezoned to the new *'Landscape Conservation Zone'* with the balance of the property to remain in the 'Rural' Zone (' ***the CLT submission***').

**ListMap screenshot**

The ListMap screen shot below of the property shows the rural area ie the land enclosed in the dashed white line and the conservation areas (part of the 'Seaview Farm Reserve') enclosed in the solid white line.

**Submission**

I support the CLT submission.

It is my submission that the property be split zoned in the following manner: -

1. The PRL be zoned 'Landscape Conservation';
2. The balance of the property be zoned 'Rural'.

**Conclusion**

Please let me know if you have any questions or require any further information. Please acknowledge receipt of this submission in due course.

Yours faithfully,

Jennifer Roberts
0424582000

# Representation No. 20

12th December 2021

General Manager

John Brown

Break O'Day Council

Via Email: admin@bodc.tas.gov.au

RE: BREAK O'DAY LOCAL PROVISON SCHEDULE - REPRESENTATION

To The General Manager

I write to make formal representation to the Local Provisions Schedule (LPS) for the Break O'Day municipal area, which is currently on public exhibition until the 13th December 20201.

Application of the Landscape Conservation Zone (LCZ)

The LCZ is a new zone which has been introduced under the Tasmanian Planning Scheme (TPS). It does not exist under the existing Interim Planning Scheme. In applying the LCZ, Council has stated that:

"The LPS provides adequate protection of natural and physical resources through, applying the Landscape Conservation Zone where land was located in the Environmental Living Zone and the natural and landscape values support this and where otherwise justified" – page 8.

"All allotments, unless detailed otherwise or included in a particular purpose zone, within the ELZ in the Interim Planning Scheme have translated to the LCZ in the draft LPS" – page 67.

Based on the comments on page 8 and 67 in the supporting report, Council has generally interchanged all land currently under the ELZ with the LCZ as part of the draft LPS. However, as stated in the 8A guidelines of the LCZ to provide direction for Council in appropriately applying the zone:

The Landscape Conservation Zone is not a replacement zone for the Environmental Living Zone in interim planning schemes. There are key policy differences between the two zones. The Landscape Conservation Zone is not a large lot residential zone, in areas characterised by native vegetation cover and other landscape values. Instead, the Landscape Conservation Zone provides a clear priority for the protection of landscape values and for complementary use or development, with residential use largely being discretionary.

The proposal outlined in the LSP draft to replace lots in the ELZ with LCZ is

contradictory to the above guidelines. Furthermore the 8A guidelines states,

LCZ 1 The Landscape Conservation Zone should be applied to land with landscape values that are identified for protection and conservation, such as bushland areas, large areas of native vegetation, or areas of important scenic values, where some small-scale use or development may be appropriate.

LCZ 2 The Landscape Conservation Zone may be applied to:

a) large areas of bushland or large areas of native vegetation which are not otherwise reserved, but contains threatened native vegetation communities, threatened species or other areas of locally or regionally important native vegetation;

b) land that has significant constraints on development through the application of the Natural Assets Code or Scenic Protection Code; or

c) land within an interim planning scheme Environmental Living Zone and the primary intention is for the protection and conservation of landscape values.

LCZ 3 The Landscape Conservation Zone may be applied to a group of titles with landscape values that are less than the allowable minimum lot size for the zone.

LCZ 4 The Landscape Conservation Zone should not be applied to:

a) land where the priority is for residential use and development (see Rural Living Zone); or

b) State-reserved land (see Environmental Management Zone).

The operative wording contained within this statement relates to use and development in large natural bushland or large areas of native vegetation that are not already reserved. Not large lot residential areas or other existing settlement areas with existing environmental values that currently are zoned and used for residential purposes. Land around Riverview Road and Tasman Highway in Scamander, has been identified on the draft LPS as being zoned LCZ. These areas are within the existing ELZ under the Interim Scheme. These areas are characterised by single dwellings on large bush blocks, a combination of which are cleared, and others that contain native vegetation.

Our property is subject to the original lot being subdivided in the past and furthermore, it is adjoining to a parcel of land 2/27 Cherrywood Drive which is zoned as general residential and has recently obtained preliminary approval for a 69 lot subdivision.

Currently, residential dwellings are permitted in the ELZ. The zoning changes proposed in the draft LPS from ELZ to the LCZ in effect make residential use discretionary and consequently not a guaranteed use. If this approach is to be

implemented, it significantly restricts landowners residential use rights and further entrenches the challenges and costs of residing and developing land in and around the coastline of the state. At its core, removing an existing 'right to build' residential home and replacing it with the term 'discretionary' would act as a clear disincentive for any investment either private or commercial, and moves the area further away from progressive statewide zoning reform.

It is important when considering decisions such as this to consider the desires of the government of the day when the Act that directed a Tasmanian Planning Scheme (TPS) was created. On the 24th of September 2015, the Minister for Planning and Local Government, the Hon. Peter Gutwein stated the following: "For too long, the planning system has acted like a handbrake on our economy. We want to fix the planning system to attract investment, grow our economy and create jobs.'

Aside from restricting landowners residential use rights, there are several areas of concern to consider from an economic and social standpoint as the ripple effect of such changes, namely:

1. Developers or home builders may be reluctant to purchase land when there is no certainty of being able to build a dwelling;
2. A reduction in available housing land for people looking to move to Break O'Day further adding to the current housing shortage; (the fundamental solution for the housing crisis begins with the access to land for development).
3. Land currently zoned ELZ may lose value when transferred to LCZ with the prospect of building a dwelling in doubt;
4. Confidence that Break O'Day as a place to invest in or move to will be damaged;
5. Financial institutions and banks will be reluctant to finance potential home builders and developers in LCZ where the fundamental right to build is not guaranteed.

This reality is not only contradictory to the intent of the State Government but also undermines the immense effort the Break O'Day council and state government departments such as Tourist Tasmania have put into driving tourism into the area. Strong investment in local infrastructure, and attractions such as the Mountain Bike Trail initiates is currently supporting a buoyant local economy that is attracting visitors and families to relocate to our community. Assuming this was

the desired effect of these initiatives and improvements. It seems counterintuitive to now be putting even further restrictions on existing residential areas where there is immense opportunity for considered growth and development while still aligning with the environmental characteristics and values of the area.

In summary, my primary concern is that Council appears to have incorrectly applied the LCZ to the majority of residential lots which are currently within the ELZ under the Interim Scheme. Prioritising natural values and the environment above and beyond the existing residential use, social and economic values of these lots, property owners and communities which will undoubtedly have long lasting impact on the local economy. I appreciate Councillors and staff have put an enormous amount of work into the planning reform process over many years. This submission in no way underestimates that effort or the difficulties that are inherent within this reform agenda. But I respectfully request the council revise their draft plan and give serious consideration to the concerns outlined.

Sincerely,

Michael & Jessie Groves
82 Riverview Road
Scamander
TAS, 7215
Michael.groves@sttas.com.au

# Representation No 21

9th December 2021

General Manager

John Brown

Break O'Day Council

Via Email: admin@bodc.tas.gov.au

**RE: BREAK O'DAY PROVISION SCHEDULE –REPRESENTATION**

To the General Manager

I write to make formal representation to the Local Provisions Schedule (LPS) for the Break O'Day municipal area, which is currently on public exhibition until the 13th December 2021.

**Intended Application of the Landscape Conservation Zone (LCZ)**

The LZC is a new zone which has been introduced under the Tasmanian Planning Scheme (TPS). It doesn't exist under the existing Interim Planning Scheme. Council has stated in applying this LCZ:

*"The LPS provides adequate of natural and physical resources through, applying the Landscape Conservation Zone where land was located in the Environmental Living Zone and the natural and landscape values support this and whereas other justified" – page 8.*

*" All allotments, unless detailed otherwise or included in a particular purpose zone, within the ELZ in the interim Planning Scheme have translated to the LCZ in draft LPS" –page 67*

The above comments based on pages 8 & 67 in the supporting report, Council has generally interchanged all land currently under ELZ to a LCZ as part of the draft LPS. In 8A guidelines of the LCZ is to provide direction for council in appropriately applying zones.

LCZ is not a replacement zone for ELZ in the interim planning scheme. There are key policy differences between these zones. The Landscape Conservation Zone is not a lot of residential zone, in area as characterised by native vegetation cover and other landscape values. The Landscape Conservation Zone does however provide a clear priority for the protection of landscape values and for complementary use and development with residential use largely discretionary.

The proposal outlined in the LPS draft to replace lots in the ELZ with LCZ is contradictory to above guidelines and further discussed in 8A guidelines referring to LCZ1, LCZ2, LCZ 3, LCZ 4,.

The operative wording within this statement relates to use and development in large natural bushland or large areas of native vegetation that are not already reserved. Not large lot residential areas or other existing settlement areas with existing environmental values that currently are zoned and used for residential purposes. Land around Riverview Rd and Tasman Highway in Scamander has been identified on the draft LPS as being zoned LCZ. These areas are within the existing ELZ under

the interim scheme and are characterised by single dwellings on large bush blocks, a combination of areas cleared and others that contain natural vegetation. Residential dwellings are permitted in the ELZ. The zoning changes proposed in the draft LPS from ELZ to LCZ in effect make residential use discretionary and consequently not guaranteed use. Should the draft LPS be implemented it would greatly restrict landowners residential use rights and can only entrench challenges and costs of residing and developing land in and around coastline of the state. The use of the term "Discretionary "may act as a further disincentive for any sensitive investments either private or commercial and moves the area further away from progressive state-wide zoning reform.

I keep hearing Premier Peter Gutwein saying

"For too long the planning system has acted like a handbrake on our economy. We want to fix the planning system to attract investment, grow our economy and create jobs."

I would also like to draw attention the proposed **Stormwater Area Plan** which needs to improve to protect the residents and visitors to Break O'Day, recreational areas in and around Georges Bay from waste discharge and stormwater runoff. This is referred to in the Environmental Management and Pollution Control Act 1994, 2.1.7, page 15, but does not go far enough to protect our inland waterway.

**State Policy on the protection of Agricultural land (PAL) 2009** states to "conserve and protect agricultural land so that it remains available for the sustainable development of agriculture, recognising the particular importance of prime agricultural land." Does this include areas of small acreage in a predominately ELZ area, which could have a direct impact on neighbouring land owners and the natural bush within this ELZ area.

Aside from restricting landowner's residential rights, there are several areas of concern to consider from an economic and social standpoint as the ripple effect of such changes may develop:

- Developers or landowners may be reluctant to purchase land when there is no certainty of being able to build a dwelling.
- Land currently zoned ELZ may lose value when transferred to LCZ with the prospect of building a dwelling in doubt.
- Confidence that Break O'Day as a place to invest in or move to could be damaged,
- A reduction in available housing land within the Break O'Day area for people looking to move to this area, which is fundamentally floored should a housing crisis begin.
- Developers and home builders in LCZ areas would unlikely able to secure financial assistance from Banks and Financial institutions when the fundamental right to build is not guaranteed.

I commend Break O'Day council in their enthusiasm in promoting tourism in conjunction with Tourism Tasmania of the area. We have a thriving local economy from investments from the Mountain Bike Trials and other attractions for visitors to this area. This also highlights Break O'Day as great place to live. It seems counter intuitive to now be putting even further restrictions on residential areas of potential growth and development while we are still aligning with environmental characteristics and values of this area.

Summarising, my primary concerns are Council appears to have incorrectly applied zones in areas of ELZ amending them to LCZ to the majority of residential bush blocks and relinquishing the rights of existing residential owners use, social and economic values of these lots.

Improve the proposed Stormwater Area Plan to include other water waste management in Break O'Day.

Support zoning Future Potential Production Forests (FPPF) land as Environmental Management Zone in recognition of the FPPF areas significant high conservation values and in some cases important scenic values.

Yours Sincerely,

Narelle ransley

23185 Tasman Highway,

Scamander

TAS, 7215

gnome-1@bigpond.com

**Representation No 22**


Chris Triebe & Associates Town Planning Services
ABN: 38 872 166 303
PO Box 313, St Helens, Tasmania 7216
ctriebeplanning@gmail.com
0417 524 392


12 December 2021

32-34 Georges Bay Esplanade,
ST HELENS TASMANIA 7216

Dear Sir

**RE: The proposed re-zoning of CT 141663/100 in the Draft Local Provisions Schedule**

The owners of the above property wish to respectfully submit a representation against the Break O'Day Local Provision Schedule (LPS) currently being publically advertised. Mr and Mrs Gregory William and Beth Patricia Colwell approached Chris Triebe & Associates Town Planning Services to write and submit their response.

As the author of this response, Chris Triebe has been associated with development in the Break O'Day municipality in various roles since 2005 and holds a Graduate Diploma in Environment and Urban Planning through RMIT. His experience started with East Coast Surveying as a Planning Officer, a real estate agent with LJ Hooker St Helens, 11.5 years with the Break O'Day Council as Planning Officer / Town Planner and 2 years running his own Town Planning Consultancy. In addition, he served for 10 years as a volunteer fire fighter with the Binalong Bay and St Helens Fire Brigades, achieving the qualification of Sector Commander and being deployed to the 2013 Victorian bushfires.

The Colwells have owned the Title in question since moving to St Helens from their NSW farming property in August 2008. After working the land for many years they have an understanding of the need to protect areas of the landscape containing areas of native vegetation with scenic values, threatened species or native vegetation communities. Following a review of the draft LPS, the Colwells seek to counter-propose their Title be re-zoned from Environmental Living to Rural Living rather than to Rural Zone. The reasons are presented in this document.

Throughout this document, the 'Guideline No.1 Provisions Schedule (LPS): Zone and Code application' will be referred to as 'the Guideline'. The Tasmanian Planning Commission (the Commission) issued the Guideline under section 8A of the *Land Use Planning and Approvals Act 1993* (the Act).

The Break O'Day Council Draft LPS 2020 Supporting Report specifically refers to CT 145166 / 100 on pages 55 and 56, providing Council's justification for rezoning the Title from

Environmental Living Zone to Rural Zone. Lot 100 is recognised as being located within the Future Urban Growth / Settlement Boundary; by identifying large amounts of available and undeveloped General Residential zoned land surrounding Lot 100, the Strategy states the rezoning of the Title to GRZ is not appropriate at this time.

It is proposed the re-zoning of the majority southern section of Lot 100 to the Rural Zone is strategically inappropriate because of its location to the separate and existing residential subdivisions of Bayvista Rise and Oceanvista Drive. The Colwells were recently advised of the discretionary assessment of a 16 lot residential subdivision along the eastern side of the latter no-through road. Further to the east, Certificate of Title 145166 / 100 formed an original part of the staged subdivision forming Bayvista Rise on a dis-used orchard.

## The Rural Zone

Sub-clause 3.1.13 Rural Zone (RZ) recognises the work undertaken by the State Government on the State-wide Agricultural Land Mapping Project in identifying existing and potential agricultural land. The resulting document is designed to assist the local Councils with applying the Agricultural Zone to land within their municipalities.

To start with, the purpose of the Rural Zone is to provide "…for the remaining rural land where there is limited or no potential for agriculture. The RZ provides for all agricultural uses to occur in conjunction with a range of rural businesses and industries" To further assist a Council with applying the Rural Zone, the Guideline lists three sub-guidelines: RZ 1, RZ 2 and RZ 3. In part, these sub-guidelines state:

RZ 1: "The Rural Zone should be applied to land in non-urban areas with limited or no potential for agriculture as a consequence of topographical, environmental or other characteristics of the area…"

RZ 2: The Rural Zone should only be applied after considering whether the land is suitable for the Agriculture Zone in accordance with the "Land Potentially Suitable for Agriculture Zone' layer published on the LIST." And finally,

RZ 3: "The Rural Zone may be applied to land identified in the 'Land Potentially Suitable for Agriculture Zone' layer, if:

(a) It can be demonstrated that the land has limited or no potential for agricultural use and is not integral to the management of a larger farm holding that will be within the Agriculture Zone…"

## Rural Living Zone

Sub-clauise 3.1.4 Rural Living Zone (RLZ) lists how this zone may be applied to land. These sub-guidelines state:

RLZ 1: this zone should be applied to residential areas with larger lots, where existing and intended use is a mix between residential and lower order rural activities such as hobby farming;

RLZ 2: the RLZ should only be applied to land currently zoned RLZ unless it is:

(a) consistent with the relevant land use strategy; or

(b) the land is within the Environmental Living Zone in an interim planning Scheme and the primary strategic intention is for residential use and development within a rural setting and a similar minimum allowable lot size is being applied.

However RLZ 4 states the RLZ should not be applied to land suitable for future greenfield urban development or contains important landscape values identified for protection and conservation such as large areas of native vegetation or areas of important scenic values.

## Potential Re-zoning

It is proposed that no evidence has been provided to demonstrate the land has limited or no potential for agricultural use. Furthermore, this southern side of St Helens has no evidence of a larger farm holding with land that is potentially suitable for the Agriculture Zone.

Certificate of Title 166517/1 also recognised as 48 Brooks Road, St Helens received approval under the previous planning scheme, for approximately 8 large, lifestyle sized, residential Titles. The approved site plan proposed a vehicular connection to the southern boundary of CT 140656/200, also identified as Cobrooga Drive, St Helens. The approval of this subdivision provides additional evidence the land on the southern and western side of St Helens has little if any value as agricultural land.

Based upon the above, it is requested consideration be given to how CT 141663/100 is zoned under the forthcoming LPS based upon the following reasons:

1. The justification for zoning this Title to Rural Living rather than the Rural Zone is the same one proivided by Break O'Day Council in the above document. That is, the availability of undeveloped GRZ land surrounding the Colwells. For this reason, the existing zoning does not have a buffer between the GRZ and the RZ, something the Rural Living Zone would provide.

2. Certificate of Title 141663/100 is currently dual-zoned: General Residential and Environmental Living, with the northern boundary adjoining properties zoned General Residential and the southern boundary adjoining Rural Resource.
    a. The re-zoning of Lot 100 to the Rural Zone is contrary to the guideline listed under the above RZ 1. That is, the RZ should only be applied to land within a non-urban setting. Lot 100 has an existing dwelling and the Title adjoins established GRZ Titles. Lot 100 is therefore within an established urban area.

3. A review of the Threatened flora and fauna overlays on the LISTmap (23 November 2021 $18^{00}$hrs) confirms no evidence of such species has been identified within the Title boundaries; this demonstrates the current Environmental Living Zoning is inappropriate. A potential Wedge-Tailed Eagle Nesting Habitat shown by this

database could by protected through the placement of appropriately located building envelopes on future Titles.

a. The lack of evidence of threathed flora or fauna species questions the current Environmental Living zoning of the Title;
b. By re-zoning Lot 100 to Rural Living, more established standing vegetation can be retained, fuel loads better managed and the density of the built environment kept to a minimum. These factors would not adversely impact the existing amenity or streetscape of Oceanvista Drive, Bayvista Rise, Lawry Heights or Falmouth Street;
c. By re-zoning Lot 100 to Rural Living, there would not be a requirement for additional reticulated water infrastructure as any future sensitive use would have to provide its own static water supply and on-site waste water infrastructure. Should a subdivision of 3 or more lots be proposed, the reticulated power infrastructure could be put underground;

4. The provision of a number of Titles zoned Rural Living will enable a minimum lot size to be decreased from the 10s of hectares, to 1 to 10 hectares. The zoning, the size of the lot, as well as the established nature of the vegetation on-site, are factors preventing the owners from improving the land. With the more recent recognition of global warming and climate change, extreme weather events are expected. Such events include significant rain events, bushfires, storms, etc.
    a. A review of the 'Fire History' overlay on the LIST confirms Lot 100 has not been impacted by any fire activity for many years. This confirms a potentially high and undisturbed fuel load.
    b. Some Planning Schemes already declared, categorise the minimum lot sizes in the Rural Living Zone into 4 categories: A: 1ha, B: 2ha, C: 5ha and D: 10ha.
    c. By declaring Lot 100 as Category B, the provision of a maximum 5 Titles would create a suitable buffer between those Titles zoned General Residential and the more densely vegetated southern Titles. This would enable better hazard management control areas that are managed by a number of owners rather than 1 owner.
    d. The landowners received notification some time ago of a discretionary application for the further subdivision of CT 141663/8, also recognised as Lot 8 Lawry Heights. The provision of an additional 16 residential lots abutting a northern boundary of Lot 100, will place an increased onus on the representors to maintain their Title for bushfire purposes.

5. Strategically, this would also provide a zoning buffer between the current GRZ and the RZ. Through the use of suitable zoning clauses, the building density, boundary setbacks and vegetation retention for example, may be managed.

6. With the exception of Lot 100, all existing Titles fronting Oceanvista Drive are serviced by the Regulated Entity's reticulated water and sewer systems. This no doubt will change as a consequence of the discretionary approval given to the aforementioned 16 lot residential subdivision.

In conclusion, the landowners for whom this representation has been written, thank Council for providing the opportunity to submit constructive comments. Their previous experiences along with the questions asked of the draft document, enable the Colwells to understand the importance planning reform has in delivering good planning outcomes to a community.

They request CT 141663/100 be viewed with a slightly more strategic and longer-term view on the expansion of the town and the benefit their Title can provide to the protection of the nearby residential properties through more appropriate zoning. The need for such a view is demonstrated by the current real estate boom that has been in effect for the last 18 months.

Should you require further clarification on this document, please do not hesitate to contact the author on the phone number and/or email above.

Yours truly



Chris Triebe.

# Representation No 23

**From:** Alan Richmond
**To:** Break O Day Office Admin
**Subject:** Break O"Day LPS Submission
**Date:** Sunday, 12 December 2021 3:42:39 PM

CAUTION: Do not click links or attachments unless you recognize the sender and know the content is safe

Dear Council,

Having studied the BOD Draft Local Provisions and supporting documents, I make the following submission:

1. I support the Landscape Conservation classification applied to my property at Chain of Lagoons. However, the limitation of this classification in the draft plan is that it only applies to a very narrow scenic corridor along the coastline. This should be widened considerably to protect forested areas close to the coast. One area of importance is that between the Chain of Lagoons and St Marys.
2. Multiple dwellings and tourist accommodation should not be allowed in Landscape Conservation areas.
3. I strongly support the retention of a prohibition of subdivision within 1km of the coastal high-water mark. Importantly, this helps prevent ribbon development, urban sprawl and loss of vegetation and habitat. Development should only occur in serviced settlements
4. The planning scheme must prevent multiple dwellings and strata developments for tourism accommodation outside serviced areas.
5. I support a Scenic Protection Code that protects landscape values across the municipality. Noting that the Council has adopted a minimalist position on this.
6. The council must improve its proposed Stormwater Specific Area Plan (SAP) to reduce the overall quantity and improve the quality of urban stormwater flows to waterbodies to protect important aquatic ecosystem values and avoid or minimise any potential ecological impacts.
7. I strongly support zoning Future Potential Production Forests (FPPF) land as Environmental Management Zone in recognition of the FPPF areas significant high conservation values and in some cases important scenic values
8. I support the use of biodiversity overlays to determine landscape connectivity and wildlife habitat corridors in farming areas. Any identified areas should be zoned Landscape Conservation Zone
9. The vast majority of private land within the LGA is proposed as Rural or Agricultural which allows intensive uses that do not require a planning permit. This need re-examining to allow native forested areas to be zoned Landscape Conservation which has emphasis on protecting landscape values.

The primary outcome of a planning scheme should be to protect the character of the local area and native biodiversity.

I thank you for your attention to my views and please contact me if you require an additional information.

Yours faithfully,

Alan Richmond
21088 Tasman Highway,

Chan of Lagoons, 7215
Mob 0419 799 930

# Representation No 24

**From:** CHRISTINE HOSKING
**To:** Break O Day Office Admin; Break O Day Office Admin
**Subject:** Break O" Day LPS SUBMISSION
**Date:** Sunday, 12 December 2021 3:11:49 PM
**Attachments:** D79CEB89536C46C78175BA854F8C679D.png

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To Whom it May Concern,

Herewith is my representation regarding the Local Planning Scheme.

I would like to make the following submissions:

1. I strongly support the retention of a prohibition of subdivision within 1km of the high water mark along the coast to help prevent ribbon development and urban sprawl and focus development in serviced settlements.
2. The biodiversity overlay in the Natural Assets Code is comprehensive and takes into account the importance of landscape connectivity/wildlife habitat corridors. Please ensure that this is considered.
3. Prohibit multiple dwellings and strata developments for tourism accommodation outside serviced areas including in the Landscape Conservation Zone to preserve the scenic amenity values of the regions. Eroding the scenic amenity that attracts tourism in the first place is counterproductive.
4. I strongly support a Scenic Protection Code that protects landscape values across the municipality. Notably, Council has adopted a minimalist position of only looking at scenic protection along narrow road corridors.
5. I strongly support zoning Future Potential Production Forests (FPPF) land as Environmental Management Zone in recognition of the FPPF areas significant high conservation values and in some cases important scenic values
6. In the Rural Zone, forestry and intensive uses such as feedlots and fish farms do not require a planning permit while Landscape Conservation Zoning emphasises protecting landscape values. Areas such as between the bottom of Elephant Pass through to the Nicholas Range around St Marys are environmental lifestyle areas, not Rural industry areas. As such the majority of properties in such areas should be zoned Landscape Conservation Zone.
7. I strongly support split zoning of Agricultural zoned land where there are important landscape conservation and or scenic values with non-farming areas zoned *Landscape Conservation Zone*
8. I request that Council improves its proposed Stormwater Specific Area Plan (SAP) because:
   A key objective of a Stormwater SAP should be to reduce the overall quantity and improve the quality of urban stormwater flows to waterbodies as part of a comprehensive stormwater management program that is premised on the identification of important aquatic ecosystem values and the need to avoid or minimise any potential ecological impacts. A priority should be the management of stormwater to reduce overland flow and to increase water quality at source and where this is impractical then as part of a local treatment process incorporated into the council stormwater infrastructure.

The Council Stormwater SAP will not achieve these outcomes

Thank you



Dr Christine Hosking
Ph:  0410 685 382
21088 Tasman Highway
Chain of Lagoons 7215
TASMANIA

# Representation No 25

**From:** Nick Amse
**To:** Break O Day Office Admin
**Subject:** Re Public Open Space at Oberon place Scamander.
**Date:** Sunday, 12 December 2021 1:29:35 PM

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Break O Day Local Planning Provisions.

Dear Sir,

I would like to put in a submission in support of the land being rezoned to Open Space Zone in accordance with the intent of the approved subdivision plan which set aside this title as public open space. The property ID number for the Oberon Place title is PID 2948700.

My reasons are:

1- The title on the land is for it to be used as Public Open Space.

2- The land contains a watercourse which makes it unsuitable for residential development ,during heavy rain a vast amount of water cascades down to the river along this watercourse.

3- It is consistent with the following Zone application guidelines from Guideline no 1

OSZ 1 "The Open Space Zone should be applied to land that provides or is intended to provide for the Open Space needs of the community including land identified for:

(a) passive recreational activities

(b) natural or landscape amenity within an urban setting.

I would like to suggest a possible walkway and Bike Path

I have walked the aeria with my dog many a time and it will give a pleasant alternative to walking a long the road.

Wild life Habitat with all properties fenced in a large amount of wildlife lives in this area .

Native flowering shrubs can enhance this space and increase the Bird population.

Kind regards.

Nick Amse

# Representation No 26

**From:** Rob Marshall
**To:** Break O Day Office Admin
**Subject:** Tasmanian Planning Scheme
**Date:** Sunday, 12 December 2021 11:03:39 AM

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10/12/2021

The Manager of Break O'Day Council.

Dear Sir,
Titles of the Tullochgorum Property at 4529 Esk Main Road with some or all conservation covenants in place may be considered for the covenant areas to be rezoned as Landscape Conservation with land holders permission.
As the land holder I do not give permission for a change as sheep do run on a large part of the covenant areas and forestry take place on the adjacent areas.

| PID | Title Refs | Draft LPS Zoning | |
|---|---|---|---|
| 9211677 | 174308/1 | Agriculture | |
| 9211677 | 181574/2 | Agriculture | |
| 9211677 | 121908/1 | Agriculture | *This area better described as Rural* |
| 9211677 | 103393/4 | Agriculture | |
| 9211677 | 121908/2 | Rural | |
| 9211677 | 247136/4 | Rural | |
| 9211677 | 211236/2 | Rural | |
| 9211677 | 211231/1 | Rural | |
| 9211677 | 211217/1 | Rural | |
| 9211677 | 211218/1 | Rural | |
| 9211677 | 247136/3 | Rural | |
| 9211677 | 247136/1 | Rural | |

Yours sincerely,
Robert David Marshall.

This email has been checked for viruses by Avast antivirus software.
www.avast.com

# Representation No 27

**From:** Rebecca Maier
**To:** Break O Day Office Admin
**Subject:** Draft Break O'Day LPS - conservation rezoning
**Date:** Sunday, 12 December 2021 9:11:39 AM

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Hi. I'd like 31 Dalmayne Rd Gray, 7215 formally classified under the new "Landscape Conservation Zone'; as recommended by the
Tasmanian Planning Commision guidelines for conservation .covenanted properties.

Thank you

Rebecca Maier

## Representation No 28

For the attention of John Brown, General Manager
Break O'Day Council
32-34 Georges Bay Esplanade
ST HELENS TAS 7216
Via email: admin@bodc.tas.gov.au

**Representation to Break O'Day Council Draft Local Provisions Schedule (LPS)**

Property Owners: Kaylen Jorgensen and Esther Field

Property Address: 224 Lower German Town Road, St Marys 7215

PID: 2563894 142906/4

**Current proposed land-use classification: Rural Living**

**Requested land-use reclassification: Landscape Conservation**

Dear Break O'Day Council,

**As landowners this representation to the Draft LPS for the Break O'Day Council LGA is to change the classification of our property at 224 Lower German Town Road, St Marys from Rural Living to Landscape Conservation.**

We believe this change is both appropriate and warranted given the following:

- Our property of 11.8ha abuts the St Marys Pass State Reserve.

- We already have a covenanted portion of 7.4ha (63% of the area) of our property that is reserved for native flora and fauna, and our property is in close proximity to other protected areas, including neighbouring privately owned covenanted reserves, and the 46.5ha Cheeseberry Hill Conservation Area.

- The is no potential to undertake any commercial agriculture on the property and there are no plans to initiate this land use in the future.

- We believe that to transfer properties in Lower German Town Road, and in the Gray area, to landscape conservation would offer protection to the unique ecological biodiversity in the area and provide connectivity as an important wildlife corridor into the future.

- We support the submission (in which our property is included) by Conservation Landholders Tasmania (CLT) that the 30 properties in the Break O Day Shire that contain private reserves should be rezoned to Landscape Conservation.

- Our property supports, which we can substantiate through sightings, several threatened wildlife species including spotted-tailed quoll, eastern quoll, Tasmanian devil and the blind velvet worm.

- We believe that the classification of Landscape Conservation is most appropriate for this land and that this is in accordance with the Tasmanian Planning Commission Guideline No. 1 June 2018.

Yours sincerely,

Kaylen Jorgensen and Esther Field

11th December 2021

**Representation No 29**

10th December 2021

General Manager
John Brown
Break O'Day Council

Via Email: admin@bodc.tas.gov.au

**RE: BREAK O'DAY LOCAL PROVISON SCHEDULE - REPRESENTATION**

To The General Manager

I write to make formal representation to the Local Provisions Schedule (LPS) for the Break O'Day municipal area, which is currently on public exhibition until the 13th December 20201.

**Application of the Landscape Conservation Zone (LCZ)**
The LCZ is a new zone which has been introduced under the Tasmanian Planning Scheme (TPS). It does not exist under the existing Interim Planning Scheme. In applying the LCZ, Council has stated that:

*"The LPS provides adequate protection of natural and physical resources through, applying the Landscape Conservation Zone where land was located in the Environmental Living Zone and the natural and landscape values support this and where otherwise justified" – page 8.*

*"All allotments, unless detailed otherwise or included in a particular purpose zone, within the ELZ in the Interim Planning Scheme have translated to the LCZ in the draft LPS" – page 67.*

Based on the comments on page 8 and 67 in the supporting report, Council has generally interchanged all land currently under the ELZ with the LCZ as part of

the draft LPS. However, as stated in the 8A guidelines of the LCZ to provide direction for Council in appropriately applying the zone:

The Landscape Conservation Zone is not a replacement zone for the Environmental Living Zone in interim planning schemes. There are key policy differences between the two zones. The Landscape Conservation Zone is not a large lot residential zone, in areas characterised by native vegetation cover and other landscape values. Instead, the Landscape Conservation Zone provides a clear priority for the protection of landscape values and for complementary use or development, with residential use largely being discretionary.

The proposal outlined in the LSP draft to replace lots in the ELZ with LCZ is contradictory to the above guidelines. Furthermore the 8A guidelines states,

*LCZ 1 The Landscape Conservation Zone should be applied to land with landscape values that are identified for protection and conservation, such as bushland areas, large areas of native vegetation, or areas of important scenic values, where some small-scale use or development may be appropriate.*
*LCZ 2 The Landscape Conservation Zone may be applied to:*
*a) large areas of bushland or large areas of native vegetation which are not otherwise reserved, but contains threatened native vegetation communities, threatened species or other areas of locally or regionally important native vegetation;*

*b) land that has significant constraints on development through the application of the Natural Assets Code or Scenic Protection Code; or*

*c) land within an interim planning scheme Environmental Living Zone and the primary intention is for the protection and conservation of landscape values.*

*LCZ 3 The Landscape Conservation Zone may be applied to a group of titles with landscape values that are less than the allowable minimum lot size for the zone.*
*LCZ 4 The Landscape Conservation Zone should not be applied to:*

*a) land where the priority is for residential use and development (see Rural Living Zone); or*

*b) State-reserved land (see Environmental Management Zone).*

The operative wording contained within this statement relates to use and development in large natural bushland or large areas of native vegetation that are not already reserved. Not large lot residential areas or other existing settlement areas with existing environmental values that currently are zoned and used for residential purposes. Aside from the unregulated campground (s) on the edge of the coast that stretch from the final houses in the Jeanneret Beach area north to The Gardens. Land to the north of Binalong Bay Road, within the area along Gardens Road is fundamentally a residential community and is defined as such with established residential single dwellings. It is characterised by a mixed size of land titles, residential homes, holiday houses ,and accommodation but the primary intent and use of the land remains for residential purposes, and many of the lots are significantly cleared with hazard management areas around existing buildings.

Currently, residential dwellings are permitted in the ELZ. The zoning changes proposed in the draft LPS from ELZ to the LCZ in effect make residential use discretionary and consequently not a guaranteed use. If this approach is to be implemented, it significantly restricts landowners residential use rights and further entrenches the challenges and costs of residing and developing land in and around the coastline of the state.

At its core, removing an existing 'right to build' residential home and replacing it with the term 'discretionary' would act as a clear disincentive for any investment either private or commercial, and moves the area further away from progressive statewide zoning reform.

It is important when considering decisions such as this to consider the desires of the government of the day when the Act that directed a Tasmanian Planning Scheme (TPS) was created. On the 24th of September 2015, the Minister for Planning and Local Government, the Hon. Peter Gutwein stated the following:

“For too long, the planning system has acted like a handbrake on our economy. We want to fix the planning system to attract investment, grow our economy and create jobs.’

Aside from restricting landowners residential use rights, there are several areas of concern to consider from an economic and social standpoint as the ripple effect of such changes, namely:

1. Developers or home builders may be reluctant to purchase land when there is no certainty of being able to build a dwelling;
2. A reduction in available housing land for people looking to move to Break O’Day further adding to the current housing shortage; (the fundamental solution for the housing crisis begins with the access to land for development).
3. Land currently zoned ELZ may lose value when transferred to LCZ with the prospect of building a dwelling in doubt;
4. Confidence that Break O’Day as a place to invest in or move to will be damaged;
5. Financial institutions and banks will be reluctant to finance potential home builders and developers in LCZ where the fundamental right to build is not guaranteed.

This reality is not only contradictory to the intent of the State Government but also undermines the immense effort the Break O’Day council and state government departments such as Tourist Tasmania have put into driving tourism into the area. Strong investment in local infrastructure, and attractions such as the Flagstaff and Blue Tier to Swimcart Mountain Bike Trail initiates is currently supporting a buoyant local economy that is attracting visitors and families to relocate to our community. Assuming this was the desired effect of these initiatives and improvements. It seems counterintuitive to now be putting even further restrictions on existing residential areas where there is immense opportunity for considered growth and development while still aligning with the environmental characteristics and values of the area.

In summary, my primary concern is that Council appears to have incorrectly applied the LCZ to the majority of residential lots which are currently within the ELZ under the Interim Scheme. Prioritising natural values and the environment above and beyond the existing residential use, social and economic values of these lots, property owners and communities which will undoubtedly have long-lasting impact on the local economy. I appreciate Councilors and staff have put an enormous amount of work in to the planning reform process over many years. This submission in no way underestimates that effort or the difficulties that are inherent within this reform agenda. But I respectfully request the council revise their draft plan and give serious consideration to the concerns outlined.

Sincerely,

Tayler Paulsen
2/291 Gardens rd,
Binlaong Bay
TAS, 7216
taylerpaulsen@hotmail.com

# Representation No 30

**From:** Beris Hansberry
**To:** Break O Day Office Admin
**Subject:** BODC LPS
**Date:** Friday, 10 December 2021 11:47:28 AM

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I wish to make the following points for the Break O Day LPS.

: It is of utmost importance that Council retain the current prohibition of development within 1 km of the high water mark to avoid ribbon development, and containing any development within already serviced areas.

: I am very concerned about the plans for multiple dwellings and strata title proposals outside of serviced areas, as these will require a need for individual sewerage and water systems. These should not be allowed in the landscape conservation zone due to possible effects on landscape values.

: It is also important to establish a scenic protection code that will protect landscape values in general in the municipality, rather than just along road corridors.

:Council should support the Future Potential Production Forests as environmental Management Zones, as identified by the TFA as having important environmental values needing protection for threatened species. At the time Forestry Tasmania and the Tasmanian Goverment agreed to this evaluation, and have not yet withdrawn their approval of this decision.
Council should be proud to have such values under its control and act accordingly.

: Another concern is BODC's approach to stormwater flows from settlements to natural water bodies without proper treatment or diversion to protect aquatic ecosystems.
Better management of stormwater should reduce overland flow and increase water quality at source. The proposed SAP will not achieve this.

: It is imperative that the LPS ensures that the biodiversity overlay in the Natural Assets
Code is more comprehensive, council must recognise and act upon the importance of linking landscapes to protect and maintain wildlife corridors,biodiversity, and habitat.
The combination of these features is what makes BODC so unique... let's keep it that way by good policy in local government.

Sincerely,
Beris Hansberry
Gould's Country, 7216
Ph 63736146

# Representation No 31

**From:** Chris
**To:** Break O Day Office Admin
**Cc:** John Thompson
**Subject:** Representation on the Draft Break O"Day Local Provisions Schedule - C. Barron
**Date:** Friday, 10 December 2021 9:36:37 AM
**Attachments:** 5 German Town Road St Mary"s TAS 001.jpg

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Attention: Break O'Day Planning Authority

I am the owner of the conservation property at Lot 5 Lower German Town Road, St Marys (PID 2563907, CT 142906/5). In the currently exhibited BreakO'Day Draft Local Provisions Schedule my property and surrounding conservation properties have been rezoned as Rural.

My property contains the significant proportion of the Lower German Town Road St Marys Reserve #5 protected by conservation covenant which has therefore been identified by both the State and Commonwealth Governments for protection and conservation of the biodiversity it contains. The non-covenanted land on my property, which contains a residential dwelling, is unsuitable and not used for agriculture. The five adjoining Lower German Town Road St Marys Reserves, including mine, have a combined area covering 59% of total area of the five titles. My property as well as Reserve #3 and #4 adjoin the 361 ha St Marys Pass State Reserve zoned as Environmental Management.

In its representation Conservation Landholders Tasmania has presented a detailed case for rezoning the five adjoining properties to Landscape Conservation based on Guidelines LCZ1 and RZ1, the Tasmanian Planning Commission's advice posted on the Planners Portal on 22 April 2021, and the use of Landscape Conservation Zone by Break O'Day Planning Authority for similar-sized clusters of non-reserved titles to the east and southeast of St Marys. I support their case for rezoning the five properties and agree to my property being rezoned to Landscape Conservation.

Could you please acknowledge receipt of our representation?

Chris Barron

PS please note it has come to my attention you do not posses my current correspondence address - I will send an email to taxhelp@treasury.tas.gov.au with my updated details

Chris Barron

Urk 2
1843 JT Grootschermer
Netherlands
+31683679503



# Representation No 32

Date 10/12/2021

Planning Department

Break O'Day Council

Via Email: admin@bodc.tas.gov.au

**RE: BREAK O'DAY Rural Living zoning**

To the General Manager

I am the owner of a small specialty agricultural fertiliser business which currently operates out of the north of Tasmania. I would like to purchase some land close to St Helens to move my business. My requirement is to build a house to live in, with enough land for a shed of approx. 12x20 metres. This shed will be my working office and area for storage of samples for quality retention and customer samples. I would need access to NBN and town water.

I recently purchased a small house and block in St Helens as a stop gap, but this is unsuitable for my business long term.

I have been looking for suitable rural living land of around 5 acres for around 2 years now but have been unable to find anything. Rural living land close to the St Helens township is in very short supply and very hard to come by.

I notice that in the draft State Scheme submission from Break 'O Day Council that there is no new allocation of rural living land close to the township of St Helens. In fact, it looks to me as if all existing Environmental Living land has simply been translated to Landscape Conservation even though Landscape Conservation Zoning is not a replacement zone for Environmental Living, and council had the opportunity under Planning Commission guidance to be able to translate Environmental Living land to Rural Living.

Concerning to me is that if I were to purchase land zoned as Landscape Conservation that uses are discretionary. I note for example, that grazing of cattle or sheep (which would normally be carried out on a large clear lot), could be refused at the discretion of Council under the proposed LC Zone. Any buildings that I may want to construct in a Landscape Conservation zone are far more discretionary to be refused by council, compared with Rural Living zoning. I would not be prepared to purchase land zoned as Landscape Conservation as I consider it far too risky for the above reasons.

I would appreciate knowing the reasoning behind council choosing not to allocate any rural living land under this draft proposal. I would also like to request that council reconsiders the proposed translation of the Environmental Living zones to Landscape Conservation.

I would like to move my small business to St Helens but may have to consider another area in the state if I am unable to find the right land.

Yours sincerely,

David Rann

5 Penelope St, St Helens

# Representation No 33

9th December 2021

General Manager
John Brown
Break O'Day Council
john.brown@bodc.tas.gov.au

Via email

Dear Mr Brown,

I write to make formal representation to the relevant exhibition documents namely the draft Local Provisions Schedule (LPS) for the Break O'Day municipal area. The following representation is submitted as part of the formal process required of the Council by the Tasmanian Planning Commission (TPC) under Section 35B of the Land Use Planning Approvals Act 1993 (the Act). I thank Council and the TPC for the opportunity to make a formal representation.

As I understand it, representations are to be confined to matters specifically relevant to section 35E of the Act, the operative section of the Act that defines what can be included in a representation is as follows:

*(3) Without limiting the generality of subsection (1) but subject to subsection (3A), a person or body may make in relation to the relevant exhibition documents in relation to a draft LPS a representation as to whether –*
*(a) a provision of the draft LPS is inconsistent with a provision of the SPPs; or*
*(b) the draft LPS should, or should not, apply a provision of the SPPs to an area of land; or*
*(c) the draft LPS should, or should not, contain a provision that an LPS is permitted under section 32 to contain.*

To that end I provide the following representation in relation my property at 1/291 Gardens Road and more broadly in response to the Particular Purpose Zone – Coastal Settlement.

1) (a) a provision of the draft LPS is inconsistent with a provision of the SPP, namely the proposed use of the Landscape Conservation Zone has been incorrectly applied given the residential nature and usage of the property.

   (b) the draft LPS should apply a provision of the SPP's to an area of land, namely 1/291 Gardens Road, Binalong Bay should be zoned Low Density Residential land.

   (c) the application of a Particular Purpose Zone - Coastal Land is excessively broad with its proposed application. This broadscale rezoning with only the "coastline" as a site-specific qualification does not deliver a planning outcome consistent with the Act. The proposed PPZ – Coastal Land has been developed to deliver modified standards over a number of local areas because of a view that the State Planning Provision standards are not appropriate. This approach is inconsistent with the requirements of Section 32(4) of the Act.

Representation: Supporting Commentary

The guideline provided by the TPC to local government in relation to the development of the Tasmanian Planning Scheme (TPS) outlines the following:

"The Tasmanian Planning Scheme (TPS) sets out the requirements for use or development of land in accordance with the *Land Use Planning and Approvals Act 1993* (the Act).

The TPS comprises two parts:

The State Planning Provisions (SPPs) which includes the identification and purpose, the administrative requirements and processes, including exemptions from the planning scheme and general provisions that apply to all use and development irrespective of the zone, the zones with standard use and development provisions, and the codes with standard provisions; and

The Local Provisions Schedules (LPSs) that apply to each municipal area and include zone and overlay maps, local area objectives, code lists, particular purpose zones, specific area plans, and any site-specific qualifications.

The SPPs and the relevant LPS together form all of the planning provisions that apply to a municipal area (the local application of the TPS). These will be administered by planning authorities.

The SPPs also set out the requirements for the Local Provisions Schedules.

The provisions in the TPS should be read together with the Act."

The TPS will have a defined set of SPPs that are to be complied with in a consistent manner across the State. A state-wide planning scheme that supports a consistent, sustainable, and reliable legislative framework for all Tasmanian's to be afforded the same benefits regardless of the Council area they may own property and/or reside within. A level of localised variation is acceptable via the LPS when and where the Planning Authority can reasonably show compliance with the SPP's and the existing intent and legislative requirements of the Land Use Planning Approvals Act (1993) (LUPAA).

The draft LPS is inconsistent with the SPPs via the **incorrect use and application of the Landscape Conservation Zone as a replacement for the current Environmental Living Zone**. The proposal to include a Particular Purpose Zone – Coastal Living to transition the remained of Environmental Living Zoned lots also to the Landscape Conservation Zone does not meet the requirements of Section 32(4)(a) of LUPAA.

The Break O'Day Council in the document currently under exhibit state the following in support of this representation:

‘ *3.1.15 Landscape Conservation Zone (LCZ)*

*The Landscape Conservation Zone should be applied to land with landscape values that are identified for protection and conservation, such as bushland areas, large areas of native vegetation, or areas of important scenic values, where some small scale use or development may be appropriate.*

*The Landscape Conservation Zone may be applied to:*

*(a) large areas of bushland or large areas of native vegetation which are not otherwise reserved, but contains threatened native vegetation communities, threatened species or other areas of locally or regionally important native vegetation;*

*(b) land that has significant constraints on development through the application of the Natural Assets Code or Scenic Protection Code; or*

*(c) land within an interim planning scheme Environmental Living Zone and the primary intention is for the protection and conservation of landscape values.*

*The Landscape Conservation Zone may be applied to a group of titles with landscape values that are less than the allowable minimum lot size for the zone.*

***The Landscape Conservation Zone should not be applied to:***
***(a) land where the priority is for residential use and development (see Rural Living Zone); or***
***(b) State-reserved land (see Environmental Management Zone).***

***The Landscape Conservation Zone is not a replacement zone for the Environmental Living Zone in interim planning schemes. There are key policy differences between the two zones. The Landscape Conservation Zone is not a large lot residential zone, in areas characterised by native vegetation cover and other landscape values. Instead, the Landscape Conservation Zone provides a clear priority for the protection of landscape values and for complementary use or development, with residential use largely being discretionary.***

*Together the Landscape Conservation Zone and the Environmental Management Zone, provide a suite of environmental zones to manage use and development in natural areas. ‘*

**The operative wording contained within this statement relates to use and development in natural undeveloped areas, not large lot residential areas or other existing settlement areas with existing environmental values that currently are zoned and used for residential purposes.**

The zoning changes proposed in the draft LPS from EL to the LCZ **in effect makes residential use a discretionary use**. Given the residential nature of many of these enclaves and communities, it incorrectly applies the SPP and the intent of the TPS on a large number of titles and landowners within the municipality with **little if any strategic, economic or socially defined reasoning**, beyond the desire to protect landscape and environmental values above the existing residential use and the potential for these areas for further considered development.

If this approach is extrapolated across the state, all small enclaves, residential hamlets and the like will be rezoned under a use class that waters down their residential use rights and further entrenches the challenges and costs of residing and developing land in and around the coastline of the state. There are already a suite of protections in place to mitigate unsustainable coastal development and the blanket use of the LCZ as a corner stone to the transition to the TPS would seem draconian given the legislative mantra that bought about the state planning reform process in the first place.

It is important when considering decisions such as this to consider the desires of the government of the day when the Act that directed a TPS to be created be taken into account. On the 24th of September 2015, the Minister for Planning and Local Government the **Hon. Peter Gutwein** stated the following:

**"For too long, the planning system has acted like a handbrake on our economy. We want to fix the planning system to attract investment, grow our economy and create jobs.'**

It's clear the current regionally based approach to planning isn't working, with different rules for different areas making the system complex and difficult to navigate.

That is why we are introducing a new Tasmanian Planning Scheme which will take a state-wide approach. This will result in consistency across the State.

Currently, there is only 15 per cent consistency across the 29 councils in the three regional areas.

Under the new Tasmanian Planning Scheme, there will be around 80 percent consistency state-wide, providing more clarity and certainty for everyone.

This is all about creating a planning system that is **faster, fairer, simpler and cheaper**, making it easier to invest in Tasmania and encouraging more economic development and job creation.

One state-wide planning system will provide confidence for those looking to invest and expand.

It means housing providers, developers, designers, planners, and builders who operate across different council areas from Bicheno to Queenstown, Devonport to Dover, will not need to use a set of different rules for each place."

The legislative intent of the government of the day and the intent of the Act is to avoid wherever possible zoning anomalies across the state, regions and Council areas. The Liberal government remains in office and I contend that their position has not changed. The proposed PPZ and the use of the LCZ outlined in the Break O'Day DLPS is in conflict with the governments stated intent for planning reform.

The Council within its report are open and transparent about transitioning the majority of ELZ land across to the LCZ. They outline the challenge they have faced when seeking to implement the SPPs while attempting to maintain the previous integrity and intent of the ELZ.

As I understand it my property 1/291 Garden Road, Binalong Bay) will not be included in the PPZ. Properties directly to the east of the Gardens Road have been included.

The Gardens Road, Jeanneret Beach and Lyall Road area are already a defined residential area and to those that live here a community. It is characterised by a mixed size of land titles, residential homes, holiday houses and accommodation, including an already approved but not yet built visitor accommodation project of significant size only footsteps from my property, as well as sizeable strata developments and newly built homes. By way of example of the confused use of zoning in this area alone, the DLPS has sought two separate planning pathways to create the same zone intent, in effect of the same community of residents, that being the incorrect use of the LCZ across all titles in this area. The same approach appears to have been implemented in other similar areas of the municipality.

The DLPS seeks to utilise not only a direct transition for some titles from the ELZ to the LCZ but also a PPZ to transition others also to the LCZ.

The commentary relating to the rationale behind the need for a PPZ to effectively transition lots to the LCZ in coastal areas is in effect the same provided for those lots outside of the PPZ being transitioned also to the LCZ:

"5.1 Particular Purpose Zone – Coastal Settlement

The PPZ is proposed in the following locations: The Gardens, Seaton Cove, Jeanneret Beach, Bayview, Diana's Basin and Four Mile Creek. All sites are currently within the Environmental Living Zone under the interim scheme. Water and sewer infrastructure are not provided in these locations; the lots are generally small clusters of lots, with an area less than 4,000 $m^2$, supporting existing residential uses and located in areas with scenic and natural value.

These sites are isolated from settled areas and land within other residential zones and are located in unique areas that offer no further development in the future. These are primarily in coastal locations, surrounded by land within the Environmental Management Zone or Environmental Living Zone with large lots sizes (that have transitioned to the Landscape Conservation Zone).

In most cases the houses that have been established are of long standing and created at a time when planning controls were not as comprehensive as existing and prior to introduction of the State Coastal Policy.

A review of the SPP Low Density Residential Zone (LDRZ) and Landscape Conservation Zone (LCZ) was undertaken. This analysed the zone purpose, use classifications and acceptable solution standards as detailed in the SPPs as well as the direction on how they should be applied as specified in the 8A Zone Application Guideline.

The review highlights the considerable difference between the two zones and that neither are intended or the desired fit for the established use and character of the sites in question.

To summarise, the LCZ should be applied to:

- large areas of native vegetation (bushland) or scenic values;

- ELZ land where the primary intention is protection and conservation of landscape values; and
- **Should not be applied to land where the priority is for residential use and development**.

  While the LDRZ should be applied to:

  - residential areas with large lots that are constrained i.e. through infrastructure services or attributes of the land; and
  - should not be applied for the purpose of protecting areas of important natural or landscape value.

    There is a clear gap between these two zones. A zone that allows for residential lots on land that is less than an acre, that is not serviced, has established residential character and scenic or natural values that should be preserved. A zone that strikes more of a balance between protection of environmental values and residential character.

    This gap between the zones is further identified in reviewing the development and subdivision standards. The LCZ has an Acceptable Solution standard of 10m frontage setback and a 20m side and rear setback. While the LDRZ has an 8m frontage setback and a 5m side and rear setback. Further, the LDRZ allows for multiple dwellings with a site are of 1,500 $m^2$.

    If the LCZ was applied to the sites, it is likely that any extension to the existing dwelling would trigger discretion due to the side and rear setback requirements being targeted for significant land holdings. While if the LDRZ was applied to the sites, the side and rear setback, coupled with the multiple dwelling standards would allow for densification of these coastal shack settlements."

Firstly, I would like to reject out of hand the premise of the following statement:

"In most cases the houses that have been established are of long standing and created at a time when planning controls were not as comprehensive as existing and prior to introduction of the State Coastal Policy."

The reason for this rejection is that quick reference to development applications approved, and in some cases built, in the Gardens Road precinct while the Interim Planning Scheme has been in place will evidence that this assertion is patently untrue.

The intent of the SPP is clear and the transitioning of some existing lots zoned as EL inside and outside of the PPZ to the LCZ disregards the predominant residential use already well established in these areas. Many of these areas are residential communities close to the coast that are surrounded or have large lot residential properties abutting them, often some distance from the coastline itself. The two differing types of properties work in harmony to create the sense of place and community that is evident in these areas. Moreover these areas

are also characterised in most part by being situated close to or adjacent to the state coastal reserve and/or national parks land. The statement provided by Council in support above is generalised and non-specific. Many of these areas do in fact have the ability for further considered development, and for the most part are not 'isolated' from other residential areas, including nearby townships.

By way of example, Binalong Bay is immediately adjacent to Lyall Road which has a defined residential use, adjoining this area are properties that stretch to Jeanneret Beach, Jeanneret Court, along the length of the Gardens Road both on the east and western side from the intersection of Binalong Bay Road. This enclave and village are a community but under the interim planning scheme and the proposed draft LPS will be zoned entire differently. Binalong Bay, unserviced with either water or sewage, visually prominent and adjoining a coastal reserve, will be zoned LDR while the other parts of the area will be swept into a zone where their existing residential use is effectively unrecognised in favour of landscape conservation of what is already residential land.

All this is proposed to occur right beside unregulated campground(s) on the edge of the coast that stretch from the final houses in the Jeanneret Beach area north to The Gardens. These campgrounds are situated directly on the foreshore, are visually prominent for many residents of the area and have minimal toilets and services for the large number of visitors that utilise the area on a year-round basis. It is difficult as a resident to not see a significant inequity in the planning regime proposed under the DLPS for the area when visitors can enjoy unfettered use of the coastline directly adjacent to this community.

While the transition may be difficult for the Council, the correct application of the SPP, in particular for the properties to the north of Binalong Bay is the LDRZ. This may well be the case for many parts of the coastal communities that will be affected by the PPZ – Coastal Settlement and the proposed transition from the ELZ to the LCZ.

**Council note their concern of the potential impacts of such an approach in the draft LPS report:**

"Applying the LDRZ to these lots has the potential to change the character of the locations. If densification in these areas occurred, it would change the local visual amenity as most of the lots are located along or adjacent to the foreshore.

All the sites are located in areas that have scenic, topographic and natural value with established residential character. The provisions of the LCZ restrict and don't align with the residential character while the LDRZ would allow for further development/densification of these site which could result in changing of their intrinsic value. Preservation of these sites aligns with the following Strategies detailed in the Northern Tasmanian Regional Land Use Strategy."

I note that in the draft quoted above, namely the Northern Tasmanian Regional Land Use Strategy, no strategies as such are provided in support of the statement. I presume this to be an editing error but none the less it is a significant one for a document that presumably relies on these strategies as justification for the proposed PPZ.

Council goes on to state:

"Further to this, based on the Guidelines the General Residential, Rural Living and Village Zones of the SPP were not considered appropriate to apply to these sites.

The creation of the PPZ – Coastal Settlement was derived from the PPZ – Ansons Bay Small Lot Residential as well as a review of the above-mentioned SPPs zones and other compatible PPZs such as the PPZ – Tomahawk and Mussleroe Bay/Poole Defined Settlement Areas.

The creation of the PPZ satisfies 32(4)(a) of the Act as the titles collectively have significant social, economic and environmental benefits to the municipal area."

Section 32(4)(a) of the Act is very specific in its application and directive that for an area to have a PPZ applied it must meet the following criteria:

" (4) An LPS may only include a provision referred to in subsection (3) in relation to an area of land if –
(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; or
(b) the area of land has particular environmental, economic, social or spatial qualities that require provisions, that are unique to the area of land, to apply to the land in substitution for, or in addition to, or modification of, the provisions of the SPPs."

To my mind, given the scale that the PPZ **– Coastal Settlements relates to in Break O'Day, the draft LPS has not provided a sufficient level of justification as to the significance at a social or economic level of why a PPZ is required.** The environmental values of these coastal areas are mapped and already form part of the planning controls that exist in directing sustainable use and development under LUPAA. These will continue under the TPS. The social and economic impacts and constraints on development that the application of the PPZ would apply have not been quantified (or consulted). The existing residential values of the area(s) and the desires of community members who reside in these enclaves as to their support (or not) of considered intensification of the existing residential use equally have not been consulted in any way of which I am aware.

The impact on property owners and the region more broadly could be significant in economic and social terms**, however given the government's desire to make the planning system faster, fairer, simpler and cheaper, it would be difficult to contend that the PPZ as proposed would assist in delivering this goal.** I contend that the requirements of Section 32(4)(a) of the Act have not been achieved.

In summary, I submit that Council via the DLPS have sought to maintain the status quo of the interim scheme by utilising a combination of a coastal PPZ and direct transition of the current ELZ lots across to the LCZ.

This broadscale rezoning with only the "coastline" as a site-specific qualification does not deliver a planning outcome consistent with the Act. The proposed PPZ – Coastal Land and the blanket transition of ELZ lots across to the LCZ has been developed to deliver modified standards over a number of local areas because of a view that the State Planning Provision

standards are not appropriate. This approach is inconsistent with the requirements of Section 32(4) of the Act.

I appreciate Councillors and staff have put an enormous amount of work into the planning reform process over many years. This submission in no way underestimates that effort or the difficulties that are inherent within this reform agenda. Council is to be congratulated on its efforts and I thank you for the opportunity to make a submission on this important plan.

Yours sincerely,

PHPaulsen

Peter Paulsen

291 Gardens Road

Binalong Bay

TAS 7216

divebayoffires@gmail.com

# Representation No 34

**From:** Dale Richards
**To:** Break O Day Office Admin
**Subject:** To The General Manager of Break O Day Council
**Date:** Thursday, 9 December 2021 10:47:31 PM

CAUTION: Do not click links or attachments unless you recognize the sender and know the content is safe

To The General Manager, Break O Day Mayor & Councillors,
Re: Draught Local Provisions Schedule,
I hereby am making a formal submission to the {draft LPS). In Reference to Specific area plan.
We have many questions on what this plan is going to look like.
My PID No. is 7551040 with a Folio of 50226/1. This parcel of land, belonging to Kevin & Lorna Richards of 17 Homer Street, St Helens, 7216, has a specific area
plan No.BRE-SI.0
The (SAP) seems to be applied to our full parcel of land. Some of our concerns are little or no works can be undertaken in line with your pending SAP.
We are concerned for the Raptors, Wedge Tailed Eagles, along with the Black & White Sea Eagles. These birds nest close by North & South of the St Helens Airport.
There is some endemic fauna on the eastern end of the airport.
Clarification on ground dwelling & low canopy endemic wildlife.
Information on the effects to Jocks Lagoon.. a RamStar Site, resting place for migratory birds, including the spoon-billed duck. Its home for many species of water fowl & birds.
Questions regarding the more frequent air traffic.
If you build it, they will come.
We are also very concerned of the accumulation of larger volumes of run off water. This is already stretched to the limit, as pumped treated effluent water is currently irrigated onto the vegetation south east corner of the airport.
This ground water gathered there is covered in bright green smelly algae, People walking and riding through this isn't good. Also it is adding to the erosion in the area.
We are not against development, & look forward to further discussions and viewing what this plan looks like.
Kevin, Lorna & Dale Richards

Sent from Mail for Windows

# Representation No 35

| | |
|---|---|
| **From:** | sean.guinane@bigpond.com |
| **To:** | Break O Day Office Admin |
| **Cc:** | thompsonjohng@gmail.com |
| **Subject:** | Representation on the Draft Break ODay Local Provisions Schedule - S. Guinane |
| **Date:** | Thursday, 9 December 2021 8:22:39 PM |

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Attention: Break O'Day Planning Authority

I am the owner of Integrated Catchment Services Pty Ltd which owns the 120 ha conservation property at Schulhofs Road, Upper Blessington (PID 6417085, CT 169864/2. In the currently exhibited Break O'Day Draft Local Provisions Schedule this property has been rezoned as Rural.

The property is mostly covered by the 115.1 ha Ben Nevis South Reserve protected by conservation covenant which has therefore been identified by both the State and Commonwealth Governments for protection and conservation of the biodiversity it contains. The non-covenanted land is unsuitable and not used for agriculture.

In its representation Conservation Landholders Tasmania has presented a detailed case for rezoning my property to Landscape Conservation based on Guidelines LCZ1 and RZ1 and the Tasmanian Planning Commission's advice posted on the Planners Portal on 22 April 2021. I support their case for rezoning my property and agree to my property being rezoned to Landscape Conservation.

Could you please acknowledge receipt of our representation?

Regards,

Sean Guinane
Po Box 351
Newstead
Tas, 7250

0448010561

# Representation No 36


**From:** rhprebble@esat.net.au
**To:** Break O Day Office Admin

**Subject:** Representation on the Draft Break O"Day Local Provisions Schedule - R. and H. Prebble
**Date:** Thursday, 9 December 2021 8:18:48 PM

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Attention: Break O'Day Planning Authority

We are the owners of the 61.59 ha conservation property at 130 Curtis Road, St Marys (PID 7378807, CT 121098/1 and 53239/1). In the currently exhibited Break O'Day Draft Local Provisions Schedule our property has been rezoned as Rural.

The 53.77 ha CT 121098/1 contains the 38.6 ha Curtis Road St Marys Reserve protected by conservation covenant which has therefore been identified by both State and Commonwealth Governments for protection and conservation of the biodiversity it contains. The non-covenanted land on CT 121098/1 is unsuitable and not used for agriculture.

The reserve offers protection and management of Eucalyptus brookeriana wet forest, tall Eucalyptus obliqua forest, Tasmanipatus anophthalmus (blind velvet worm) habitat and Permian limestone karst systems. The eastern side of the reserve backs onto the western face of Mt Elephant (Under the Scenic Protection assessment - North East Tasmania by Geoscene International for the North East Bioregional Network, Tasmania, having the highest level for scenic protection).

In its representation Conservation Landholders Tasmania has presented a detailed case for rezoning CT 121098/1 to Landscape Conservation based on Guidelines LCZ1 and RZ1. We support their case and agree to CT 121098/1 being rezoned to Landscape Conservation with CT 53239/1 to remain in the Rural Zone as exhibited.

Please acknowledge receipt of our representation.

Yours faithfully,

Richard and Heather Prebble

(ph. 0363722664 or 0439356709)

# Representation No 37

| | |
|---|---|
| **From:** | Ian Matthews |
| **To:** | Break O Day Office Admin |
| **Subject:** | Draft BreakO"Day LPS |
| **Date:** | Thursday, 9 December 2021 11:42:06 AM |
| **Attachments:** | Min"s LPS submission 2021.docx<br>BORNEMISSZA PROTECTED AREA.jpeg<br>BORNEMISSZA HABITAT.jpeg<br>Bornemissza STAG BEETLE.jpeg<br>Threatened Vegetation and Fauna in FPPF land surrounding Blue Tier Reserve v2.pdf |

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Dear Break O'Day Council,

Please find attached submission into draft zoning of our private property and surrounding FPPF Land plus supporting evidence.

Yours sincerely,

Ian Matthews

IC & KN Matthews
201 Terrys Hill Road
Goshen
ST HELENS TAS 7216

9th December 2021

General Manager
Mr John Brown
Break O'Day Council
32-34 Georges Bay Esplanade
ST HELENS TAS 7216

Email: admin@bodc.tas.gov.au

Attention: Break O'Day Planning Authority

**Request to rezone our property to Landscape Conservation zone and proposal to rezone the two adjoining FPPFL titles to Environmental Management**

***Rezoning of 201 Terry Hill Road to Landscape Conservation***

We are the owners of the conservation property at 201 Terry Hill Road, Goshen (PID 6805379, CT 239330/1, 239331/1 and 239332/1). In the currently exhibited Break O'Day Draft Local Provisions Schedule our property has been rezoned as Agriculture.

We request that this be changed as three titles have a conservation covenant. A conservation covenant is a legally binding agreement. It is protected under law. It is therefore not appropriate to have these titles listed as Agriculture. The changes proposed in the Break O'Day draft – LPS must reflect the status of the land in question and Landscape Conservation zone better reflects this.

Before the 47.9 ha Blue Tier Reserve was protected by conservation covenant on our 81 ha property I was approached by Commonwealth Government representatives to place the forested land into a CAR reserve to protect the Bornemissza's Stag Beetle and Eucalyptus ovata forest, as well as Eucalyptus viminalis. Reports by Karen Richards (1999) and Jeff Meggs all point to increased protection for the Bornemissza's Stag Beetle. The overlap between this species and the Simpsons Stag Beetle was also seen as being vitally important to protect. When it was agreed to protect our private property an approach was made to Forestry Tasmania to review logging plans around the area of the private covenant.

In 2003 Forestry Tasmania, realizing the importance of the Private Reserve, put in place a 73.5 hectare Protected Area for the Bornemissza Stag Beetle. Jeff Meggs, two District Foresters and myself surveyed the surrounding forest before they settled on the boundaries. All representatives from the Commonwealth, Forestry Tasmania and myself did what we could for the conservation of protected fauna under the EPBC Act. The late Dr George Bornemissza OAM, the scientist responsible for the species listing, believed the

reserve area too small. This recognition by both the State Government as part of Tasmania's Reserve Estate under the RFA and the Commonwealth Government as part of Australia's National Reserve System for protection of the biodiversity it contains, was made at the highest level of Government.

In its representation, Conservation Landholders Tasmania (CLT) has presented a detailed case for rezoning our property to Landscape Conservation based on Guidelines LCZ1 and AZ6. In addition to the two threatened vegetation communities No 20 *Eucalyptus ovata* forest and woodland and No 25 *Eucalyptus viminalis* wet forest, our property contains and provides habitat for the EPBC listed Critically Endangered *Hoplogonus bornemisszai* (Bornemissza's stag beetle). Our property is part of a broader area of habitat for *Hoplogonus bornemisszai* which together with various other threatened species, is recognised by Sustainable Timbers Tasmania (formerly Forestry Tasmania) in the attached report and map.

***Rezoning of surrounding FPPF land to Environmental Management to incorporate Bornemissza's stag beetle Protection Area***

Because the natural values protected by the Blue Tier Reserve, including the range of the critically endangered Bornemissza's stag beetle, extend across the two adjoining Future Potential Production Forest titles (PID 3385639, CT 159503/1 and CT not listed) we propose that these two titles are rezoned to Environmental Management to provide landscape-wide planning protection for these natural values. The threatened vegetation communities and threatened fauna observations are shown in the attached PDF.

Also attached to this email are photographs of three historical documents showing the Bornemissza's stag beetle Protection Area declared by Forestry Tasmania, the potential range of this species identified by the Forest Practices Authority, and an article about the beetle sanctuary. Scanned copies will be provided to the Planning Authority as soon as practicable.

The planning guidelines used when preparing Local Provision Schedules for FPPFL have deemed these titles Rural. We believe they should be re-classified to Environmental Management as it better reflects the economic status of the land to the community and the biodiversity within.

The FPPFL contains:

1. Threatened Species Habitat.
2. Wedge Tail Eagle nesting sites.
3. The Vegetation backdrop to the Blue Tier Reserve when viewed on the drive between Goshen and Blue Tier along Lottah Road.
4. Mountain bike trails including the Blue Tier to Bay of Fires 42km descent an important tourism asset.
5. A natural carbon capture and storage area of forested land.

It was Sir David Attenborough that said in his book "A Life on this Planet"

> ‘To restore stability to our Planet, therefore, we must restore its biodiversity, the very thing we have removed. It is the only way out of the crisis that we have created. We must rewild the World.’

Environmental Management better reflects the need to protect forested land as an investment in mitigating Climate Change and better reflects the economic base of this East Coast economy of tourism and agriculture.

We understand that DPIPWE has agreed to the rezoning of areas of FPPF land in other municipalities, and while these titles were not included in the 25,800 ha of FPPF land to be added to the Tasmanian Reserve Estate, their historically recognised natural values warrant their consideration by DPIPWE for the Environmental Management Zone.

Acknowledgement and receipt of our representation would be appreciated.

Yours Sincerely



Ian C. Matthews




Private Land
Streamside Reserve
MDC Protection
Rivers, Streams & Creeks (25K)
Intermediate Contour (10m interval)
Index Depression Contour (50m interval)
Intermediate Depression Contour (10m interval)
60 Metre Contour (25K)
Not coded
Primary all weather 2 lane access
Sigificant all weather 2 lane feeder
Heavy vehicle single lane access road
Vehicular track fire trails (unformed 2.4
Nestlines Grid Interval 1000 METERS

73.5 ha

LOCATION MAP

NOTE: Co-ordinates on this map are based on GDA94. Any topographic data on this map has been supplied by DPIWE. Data has been captured at differing scales & boundaries may not always co-incide

# Bornemisszas Stag Beetle
## Protection Area

GDA

| | |
|---|---|
| Map Ident: plot030723_1 | Prepared by: Oka Santoso |
| Date: July 23, 2003 | Prepared For: |

Scale 1:10000
0 — 500 m

Forestry Tasmania
GROWING OUR FUTURE

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# Threatened Species Range

*Bornemizzas stag beetle*






Known localities

Potential range

N

0 0.25 0.5 1 Km

Sources:
Base layers (The LIST)
FPP (FPA)

Datum: GDA 1994
Date: 3/11/2006
Prepared by: David Wilson

© FPA 2006

FOREST PRACTICES AUTHORITY

# new sanctuary for a rare beetle



The future of an endangered Tasmanian stag beetle is looking brighter thanks to the joint action of Forestry Tasmania and a private land-owner in the state's north-east.

Forestry Tasmania has joined with landowner, Ian Matthews of Gould's Country, to reserve a total of 120 hectares of habitat of an endangered species, the Bornemisszas stag beetle.

The beetle is named after the scientist who discovered the species, Dr George Bornemissza, whose extensive collection of beetles from around the world is housed in the Tasmanian Museum and Art Gallery. The beetle only occurs in the Goulds Country area in north-east Tasmania where it is restricted to around 970 hectares. A feature of the male Bornemisszas stag beetle, and its stag beetle relations, is its large pincers or jaws, which resemble deer antlers.

Forestry Tasmania has established a 70 hectare reserve in prime Bornemisszas stag beetle territory to complement Ian Matthews' adjoining 50 hectare Private Forest Reserve. The area for the reserve was identified after survey work by Bass District staff and Forestry Tasmania's Conservation Planner, Jeff Meggs.

"I was familiar with the area because I'd worked there in the past. There has also been some research on this beetle by the Forest Practices Board and that helped delineate the habitat," Jeff said.

It is believed to be the biggest reserve in Australia set aside specifically for an invertebrate.

"The creation of the joint reserve gives the species a much brighter future. You have a solid core of habitat that won't be disturbed in an area where there was very little protected habitat at all."

Jeff has a fascination with the rare beetle, which is one of three closely related species in the Blue Tier-Gould's Country region. "These are really ancient, Gondwanan species," he explains. "It is possible that the three species evolved out of a single species after they were separated by glaciation more than 10,000 years ago.

"Recent observations suggest that the species may now be converging, with the range of the Bornemisszas and Simsons stag beetles overlapping in some areas."

# crawling WITH INSECTS



Forestry Tasmania has one of the state's largest insect collections, with an estimated 30,000 specimens.

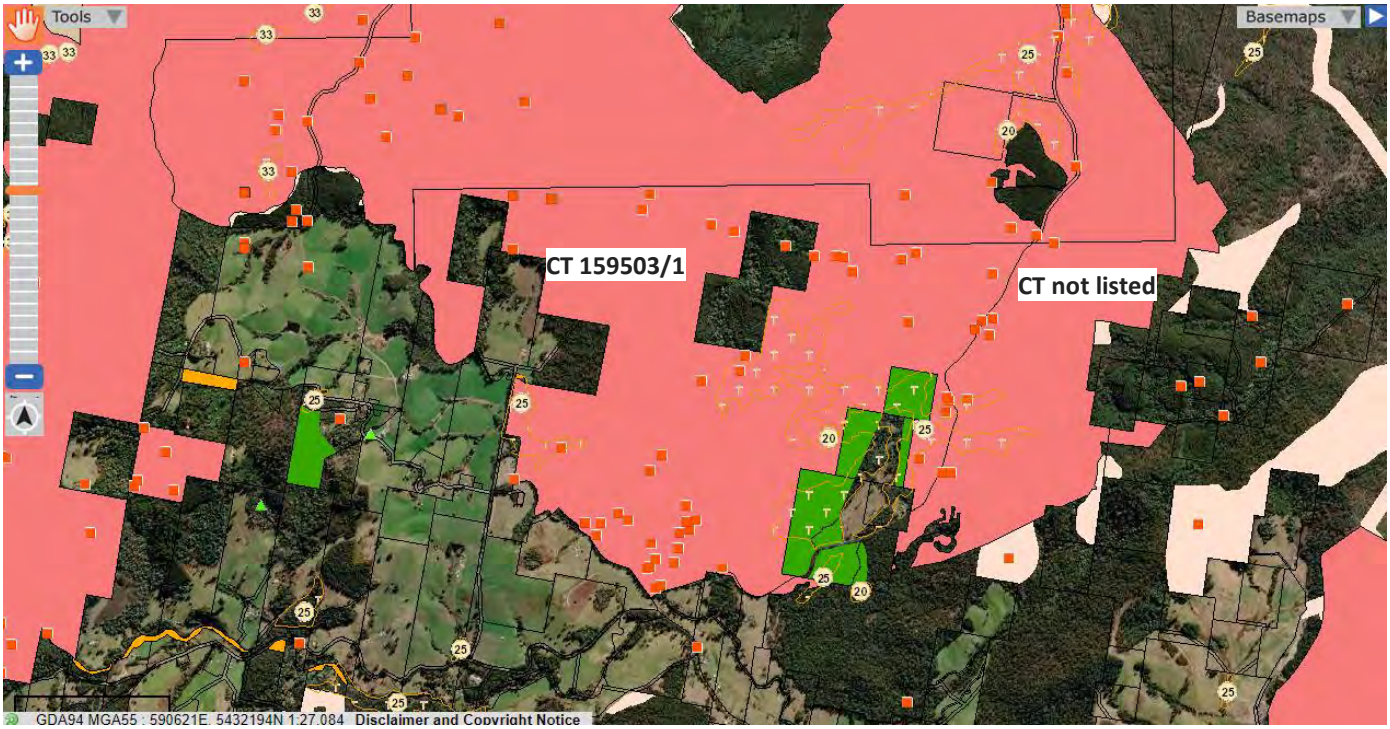
Conservation biologist, Simon Grove, has initiated the enormous task of re-organising and computer cataloguing the specimens. He is also lodging part of the collection on the Australian Plant Pest Database with commonwealth funding from the Plant Health Australia.

Simon aims to make the collection the main state-wide repository for forest insects, providing a better understanding of species distributions around the state.

"It will also help us identify if we've found something new – perhaps a pest species from overseas or a native species of conservation concern – so we will be in a better position to take action to manage the forests appropriately."

◀ The gumleaf skeletoniser, Uraba lugens, causes severe defoliation of young eucalypts

**Threatened Vegetation Communities and Threatened Fauna in FPPF land surrounding Blue Tier Reserve**




ListMap 'Tasmanian Reserve Estate' Layer (conservation covenant – green, FPPF – dark pink) overlain by 'Threatened Vegetation Communities' ('T' pattern) and 'Threatened Fauna Point' Layers (red squares) showing the widespread threatened biodiversity in the landscape.

**Threatened Vegetation Communities identified** (as listed in Schedule 3A of the *Nature Conservation Act 2002*)

No 20 *Eucalyptus ovata* forest and woodland
No 25 *Eucalyptus viminalis* wet forest

**Threatened Vegetation Communities identified** (as listed in Schedules 3-5 of the *Threatened Species Protection Act 1995*)

Endangered Bornemissza's stag beetle (*Hoplogonus bornemisszai*) – Critically endangered in EPBC
Endangered Masked owl (*Tyto novaehollandiae*)
Endangered Tasmanian wedge-tailed eagle (*Aquila audax subsp. Fleayi*)
Endangered Eastern quoll (*Dasyurus viverrinus*)
Vulnerable Simson's stag beetle (*Hoplogonus simsoni*)
Rare Hydrobiid snail Terrys Creek (*Beddomeia tasmanica*)

# Representation No 38

**From:** Jo Williams
**To:** Break O Day Office Admin
**Subject:** BODC - Local Provisions Schedule
**Date:** Wednesday, 8 December 2021 2:40:17 PM

CAUTION: Do not click links or attachments unless you recognize the sender and know the content is safe

To the Planning Department,
We are the owners of 83 Annie St, Martha Vale Park, St Helens. Our property is currently zoned as Rural Resource. I note that in the current draft of the LPS the titles 125919/1 and 241612/1 are listed to be rezoned to Rural as per Map 31 of your report. The balance of our farm is to be zoned Agricultural. We would like to understand the justification for this zoning.
Further, as titles 125919/1 and 241612/1 are surrounded by developing subdivision on Annie Street (under General Zoning) and also directly adjoins houses in General Zoning on Tully Street we would like the titles to be considered General Residential to suit the surrounding environment. From a strategic view, the land provides a sensible future opportunity for the growing population of St. Helens.
We are by no means experts in planning issues, so we would be pleased to meet and discuss the above with Council Officers if possible. Our contact details are below.
Regards

Ross and Jo Williams
Martha Vale Park
83 Annie St
PO Box 249
St Helens TAS 7216

Ross 0429202100
Jo 0429032694

# Representation No 39

**From:** Henk and Greta Jansen
**To:** Break O Day Office Admin
**Subject:** Representation LPS
**Date:** Wednesday, 8 December 2021 10:41:10 AM

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To Break O'Day Council

Representation re Draft LPS

We the undersigned own the property of 259/265 Medeas Cove Road, St Helens, which has now been subdivided into three allotments.

In relation to the draft proposal of the LPS we like to make the following representation:

We wish the 1.969 ha and 5.877 ha lots to be zoned rural living.

In the draft the adjoining properties of these lots are also classified as rural living.

The remaining 40.35 ha should be rezoned to rural.

Hendrik and Greta Jansen
PO Box 455
St Helens TAS 7216
Phone 6376 2437
Email: hgjansenmp@gmail.com

# Representation No 40

**From:** chrisandrex mackeen
**To:** Break O Day Office Admin
**Subject:** Break O Day Local Planning Provisions
**Date:** Tuesday, 7 December 2021 7:20:45 PM

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Submission to the current review of the Break O Day Planning Scheme.

As it stands at present in the Planning Scheme, the land PID 2948700 I am referring to is listed as General Residential.
The title on the land is to be used as Public Open Space.
The land contains a watercourse which makes it unsuitable for residential development and in high rainfall it is prone to flooding.
It is consistent with the following Zone Application Guidelines from Guideline No. 1OZC 1. "The Open Space Zone should be applied to land that provides or is intended to provide for the Open Space needs of the community including land identified for:

a. Passive recreational activities
b. Natural or landscape amenity within an urban setting.

Council would be aware that the community including myself have already very strongly voiced the need for this parcel of land in Oberon Place to be used as Public Open Space and for it to be listed in the Planning Scheme as such.
Thank you for your time

Christina Mackeen
5 Silver Street
Scamander 7215

Sent from Mail for Windows

# Representation No 41

**From:** Leanne Groves
**To:** Break O Day Office Admin
**Subject:** Re:objections to proposals
**Date:** Wednesday, 8 December 2021 8:06:58 AM

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To Council/counsellors
I strongly believe in all the following. The wording may be the same but I cannot improve on the points made so i submit them as my own views on the Councils planning /proposals and general approach to the world recognised significant environment. The stretch of coastline that gives Tasmania the best chance of adapting to climate change and thriving… leading to thriving communities and councils…well it is all in what you do next.

* Support the retention of a prohibition of subdivision within 1km of the high water mark along the coast to help prevent ribbon development and urban sprawl and focus development in serviced settlements

* Stop multiple dwellings and strata developments for tourism accomodation outside serviced areas including in the Landscape Conservation Zone

* Support a Scenic Protection Code that protects landscape values across the municipality. Noting that the Council has adopted a minimalist position of only looking at scenic protection along narrow road corridors

* Ask Council to improve its proposed Stormwater Specific Area Plan (SAP)

A key objective of a Stormwater SAP should be to reduce the overall quantity and improve the quality of urban stormwater flows to waterbodies as part of a comprehensive stormwater management program that is premised on the identification of important aquatic ecosystem values and the need to avoid or minimise any potential ecological impacts. A priority should be the management of stormwater to reduce overland flow and to increase water quality at source and where this is impractical then as part of a local treatment process incorporated into the council stormwater infrastructure.

The Council Stormwater SAP will not achieve these outcomes

* Support zoning Future Potential Production Forests (FPPF) land as Environmental Management Zone in recognition of the FPPF areas significant high conservation values and in some cases important scenic values

* Support split zoning of Agricultural zoned land where there are important landscape conservation and or scenic values with non farming areas zoned Landscape Conservation Zone

* The Council has also zoned large amounts of private land as Rural..... In the Rural Zone forestry and intensive uses such as feedlots and fish farms do not require a planning permit while Landscape Conservation Zoning emphasises protecting landscape values. Areas such as between the bottom of Elephant Pass through to the Nicholas Range around St Marys are environmental lifestyle areas not Rural industry areas. As such the majority of properties in such areas should be zoned Landscape Conservation Zone.

* Ensure that the biodiversity overlay in the Natural Assets Code is comprehensive and takes into account the importance of landscape connectivity/wildlife habitat corridors

Leanne Groves

Sent from my iPad

# Representation No 42

PO Box !40

Scamander,

7215




The Manager

Break o Day Council

!0/12/21

Dear Sir,

Comment on Local Provisions Schedule for DRAFT BREAKODAY PLANNING SCHEME

My wife Susan and i purchased our property at !8 Greenbank Drive in 1978 and have been involved with Planning submissions to the Planning Commission and RMPAT,and Parliamentary hearings since 1983.Representation has been as a community representative in the various groups representing Fourmile Creek and BODC municipality.

In 1983 the Chain of Lagoons Road Link was proposed to go through the village and not around it ,as it is located now .

We make this submission as individual ratepayers on the current LPS which may or may not be adopted when the current group "Friends of Fourmile Creek Inc" finalises its committee membership early in 2022.

So basically we support the translation of the draft Planning Scheme by the Break o Day Council,with a few variations in interpretation.

We will comment on zoning from Falmouth to Chain of Lagoons.

Map number 40

1. Falmouth. We support the low density zoning of Falmouth with a caveat that further subdivision be prohibited either within the town or adjoining the current town boundary of Falmouth.
2. Environmental Management Zone. We support this zone
3. Landscape Conservation Zone. We support this zone
4. Agricuture and Rural.l We feel that this zone should also be overlaid with the restrictions in the Landscape Conservation Zone due to its high landscape values as seen from the Tasman Highway at almost every point in both directions. So we disagree with Rural for this zone and it should be changed to Landscape Zone.

Map number 21

5. Agriculture and Rural As for . As for 4 above On this map the 6 boundary adjustment blocks are shown As Agriculture. The mapped zoning doesn't fit with the high value threatened species of fauna and flora habitat'or the high value landscape val;ues of this area.Change as for 4 above.

6 Landscape Conservation Zone in and around Fourmile Creek and south to Iron House Point.We support this zoning with the exception of the vinyard on the western side of the road,this should also be changed to Landscape Conservation, for obvious reasons.

7 Environmental Management. Northern end of Fourmile Creek Beach. This area was one of the many areas promised by government to be purchased for public access along the Link Road. Like politicians promises,nothing eventuated despite fierce lobbying from the Fourmile Creek community.Cuurrently privately owned was originally zoned Public Open Space in the "Interim Order Planning Scheme that governed land following the construction of the Chain of lagoons Road Link. Following 2 RMPAT Appeals,and a Supreme Court Appeal, the Council changed the zoning to allow the current house to be constructed.
We submit that this land should stay in Environmental management Zone,allowing no further development.

8 Particular Purpose Zone....Fourmile Creek Village. We support this zoning and oppose any change or enlargement to this zone.

9 Recreation Zone.....supported

10 Major Tourism Zone...White Sands...We support this zone around the existing development but do not agree with the new title addition heading SW from the eastern cluster of development. That titlt should be zoned landscape management.

11 Landscape Management Zone. For the rest of the coast through to the municipal boundary,we submit that all that country in private ownership needs to be zoned landscape management,without exception.
As a general comment on this zone,we submit that the biodiversity overlay in the Natural Assets Code is comprehensive,and that it takes into account the importance of landscape connectivity/wildlife habitat corridors. This needs to be included in all assessments of the establishment and management of this zone.

Proposed New Zone

PROPOSED ONE KILOMETER PROHIBITION OF subdivision,strata titles,tourism developments ,bnbs, ZONE FROM HIGH WATERMARK>

The background to this occurred when the 1996 State Coastal Policy was introduced the by the Liberal State Government. There is no need to quote from that documemnt in this submission.However the intention of the Policy was to contain and stop Coastal Ribbon Development,as has occurred in places like Beaumauris,for instance.The State at that time was looking to preserve coastal assests of Fauna,Flora,Archaeology and Landscape for future generations to enjoy and continue to foster.
One of the main thrusts was to centralise development in centres like St Helens and Bicheno,leaving the rest of the coast virtually untouched by development. Combined with this was the fact that the property known as" Chain of Lagoons"[CoL] had approximately 160 titles already existing over the 20 kilometers of its ownership. The property being a farming asset ran the risk of being sold off in small titles and further sub division occurring on those titles. The then BODCouncil took the "visionary" step of introducing the "One Kilometre Prohibition Subdivision" into its Planning Scheme around the turn of the century. The "CoL"

property continues to be farmed today 20 years on. So the Councils decision saved this and other areas from inappropriate development along its whole coastline.
We submit this should continue and include other prohibitions eg,

1Tourism Development outside fully serviced centres of St Helens and Bicheno.

2BnBs or similar tourism development,outside fully serviced centres

3Strata Titles, this has become a loophole since the last planning scheme and is inappropriate to allow this to continue in the coastal zone as a pseudo subdivision,as mentioned above.

4Landscape conservation must also hold sway as priority in this zone The Scenic Corridors of 50 or !00 meters are an insuffient " stop gap" in every case. They do not preserve landscape or protect biodiversity.

5 Streamside management must also be strengthened in this zone. There must be no trade offs for the maintenanmce of storm water and stream quality. The forest Practices Code must be introduced into this zone to allow "minimum" ssreserves as it describes for the highly erodible soils of the east coast. In fact it states that ssreserves may be increased by the Forest Practices officer to account for these soils. The same needs to apply in this zone when consuidering any development including farming.

6Housing or any Development.... under no circumstances should housing or development be permitted in areas of threatened fauna, flora,landscape values or aboriginal or European archaeological sites,areas of landslip or highly erodible sopils, as has recently occurred at 4 Mile Creek in an unbelievably adhoc, manner.

So this new zone needs to be implemented to control landowners, who are increasingly foreign or come from interstate,and have no knowledge or allegiance to the Special Values of the east coast of Tasmania. It also applies to Tasmanian private property owners who do not all take these issues into account. In short,this Scheme needs to protect the environment from private owners.

Other Comments

F uture Potential Production Forests

...These should be placed in the Environment Protection Zone to save the Special Values from decimation, including landscape values ,as is occurring illegally in Victoria,by the State owned forest agency.

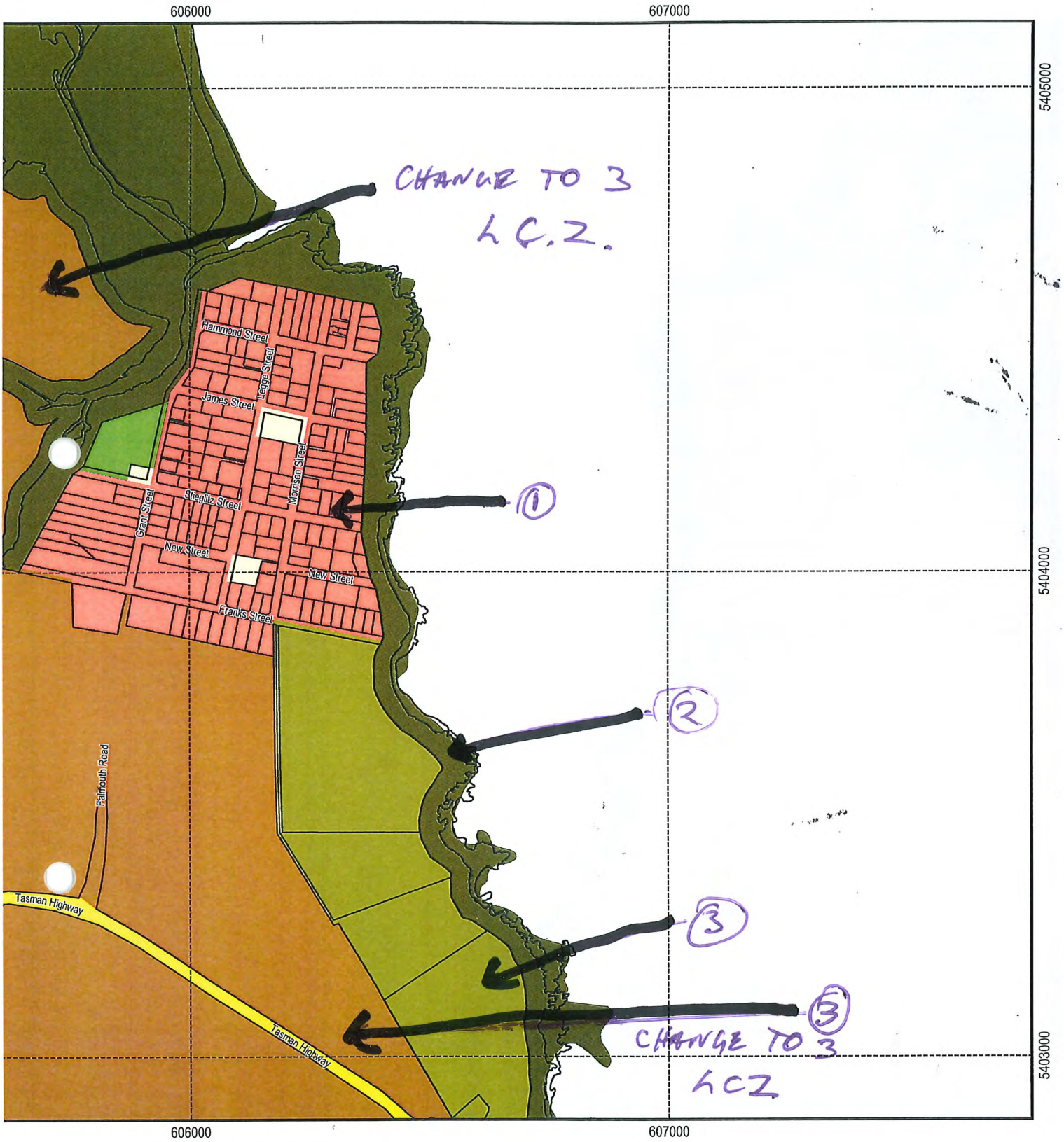
Rural Zoning.

This zone has not been assessed on an intensive basis. It also needs landscape assessment to protect these and other values into the future. After all, thats hopefully what we are doing, planning for the future for th generations to come?

Susan and Bill Manning



# Break O'Day Local Provisions Schedule




Map 40 of 44

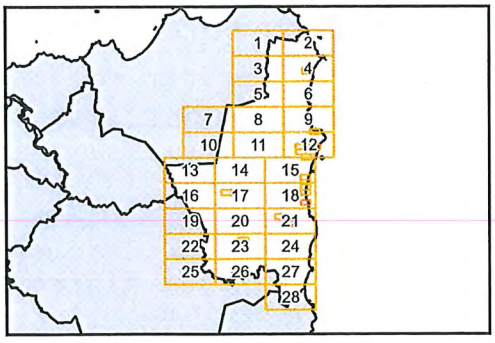
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Coordinate system: GDA94 MGA Zone 55
Zone data from Break O'Day Council
Base topographic data from: The LIST © State of Tasmania
Print Date: 10/09/2019

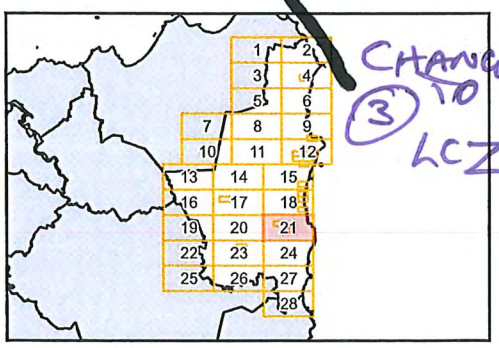
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Break O'Day



# 'Day Local Provisions Schedule




Map 21 of 44

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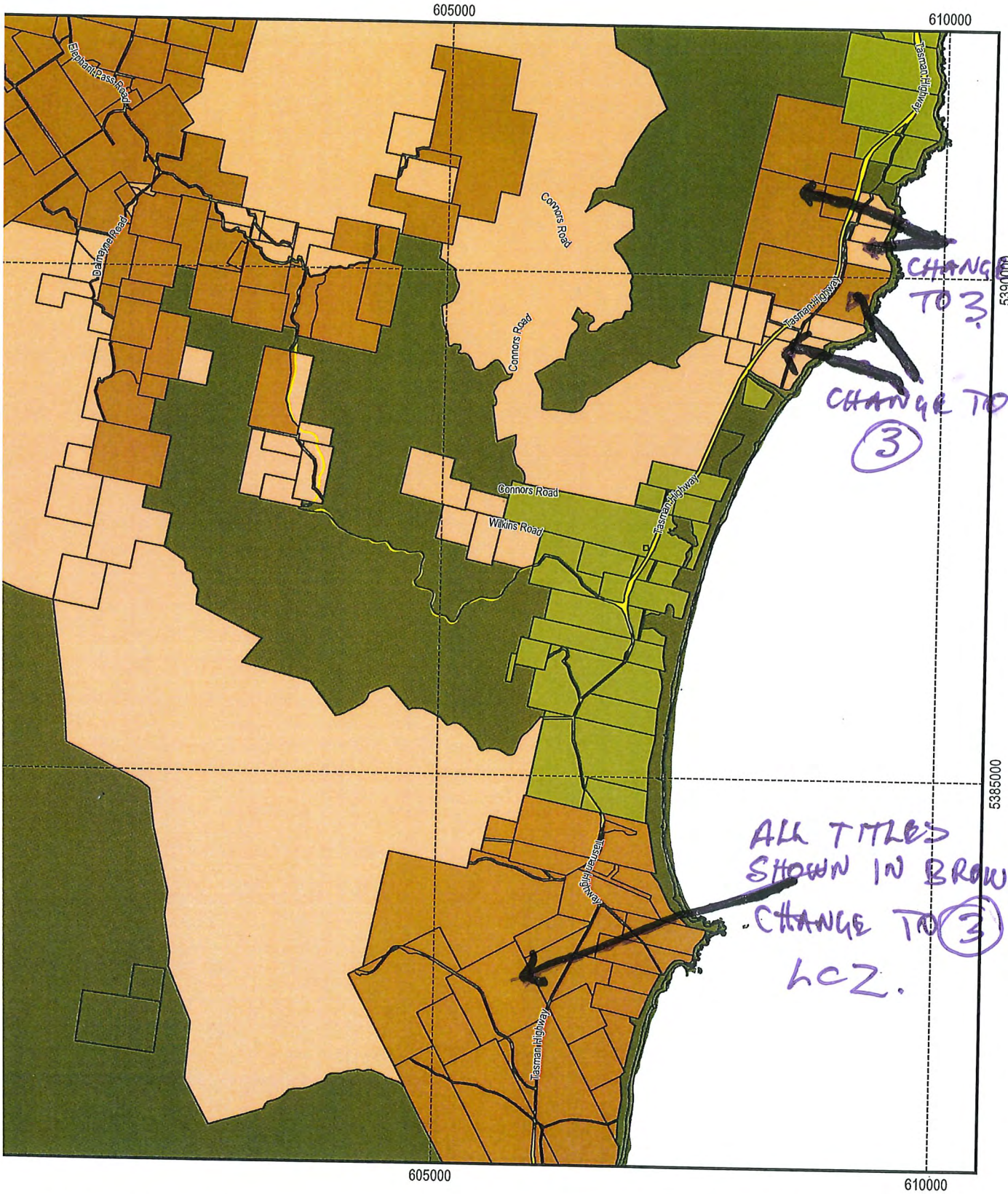
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Print Date: 10/09/2019

# ‹ O'Day Local Provisions Schedule




Map 24 of 44

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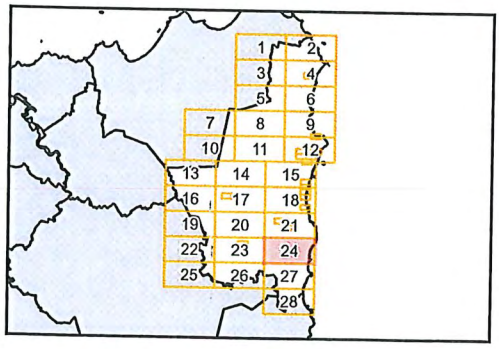
Zone data from Break O'Day Council

Graphic data from: The LIST © State of Tasmania

Print Date: 10/09/2019

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Break O'Day



# Representation No 43

**From:** James Stewart
**To:** Break O Day Office Admin
**Cc:** Michelle Schleiger; Brett Woolcott
**Subject:** Break O"Day LPS Representation - 50 St Helens Point Road, St Helens.
**Date:** Monday, 13 December 2021 9:13:42 AM
**Attachments:** image001.jpg
image002.jpg
160404 - 50 St Helens Point Road, St Helens - BODC LPS Representation.pdf

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Good Morning

Please find attached representation to the Break O'Day Council Draft Local Provisions Schedule (LPS).

The representation relates to two lots at 50 St Helens Point Road, St Helens (CT43185/2 & CT43185/1), and is lodged on behalf of the property owner and her family.

If you have any questions or require further information, please don't hesitate to let me know.

Kind regards

James Stewart
Senior Town Planner | Accredited Bushfire Practitioner
P 03 6332 3760
M 0467 676 721
E james@woolcottsurveys.com.au
W www.woolcottsurveys.com.au
A 10 Goodman Court, Invermay TAS (PO BOX 593, Mowbray Heights TAS 7248)

WARNING: The number of frauds relating to the transfer of money is increasing rapidly. Accordingly, it is essential that you only act on emails and letters that come from '@woolcottsurveys.com.au' email accounts. If you are unsure, please check by contacting our office prior to transferring funds. We do not accept any responsibility for any loss or damage arising from any electronic transfers or deposits made by you that are not received into our bank account.

WOOLCOTT SURVEYS

EAST COAST SURVEYING

Date 13/12/2021

Planning Department
Break O'Day Council

Via Email: admin@bodc.tas.gov.au

**RE: PARKSIDE FARM - 50 ST HELENS POINT ROAD, ST HELENS– BREAK O'DAY LPS ZONING**

To The General Manager

We wish to provide this submission in relation to the property at 50 St Helens Point Road, St Helens. The site consists of two titles, which are detailed as follows:

| | **Lot 1** | **Lot 2** |
|---|---|---|
| **Address:** | 50 St Helens Point Road, St Helens | 50 St Helens Point Road, St Helens |
| **CT Number** | CT43185/1 | CT43185/2 |
| **PID** | 6789372 | 6789372 |
| **Size of Lot** | 110ha (approx.) | 44ha (approx.) |
| **Existing Zoning** | Environmental Living | Environmental Living |
| **Status of Land** | Vacant Land | Single Dwelling |
| **Owners Name** | Marguerite Joan Gee | Marguerite Joan Gee |




*Figure 1 - Aerial view of site showing proximity to the nearby St Helens town centre.*

**LAUNCESTON**
10 Goodman Crt, Invermay
PO Box 593, Mowbray TAS 7248
P 03 6332 3760

**ST HELENS**
48 Cecilia St, St Helens
PO Box 430, St Helens TAS 7216
P 03 6376 1972

**HOBART**
Rear Studio, 132 Davey St,
Hobart TAS 7000
P 03 6227 7968

**DEVONPORT**
2 Piping Lane,
East Devonport TAS 7310
P 03 6332 3760

ABN 63 159 760 479

The blocks have an address of 50 St Helens Point Road, and are located at the Southern end of the St Helens Township. The site is situated on the corner of the Tasman Highway to the west, and St Helens Point Road to the North. The site is approximately 2-3km from the St Helens Township. Stieglitz and Akaroa are located to the North East of the site along St Helens Point Road. The two lots in question look out over George's Bay to the North. There is an existing single dwelling on lot 2, which has supported historic primary industry and farming activities across the titles. The name of the property, 'Parkside Farm' originates from a recognition of this historic use.

The land is currently within the Environmental Living zone (ELZ), under the current Interim Planning Scheme. Council has proposed to zone the site as Landscape Conservation Zone (LCZ) under the draft Local Provision Schedule (LPS). The purpose of this submission is to advocate against the LCZ being applied to the site, and rather seek to apply the Rural Living zone (RLZ) provisions.

The LPS Supporting report for BODC indicates that coastal areas where the existing ELZ apply, should be transitioned into the LCZ (page 66 of supporting report). The report states that this has been done in order to ensure the existing natural and landscape values are retained.

In accordance with section 8A of the *Land Use Planning and Approvals Act 1993* (the Act), The Minister has released guidelines which are to assist a Planning Authority in the preparation of a draft LPS. These guidelines have been examined and responded to below.

| | |
|---|---|
| ***LCZ 1** - The Landscape Conservation Zone should be applied to land with landscape values that are identified for protection and conservation, such as bushland areas, large areas of native vegetation, or areas of important scenic values, where some small scale use or development may be appropriate.* | **Response:**<br><br>A flora and fauna assessment for the site was completed in 2018. The subject site currently has minimal priority habitat identified under the Interim Scheme. The 2018 assessment identified that while natural values were detected on the site, these could be managed via an appropriate subdivision design and lot layout. Council currently have a copy of this natural values assessment. The extent of these values was assessed as generally low priority (figure 3). We are happy to provide a copy of the report to the TPC if requested.<br><br>The majority of the site is not subject to a Scenic Protection Area overlay, with the Scenic Tourist Road Corridor only impacting 100m of land from the Tasman Highway. There is no Scenic Management Area overlay which impacts the site. In our opinion, the sites' coastal location, and presence of native vegetation, does not automatically warrant inclusion within the LCZ. The site must have something worth protecting from a landscape perspective, and that thing worth protecting must be identified by the Planning Authority. The land to the north is classified as General Residential. The St Helens airport is located to the east, while a potential large scale tourism site (as identified within strategic docs) is adjoining to the south. |

In relation to application of the LCZ, the guidelines state:

> ***The Landscape Conservation Zone is not a replacement zone for the Environmental Living Zone in interim planning schemes. There are key policy differences between the two zones. The Landscape Conservation Zone is not a large lot residential zone, in areas characterised by native vegetation cover and other landscape values. Instead, the Landscape Conservation Zone provides a clear priority for the protection of landscape values and for complementary use or development, with residential use largely being discretionary.***

It is clear in the wording of the zone criteria, and within the zone purpose for the LCZ, that the intent of the LCZ is to prioritize the protection of native and landscape values. Based on the location of this site, and the strategic documentation available, we believe that the application of the LCZ goes against the intent of how the land should be used.
In relation to Rural Living areas, the *St Helens Structure Plan* identifies Rural Residential areas as having the following characteristics:

- Titles must be within 5Km of an urban area to be considered for inclusion within the Rural Living Zone.

- Titles with open characteristics are included in the Rural Living Zone while those titles with the presence of natural values are included within the Environmental Living Zone.

Irrespective of the RLZ, or the ELZ, the land was identified as a lifestyle lot, which intended residential use.

The subject site is in close proximity to the St Helens township, being only a 5-minute drive to the main street. The previously submitted flora and fauna report showed only small sections of the site contain significant vegetation (refer figure 3). The Structure Plan indicated that there should be a desire to retain vegetation on Rural Living lots within 1km of the coast (see Recommended Actions, page 44 of structure plan).



*Figure 2 - Typical landscape across the site at 50 St Helens Point Road, St Helens.*

Within the *St Helens Structure Plan - Background Report*, this site was identified as being a Rural Lifestyle block. The classification of the site as a 'Rural Lifestyle block', clearly gives an intent that the site is seen a large lot residential site. On this basis, we refer back to the guidelines which state that the LCZ is not a residential zone. Councils' application of the LCZ to this site, goes against the intent of the St Helens Structure plan's recommendation for residential use of the land.

Application of the RLZ to this site, would be consistent with RLZ 2, which states:

***RLZ 2:*** *The Rural Living Zone should not be applied to land that is not currently within an interim planning scheme Rural Living zone unless:*

*b) The land is within the Environmental Living Zone in an interim planning scheme and the strategic intention is for residential use and development within a rural setting, and a similar minimum allowable lot size is being applied, such as applying to Rural Living Zone D where the minimum lot size is 10ha or greater.*

It is our opinion that as the site is currently within an ELZ of an Interim Scheme, and residential intent has been indicated by the Structure Plan, that application of the RLZ is appropriate.

In further examining the merits of zoning under the LPS, we have also reviewed the *Break O'Day Land Use and Development Strategy 2015*. The Strategy was produced in August 2015 by TCG Planning. The report was prepared as part of the Municipal Management Plan, in order to provide direction for future land use and development in Break O Day.

The report examines the existing population and notes that the population is generally an aging population, however demand from sea change residents from outside the municipality, as well as local residents wanting a coastal holiday lifestyle is becoming an increasing trend.

The demand for coastal development, along with a wide range of housing and lot diversity is becoming more significant (Page 10 – BODC Strategy). The report goes on to show that coastal populations have been growing, with the majority of the population currently residing in a coastal location (76%).

The regions populations are forecasted to grow between 2011 and 2031, with an expected increase of approximately 20% between 2011 and 2031. Long term projections are for continued and steady growth in Break O Day's population, as more people are attracted to the coastal lifestyle. A significant increase in development and property demand has been seen with the recent development of the St Helens Mountain Bike Trails. In relation to housing and development, St Helens will continue to be the major regional centre for the municipality.

Page 53 of the strategy specifically examines Principles of Growth required within the Break O Day Municipality. Point 5 notes that greater diversity should be provided in the range of housing options available. Rural Residential housing and allotments should be provided within an appropriate distance to services, with housing encouraged in coastal locations to capitalise on the populations desire to live in seaside areas. The subject site is less then 3km to the town centre, where there is good access to healthcare, retail and everyday services.

Significantly, we note that under the current draft LPS, all of the existing Rural Living areas around St Helens are proposed for RLZ 'C', which limits further subdivision potential drastically. While the existing Rural Living scheme criteria can allow 1ha lots, the proposed density of 5ha (under the LPS) will reduce potential development, thus placing increased demand on other areas identified in the strategy.

Within the municipality there is currently only 442ha of Rural Living Zone (page 62). Within the St Helens area this equates to 134 lots within the Rural Living Zone. Of the 134 existing properties, only 17 are currently vacant. There is a clear shortage of Rural Living land within St Helens. We view this as further evidence that Council requires more rural residential land within St Helens and the surrounding area, and question the zoning of this site to LCZ purely based on the existing zone being ELZ.

The owners of the site have undertaken detailed environmental studies demonstrating that the areas containing significant natural values only constitute a small portion of the site, with attention drawn to figure 3 (below), extracted from the original North Barker flora and fauna report.

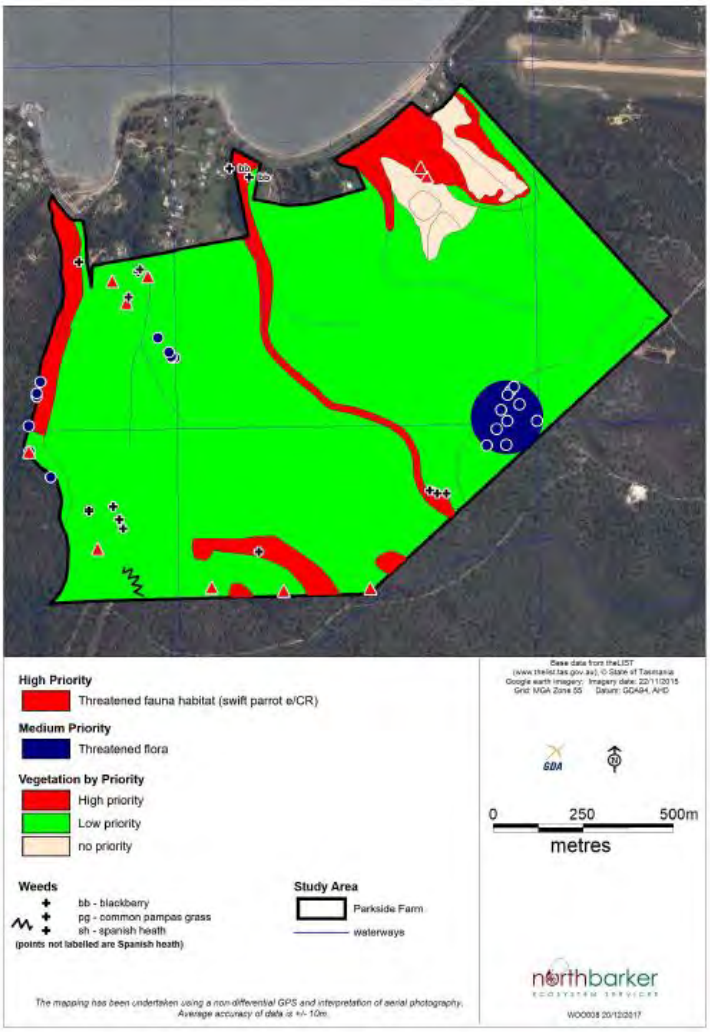



*Figure 3 - Extract from North Barker Natural Values assessment for the subject site.*

Over time the site has become a dumping ground for rubbish and debris not produced by the owners. Given the size of the existing property, the owners have found it increasingly difficult to monitor and solve this dumping problem.

The site is also regularly used by motorbike riders in the area. There are a large number of user tracks which have been established over time. Seeking to see the land developed with a structured layout will remove a large number of these tracks, and assist with the issue of unauthorised access to the site.

When examined against the sustainability criteria of section *D2.2.2 Rural Residential Areas* under the Northern Tasmanian Regional Land Use Strategy, the subject site rates positively.

- Zoning of the site will not have a detrimental impact on environmental values of the land. The site is not currently zoned for rural purposes, and any environmental values can be adequately managed via the application of the Natural Assets code.

- The site is in close proximity to the St Helens settlement (5 min drive). St Helens is classified as a satellite settlement under the Regional Settlement Hierarchy. Applying a residential zoning would support the function of the settlement in providing for services, education and employment opportunities.

- The site has the capacity to provide for Rural Living expansion of the existing St Helens township. The land adjoins existing residential sites to the north and north east.

- The lot has good access to road infrastructure. In principle approval was provided by the Department of State Growth to provide future road access off the recently upgraded section of Tasman Highway. Additional vehicular access can be provided via Talbot Street to the north. A Traffic Impact Assessment was undertaken by the owners which confirmed development of the land for RL purposes could be achieved from a traffic perspective.

- The site can accommodate onsite wastewater. An onsite wastewater report was undertaken by the owner, confirming that future RL lots could accommodate onsite wastewater.

- The site can manage native values via appropriate design associated with future subdivision. The previously obtained flora and fauna report supported a proposed subdivision of the land which created Rural Living lots. The provisions of the natural assets code will still apply regardless of the subject sites zoning.

- The site is not subject to natural hazards. There is a small portion of flood/coastal inundation overlay in the north east of the site, however outside of this area, there are no major constraints.

- There is very minimal land available for Rural Living subdivision within St Helens. The subject site provides a logical expansion of the residential settlement to the south, consistent with the residential intent as outlined in the strategic documents for St Helens. The application of RLZ ‘C’ to existing Rural Living areas in St Helens, further restricts subdivision potential within the area, thus increasing the demand for appropriate Rural Living land.

- Noting the lack of constraints present on the land, it is submitted that the rezoning will not result in a detriment environmental outcome. The environmental values can be managed via the application of codes, as outlined in the submitted flora and fauna report from North Barker.

In addition to the planning matters raised above, application of the LCZ does raise a number of additional concerns. The changing of the site from a residential zone, to a zone which has a primary zone purpose of *"providing for the protection, conservation and management of landscape values",* will undoubtedly have a detrimental impact on property valuation.

It follows that the ability for land owners to obtain loan approval from a financial institution will be impacted. In much the same way as banks restrict loans in Rural Resource zoned areas, the application of a non-residential zone would have similar consequences.

To assist in Council and the TPC's understanding of the site, the below images are provided for reference.



*Figure 4 – Looking over the site in the north east. Taken from lot 2.*



*Figure 5 – looking over the site to the east, from lot 2.*



*Figure 6 – Talbot Street/St Helens Point Road junction. Good vehicular access which serves the site.*



*Figure 7 – The site is currently used as a dumping ground, which has degraded the landscape. This is one of many examples.*

In closing, while acknowledging the efforts of Break O'Day Council in preparing the draft LPS, we have concerns about how the LCZ has been generally applied as a blanket replacement of the existing ELZ. Replacing a residential zone, with a non-residential zone severely limits the potential for use and development across the municipality.

We submit that the work and strategic documents relating to this site, provide sufficient grounds to justify inclusion within the RLZ under the upcoming Tasmanian Planning Scheme. We also note that Council previously supported the Rural Living zone being applied to this site as part of a previous draft amendment application.

If you have any questions regarding the contents of this representation, please don't hesitate to let me know.

Kind regards
Woolcott Surveys

James Stewart
Senior Town Planner

Kind regards
Woolcott Surveys

Brett Woolcott
Managing Director & Registered Land Surveyor

# Representation No 44

**From:** Michelle Schleiger
**To:** Break O Day Office Admin
**Cc:** James Stewart; Brett Woolcott
**Subject:** Break O"Day LPS Representation - 105 Seymour Street Fingal
**Date:** Monday, 13 December 2021 10:39:54 AM
**Attachments:** image001.jpg
image002.jpg
FolioPlan-46572-1.pdf
FolioText-46572-1.pdf
L210605 - Representation to BODC draft LPS - Wagner.pdf

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Good Morning

Please find the attached representation to the Break O'Day Council Draft Local Provisions Schedule (LPS).

The representation relates to two lots at 105 Seymour Street, Fingal (CT 46572-1) and is lodged on behalf of the property owner.

If you have any questions or require further information, please don't hesitate to let me know.

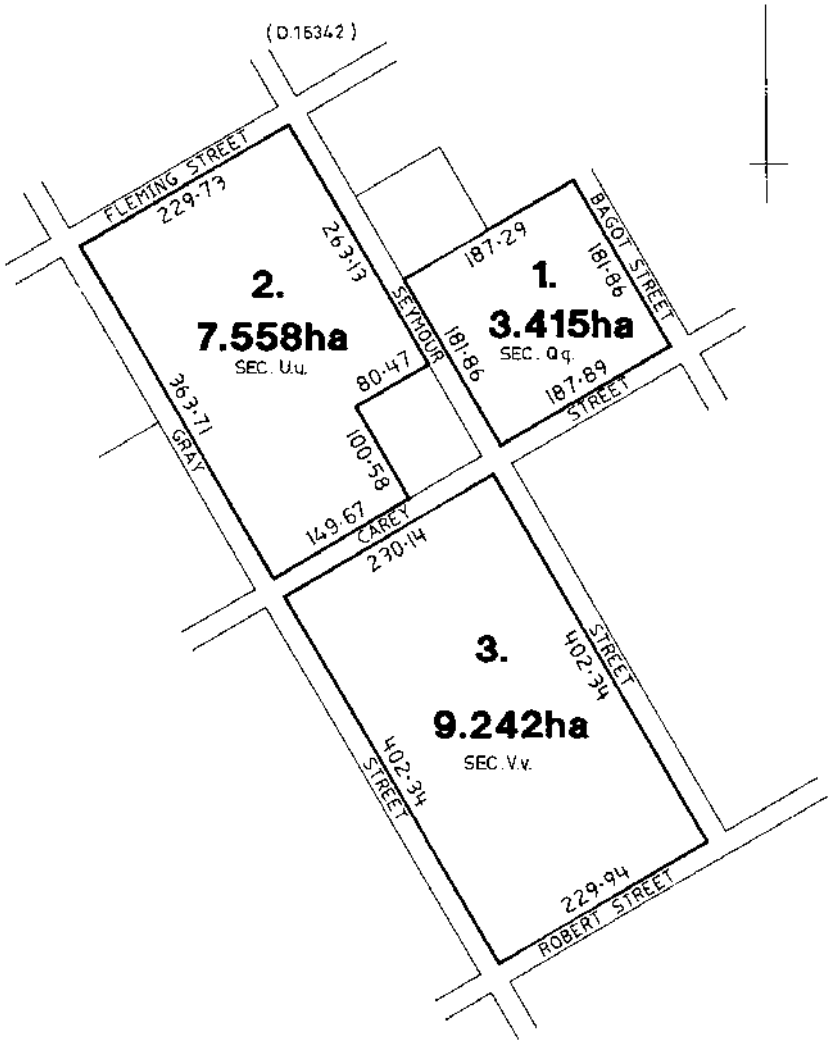
With Regards

Michelle Schleiger
Town Planner

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| | | |
|---|---|---|
| Owner: | PLAN OF TITLE<br>of land situated in the<br>**TOWN OF FINGAL** | Registered Number<br>**D.46572** |
| Title Reference C-T-3193/18 | | |
| Grantee: | COMPILED FROM .....<br>SCALE 1:5000 MEASUREMENTS IN METRES | Approved 19-8-1993<br>Recorder of Titles |



| NEW SERIES TITLES | | |
|---|---|---|
| LOT/AREA | VOL. | FOL. |
| 2, 3. | 4721 | 66. |

# RESULT OF SEARCH

RECORDER OF TITLES

*Issued Pursuant to the Land Titles Act 1980*

SEARCH OF TORRENS TITLE

| VOLUME | FOLIO |
|---|---|
| 46572 | 1 |
| EDITION | DATE OF ISSUE |
| 5 | 06-May-2021 |

SEARCH DATE : 23-Jul-2021
SEARCH TIME : 11.12 AM

## DESCRIPTION OF LAND

Town of FINGAL
Lot 1 on Diagram 46572
Derivation : Whole of Lot 2 (Section Q.q.) Gtd.to J.E. Clarke
Prior CT 3193/18

## SCHEDULE 1

M881517 ASSENT to CARL DAVID WAGNER Registered 06-May-2021 at 12.01 PM

## SCHEDULE 2

Reservations and conditions in the Crown Grant if any

## UNREGISTERED DEALINGS AND NOTATIONS

No unregistered dealings or other notations



WOOLCOTT SURVEYS

EAST COAST SURVEYING
CONSULTING SURVEYORS & LAND PLANNERS

# Submission to the Break O'Day Council draft Local Provisions Schedule

Representation to Rezone 105 Seymour Street, Fingal from proposed General Industrial Zone to Rural Living 'B'

**December 2021**

Job Number: L210605
Prepared by: Michelle Schleiger (michelle@woolcottsurveys.com.au)
Town Planner
Reviewed by: James Stewart (james@woolcottsurveys.com.au)
Senior Planner

| Rev. no | Description | Date |
|---|---|---|
| 1 | Draft | 3 December 2021 |
| 2 | Final | 7 December 2021 |
| 3 | | |

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1.3 Context – current zones and overlays ..... 4
4. Zone Assessment ..... 6
5. Summary ..... 7

# 1. Introduction

This report has been prepared as a representation to rezone land at 105 Seymour Street, Fingal (the 'subject site'). The representation is lodged under Section 35E of the Land Use Planning and Approval Act 1993 (the Act) in response to Break O'Day Council advertising the Local Provisions Schedule for public consultation.

## 1.1 Summary

The following is a summary of the representation information:

| | |
|---|---|
| Address | 105 Seymour St, Fingal TAS 7214 |
| Property ID | 7298997 |
| Title | 46572/1 |
| Part 5 Agreement or Covenants | NIL |
| Total Site Area | 2.049 ha from 3.415ha |
| Council | Break O'Day Council |
| Planning Scheme Current | Break O'Day Interim Planning Scheme 2013 (the 'Scheme') |
| Planning Scheme transition | Tasmanian Planning Scheme – Break O'Day |
| Zone Current | General Industrial |
| Overlay/s Current | Bushfire Prone Areas – Whole of site |
| Zone Proposed TPS | General Industrial |
| Overlays Proposed TPS | Bushfire Prone Areas<br>Specific Area Plans |
| Water | TasWater serviced land |
| Sewer | Not serviced – existing septic and trenches |
| Stormwater | Not serviced |
| Electricity | Existing overhead lines |
| Existing Buildings | Shed for machinery storage and servicing<br>1 Dwelling with separate garage |
| Frontage | Seymour Street – 181.86m<br>Bagot Street – 181.86m |
| Existing Access | From Seymour Street to dwelling<br>From Bagot Street to Shed / machinery storage (east boundary) |



Figure 1 Aerial view of the subject site (Source: LISTMap)

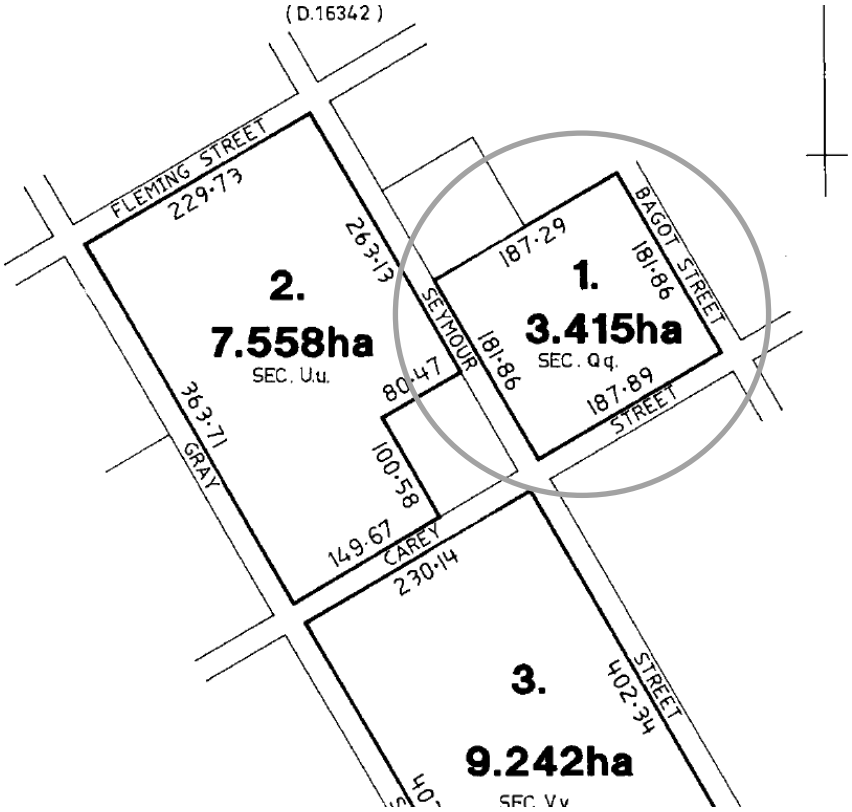



Figure 2 – Subject site – Lot 1; Site dimensions and area according to the Folio Plan Volume 46572 Folio 1

## 1.2 The Proposal

According to the draft Break O'Day draft Local Provisions Schedule, the subject site is to remain under the General Industrial Zone.

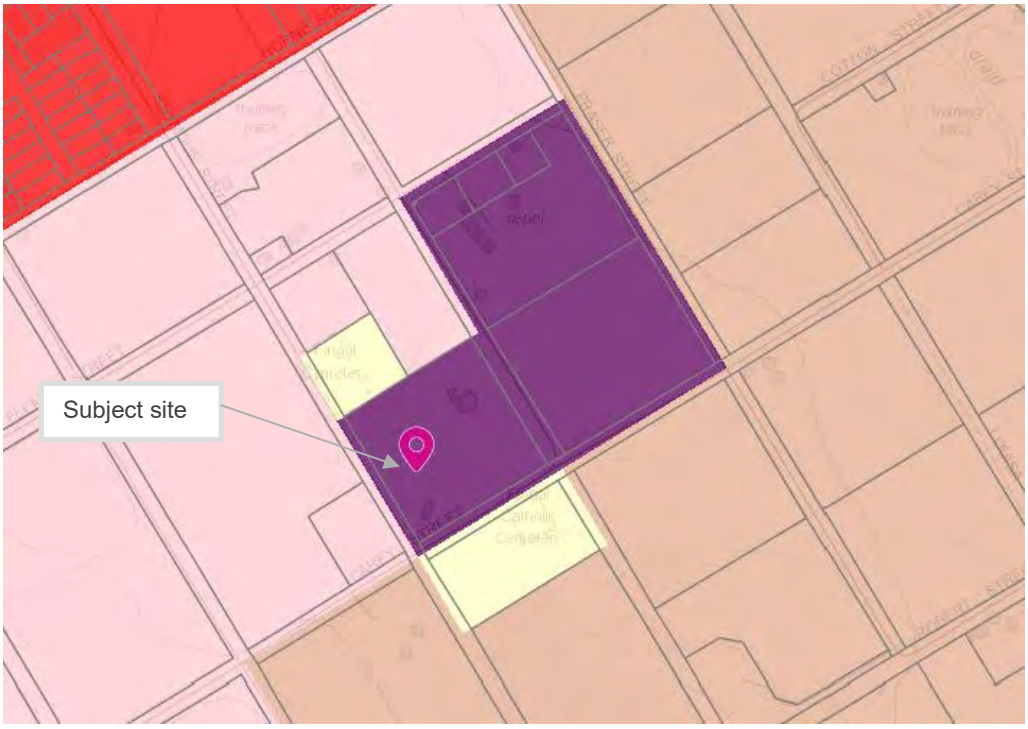



Figure 3 Proposed zoning for the subject site under the TPS (Source: Insight GIS the LIST; State of Tasmania)

The site has recently been approved for subdivision to excise the existing dwelling from the industrial use. (DA237-2021). This representation requests that the new lot that will contain the dwelling be rezoned to Rural Living 'B' in accordance with the size of the new lot.

The remainder of the land would remain as General Industrial and continue to operate as a Contractors Depot.




Figure 4 Approved subdivision for 105 Seymour Street Fingal DA237-2021

## 1.3 Context – current zones and overlays

The subject site is currently zoned General Industrial. The site adjoins Rural living sites to the west and community purpose zoned sites (cemeteries) to the north and south.

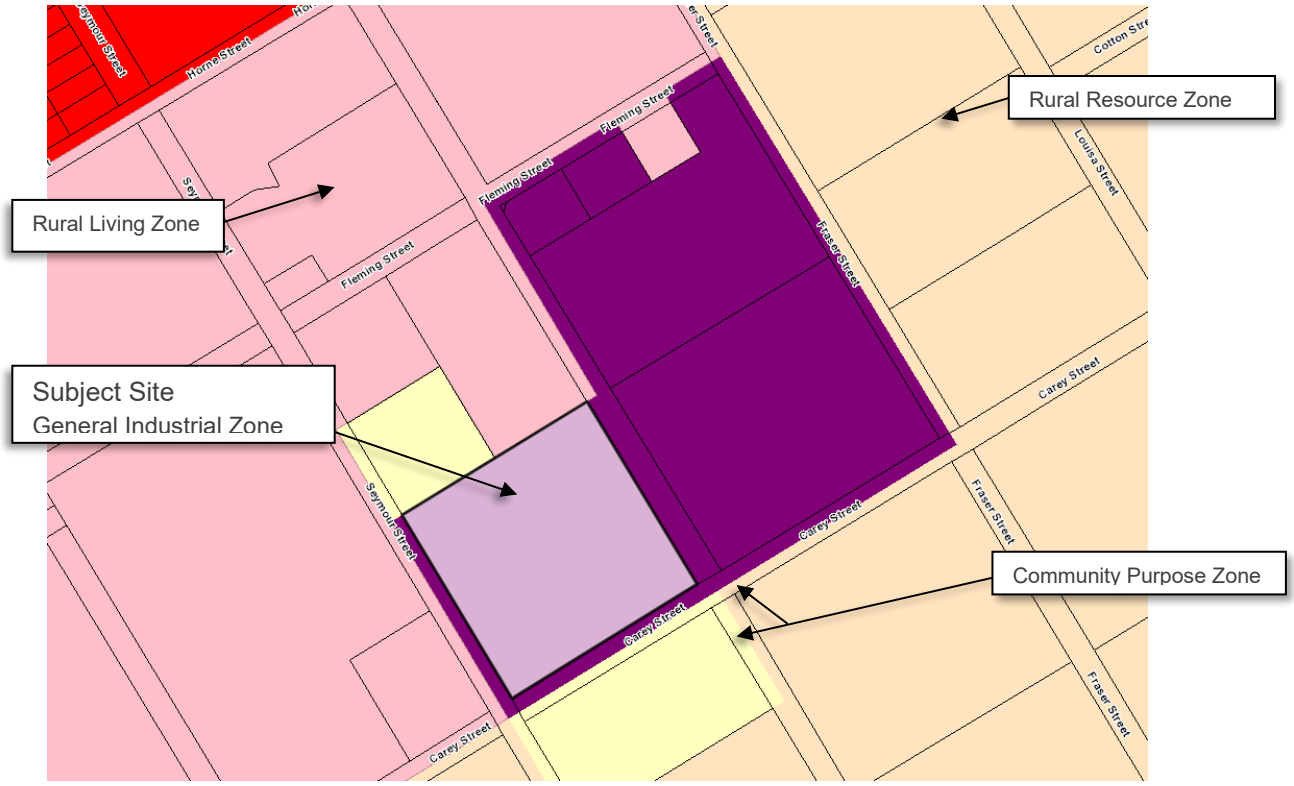



Figure 5 The subject site and surrounding area zoning (Source: LISTMap)

The subject site is affected by the Bushfire Prone Area Overlay.




Figure 6 The subject site and relevant overlays (Source: LISTMap).

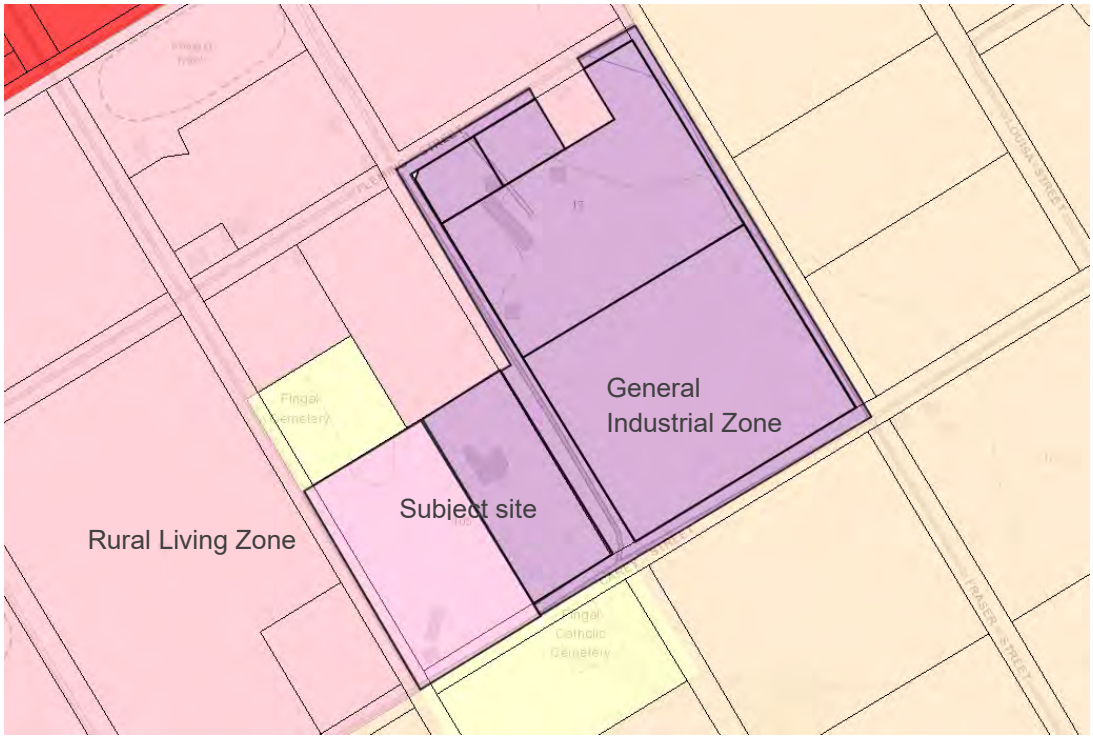



Figure 7 Potential zoning of the subject site (illustration only).

# 4. Zone Assessment

## 11.0 Rural Living Zone

### Zone Application Guidelines

RL1 The Rural Living Zone should be applied to:

a. residential areas with larger lots, where existing and intended use is a mix between residential and lower order rural activities (e.g., hobby farming), but priority is given to the protection of residential amenity; or

b. land that is currently a Rural Living Zone within an interim planning scheme or a section 29 planning scheme,

unless RLZ 4 below applies.

RL2 The Rural Living Zone should not be applied to land that is not currently within an interim planning scheme Rural Living Zone, unless:

a. consistent with the relevant regional land use strategy, or supported by more detailed local strategic analysis consistent with the relevant regional land use strategy and endorsed by the relevant council; or

b. the land is within the Environmental Living Zone in an interim planning scheme and the primary strategic intention is for residential use and development within a rural setting and a similar minimum allowable lot size is being applied, such as, applying the Rural Living Zone D where the minimum lot size is 10 ha or greater.

RL3 The differentiation between Rural Living Zone A, Rural Living Zone B, Rural Living Zone C or Rural Living Zone D should be based on:

a. a reflection of the existing pattern and density of development within the rural living area; or

b. further strategic justification to support the chosen minimum lot sizes consistent with the relevant regional land use strategy, or supported by more detailed local strategic analysis consistent with the relevant regional land use strategy and endorsed by the relevant council.

RL4 The Rural Living Zone should not be applied to land that:

a. is suitable and targeted for future greenfield urban development;

b. contains important landscape values that are identified for protection and conservation, such as bushland areas, large areas of native vegetation, or areas of important scenic values (see Landscape Conservation Zone), unless the values can be appropriately managed through the application and operation of the relevant codes; or

c. is identified in the 'Land Potentially Suitable for Agriculture Zone' available on the LIST (see Agriculture Zone), unless the Rural Living Zone can be justified in accordance with the relevant regional land use strategy, or supported by more detailed local strategic analysis consistent with the relevant regional land use strategy and endorsed by the relevant council.

**Response:**

RL1 The existing use of the land is in accordance with RLZ1 a); the subject site is a larger lot with the existing use demonstrated to be residential and lower order rural activities (occasional grazing and land management).

RL2 a) The land is proposed to be zoned General Industrial based on the current zoning. The subject site is more suited to Rural Living Zone due to the existing dwelling and recent subdivision. The subject site area is not included in the Regional Land Use Strategy or covered by any other strategic plans. It is submitted that the land belongs to the adjoining Rural Living Zone as it is compatible by adjoining and existing use.
b) does not apply.

RL3 The subject site is suited to be made Rural Living 'B' (minimum 2ha) in accordance with the lot size. The surrounding land is proposed to be Rural Living C, although there is variation in existing lot size, many lots under 5ha.

RL4 The land is not targeted for future greenfield development. It is primarily used for residential purposes. This use has been existing for at least 30 years.

### Zone Purpose

The purpose of the Rural Living Zone is:

| Provision | | Response |
|---|---|---|
| 11.1.1 | To provide for residential use or development in a rural setting where:<br>a. services are limited; or<br>b. existing natural and landscape values are to be retained. | The subject site is being used for residential purpose with limited services. |
| 11.1.2 | To provide for compatible agricultural use and development that does not adversely impact on residential amenity. | The subject site has adequate land size to allow for buffers to adjoining agricultural use, primarily plantation timber. The site can be used for lower order agricultural activities, such as occasional grazing. |
| 11.1.3 | To provide for other use or development that does not cause an unreasonable loss of amenity, through noise, scale, intensity, traffic generation and movement, or other off site impacts. | Loss of amenity to adjoining sites is not anticipated as the subject site is being used in a similar fashion to the adjoining. No future development that creates a conflict is proposed. |
| 11.1.4 | To provide for Visitor Accommodation that is compatible with residential character. | Not proposed at this time. |

**Response**

The subject site is suited to the purpose of the Rural Living zone and its existing use is in accordance with this.

Under the General Industrial Zone, the residential use is prohibited. Bringing the use into line with the zone would allow for sustainable and sensible development, normal to a dwelling without relying on existing use rights.

## 5. Summary

The subject site is better suited to the Rural Living Zone than for the General Industrial Zone. The site has been used for both residential and industrial uses for many years and now will be subdivided according to the approved plans. The dwelling is not associated or subservient to the industrial use but the previous concurrent uses on the site demonstrate that there is no detriment from one use to the other and the rezone would only reflect the longstanding use of the land.




Land Surveying | Town Planning | Project Management

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Hobart 7000
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East Devonport 7310
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# Representation No 45

**From:** Michelle Schleiger
**To:** Break O Day Office Admin
**Cc:** James Stewart; Brett Woolcott
**Subject:** Break O"Day LPS Representation - 48 Brooks Road St Helens
**Date:** Monday, 13 December 2021 10:49:44 AM
**Attachments:** image003.jpg
image004.jpg
110408 Representation to draft LPS BODC - CT166517-1.pdf
Annexure 2 - Approved Plan.pdf
Annexure 2 - Site Plan alt version.pdf
Annexure 3 - Planning permit DA2012-00013.pdf
Annexure 4 - Evidence of Substantial Commencement.pdf
Annexure 5 - Agricultural Assessment St Helens_48 brooks rd_FINAL.pdf
Annexure 1 - ScheduleOfEasements-166517-1.pdf
Annexure 1 - FolioText-166517-1.pdf
Annexure 1 - FolioPlan-166517-1.pdf

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Good Morning

Please find the attached representation to the Break O'Day Council Draft Local Provisions Schedule (LPS).
Please note, there are 9 attachments in all.

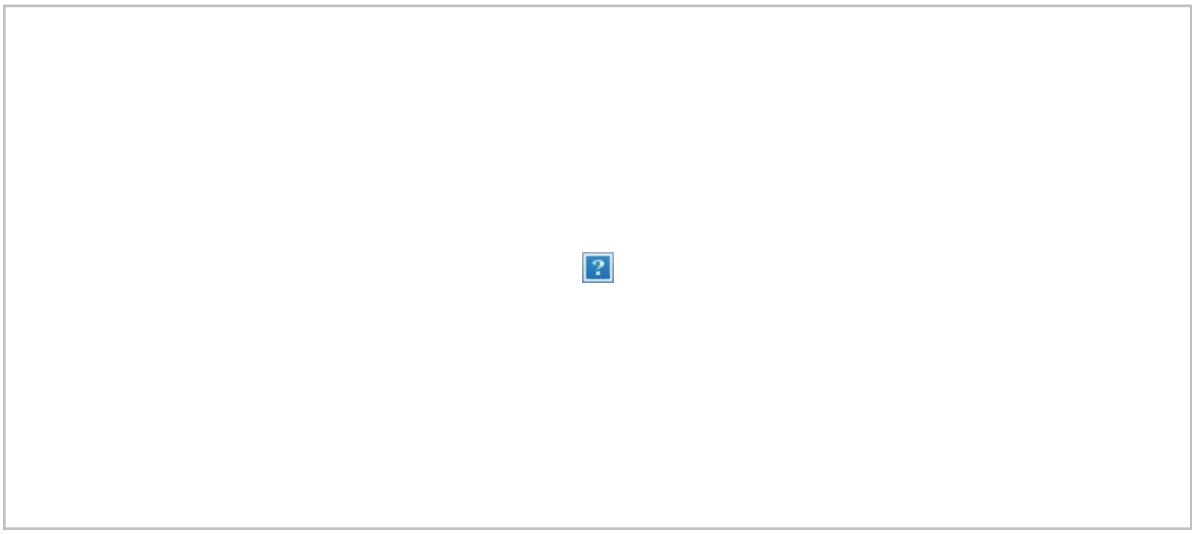
The representation relates to land at 48 Brooks Road, ST Helens (CT 166517-1) and is lodged on behalf of the property owner.

If you have any questions or require further information, please don't hesitate to let me know.

With Regards

Michelle Schleiger
Town Planner

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WOOLCOTT SURVEYS

EAST COAST SURVEYING

6 December 2021

Planning Department

Break O'Day Council

Via Email: admin@bodc.tas.gov.au

To The General Manager

**RE: BREAK O'DAY LOCAL PROVISON SCHEDULE - REPRESENTATION**

This submission in relation to the Break O'Day Local Provision Schedule (LPS), which is currently on public exhibition until the 13th December 2021.

East Coast Surveying is located within the St Helens Township, and has provided subdivision and Town Planning services to the Break O'Day community for over 30 years. In preparing this submission, we believe we are well placed in our understanding of the municipality given our work in the area over many years.

This submission addresses the proposed zoning for 48 Brooks Road, St Helens (subject site) (CT: 166517/1, PID: 3262428).

The current zone is Rural Resource and the proposed zone under the draft LPS is Agriculture.

This representation proposes that the Rural Living and Rural Zone would be more suited to the land and approved use and development.

The submission is as follows and we encourage you to contact us for further information or discussion.

Sincerely

Michelle Schleiger

Town Planner

Woolcott Surveys


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ABN 63 159 760 479

## Background

In March 2012 a permit was issued for a 9 lot residential subdivision (with balance lot and road lot) on the subject site; DA2012/00013. Council has confirmed via email dated 1 March 2021 that substantial commencement has been made and that the permit is valid (Council Ref: 013-2012). (See attached with this submission)

The approved plan is provided at Annexure 2 and the issued permit at Annexure 3.

The subdivision consists of the following:

| Lot | Area |
|---|---|
| 1 | 1.3ha |
| 2 | 1.85ha |
| 3 | 5.32ha |
| 4 | 2.66ha |
| 5 | 8.44ha |
| 6 | 3.0ha |
| 7 | 35.0ha |
| 8 | 30.0ha |
| 9 | 45.0ha |
| 101 (Road) | 3.49ha |
| 100 (Balance) | 106.0ha |

The permit was granted under the Residential Use Class with conditions relating to:

- Building envelopes (Condition 4)
- Roads, stormwater and hydraulic services (Condition 16)
- Civil construction works (Condition 17)
- Vehicle crossovers (Condition 18)
- Upgrades to Brooks Road (Condition 21 and 22)
- Electricity reticulation (Condition 24)
- Street lighting (Condition 26)

The subdivision approval allows for and directs residential development.

The subject site contains an existing dwelling (to remain on approved balance lot 100).

The subdivision has electricity and Telstra works completed and road formation is underway.

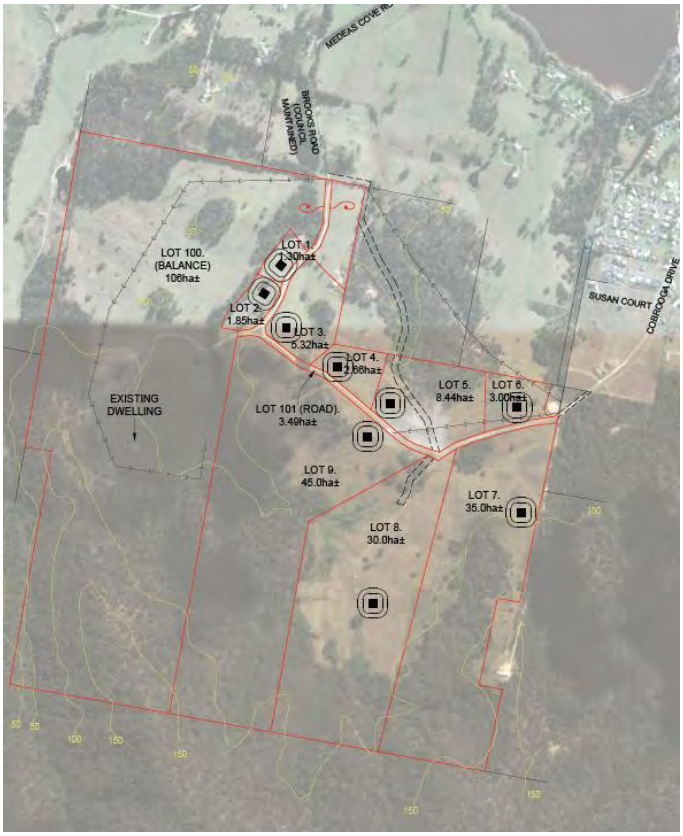



Figure 1 Extracted from the approved plan of subdivision DA2012/00013

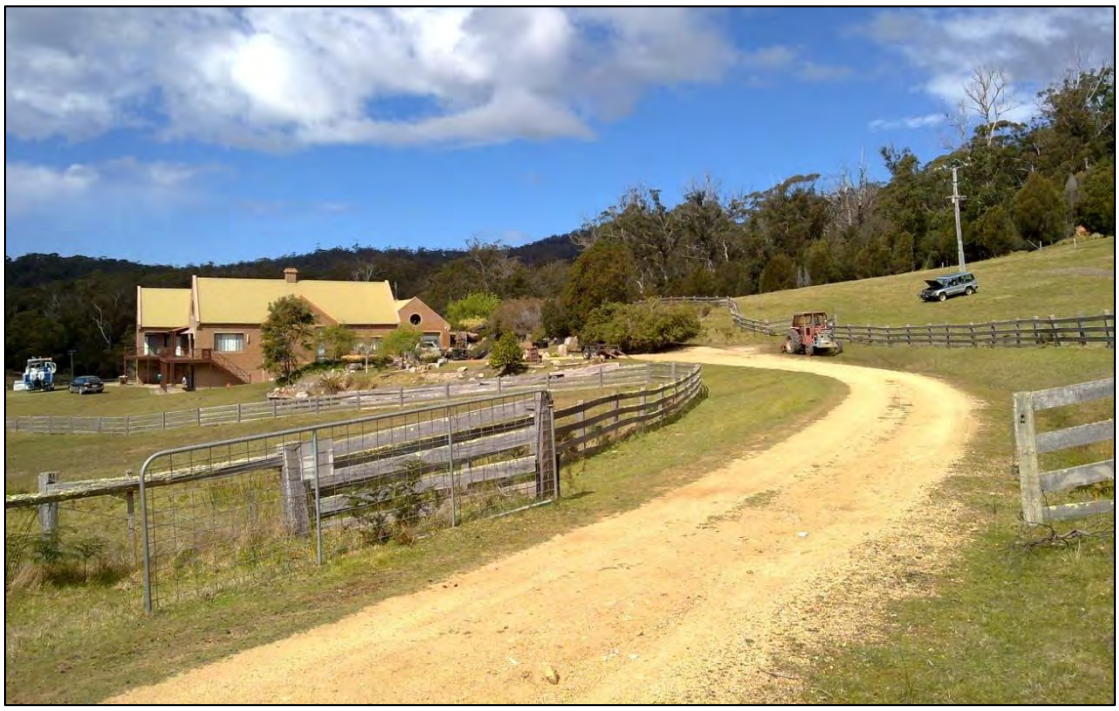


Figure 2 Existing dwelling at 48 Brooks Road

## Application of the Agriculture Zone (AZ)

The subject site, under the draft LPS is proposed to be zoned 'Agriculture Zone'. The land has been mapped as 'Unconstrained' (Orange) and zoned accordingly. This mapping has not identified that the land has approval for residential subdivision.

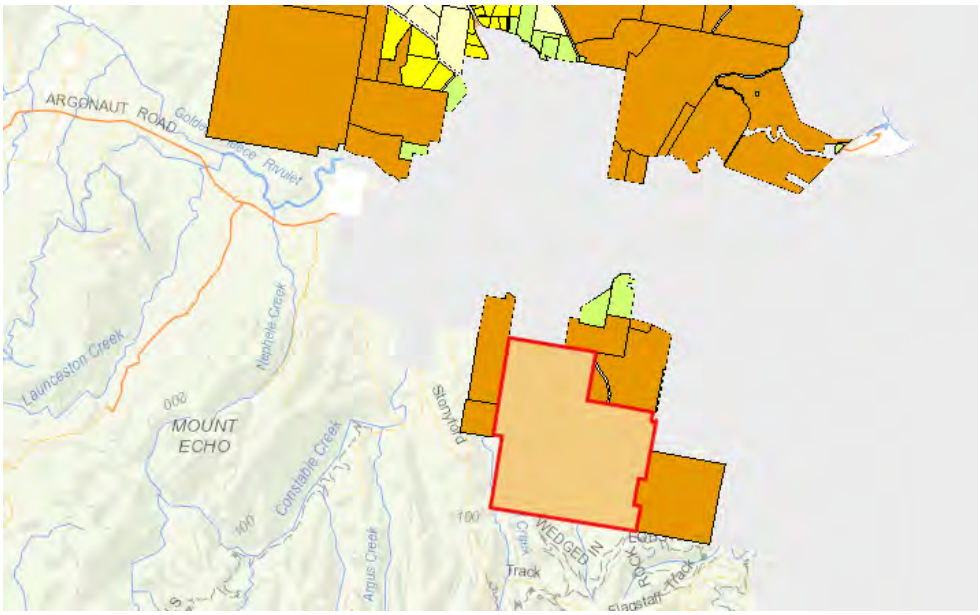



Figure 3 Land Potentially Suitable for Agriculture Zone as shown on LISTMap.

The land is mapped as low value agricultural land according to the LISTMap Land Capability layer.

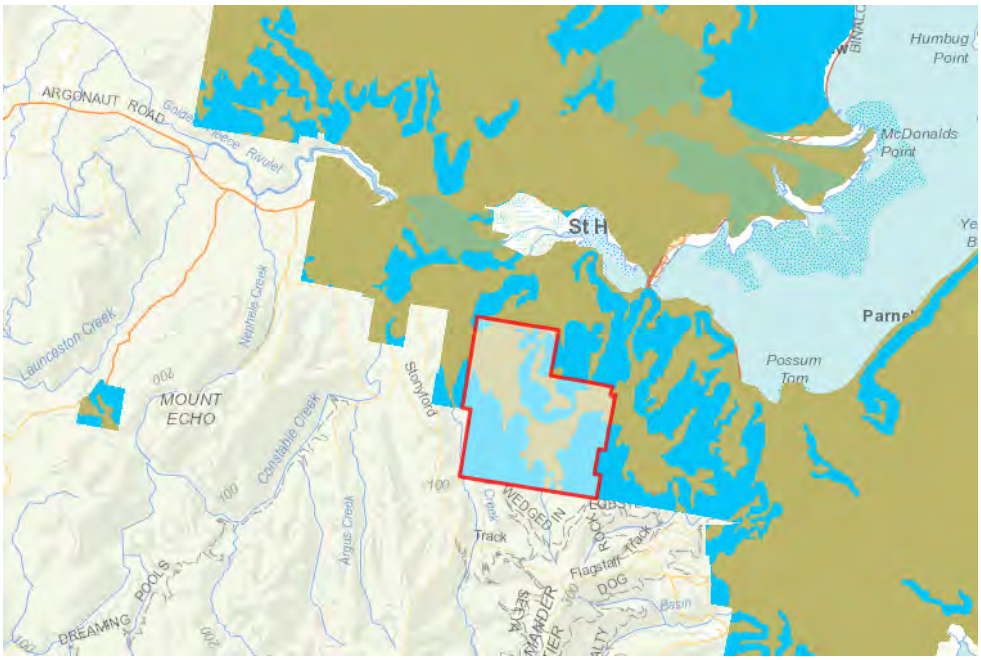



Figure 4 Land Capability mapping as shown on LISTMap

According to AZ 6 of the Supporting report to the Break O'Day draft LPS, land identified in the 'Land potentially suitable for Agriculture Zone' layer may be considered for alternated zoning if:

*(e) it can be demonstrated that:*

*(i) the land has limited or no potential for agricultural use and is not integral to the management of a larger farm holding that will be within the Agriculture Zone;*

*(ii) there are significant constraints to agricultural use occurring on the land; or*

*(iii) the Agriculture Zone is otherwise not appropriate for the land.*

It is submitted that:

The land has limited or no potential for agricultural use. This is demonstrated by the Land capability mapping and further supported by the Agricultural report completed by Pinion Advisory and provided at Annexure 5 of this submission.

There are significant constraints to agricultural use occurring on the land. The land has been approved for residential subdivision. While the lots are large, there is potential conflict with the approved use and the Agriculture Zone. The subdivision has been shown to have substantial commencement and the permit is valid, (see Annexure 3 and 4).

The application of the Agriculture Zone has the potential to remove the ability to develop the land with a dwelling, as was the intention of the permit, classed for residential use.

## Proposed Zone

The land is more suited to be zoned under the Rural living zone, with the balance lot going to Rural Zone. This is supported by the Agricultural Assessment at Annexure 5.

Under the Guidelines for the LPS: zone and code application, the purpose of the Rural Living Zone is:

**11.1.1**

*To provide for residential use or development in a rural setting where:*

*(a) services are limited; or*

*(b) existing natural and landscape values are to be retained.*

**11.1.2**

*To provide for compatible agricultural use and development that does not adversely impact on residential amenity.*

**11.1.3**

*To provide for other use or development that does not cause an unreasonable loss of amenity, through noise, scale, intensity, traffic generation and movement, or other off site impacts.*

**11.1.4**

*To provide for Visitor Accommodation that is compatible with residential character*.

The Rural Living Zone is for lots with limited services connection, which need to necessarily be larger lots to accommodate onsite servicing. The zone also, by having larger lots, allows suitable setbacks

to any nearby agricultural use, reducing land use conflict. The zone is a suitable zone to transition from higher density residential zones to the rural zones.

Given the approved subdivision on the land, the Rural Living Zone is suited to the majority of these lots.

The balance lot is 106.0ha, and while it contains the existing dwelling, the application of the Rural Living Zone to this lot may not be in line with Council's strategy for residential development in this area. The Break O'Day Land Use and Development Strategy shows that the adjoining land to the north/north east should be investigated for Rural Living, but the subject site is not remarked on.

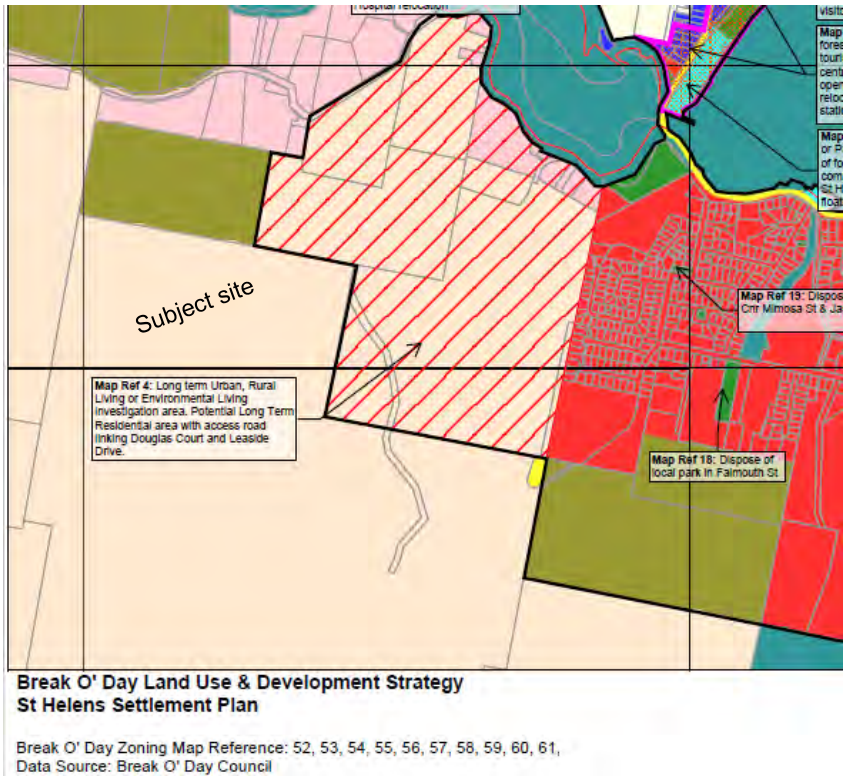



Figure 5 Extracted from the Break O'Day Land Use and Development Strategy 2015

If this investigation was to proceed, the subject site could potentially provide the transition from Rural Living to Rural. An example is provided for illustration at Figure 4. Furthermore, including the land identified in the strategy, shown as hatched in red (Figure 3), and in pink on the next image, there would be a contiguous and natural transition from General Residential through to Rural, by allowing Rural Living in the intersecting section of land.

The application of the Agriculture Zone in this locality, in proximity to residential areas makes little sense, given the zone is designed to fully support use and development associated with agricultural activity. The potential for land use conflict is increased by this proposal and while this representation is for the land at CT: 166517/1 the surrounding lots could also be easily included, given the similar land constraints.

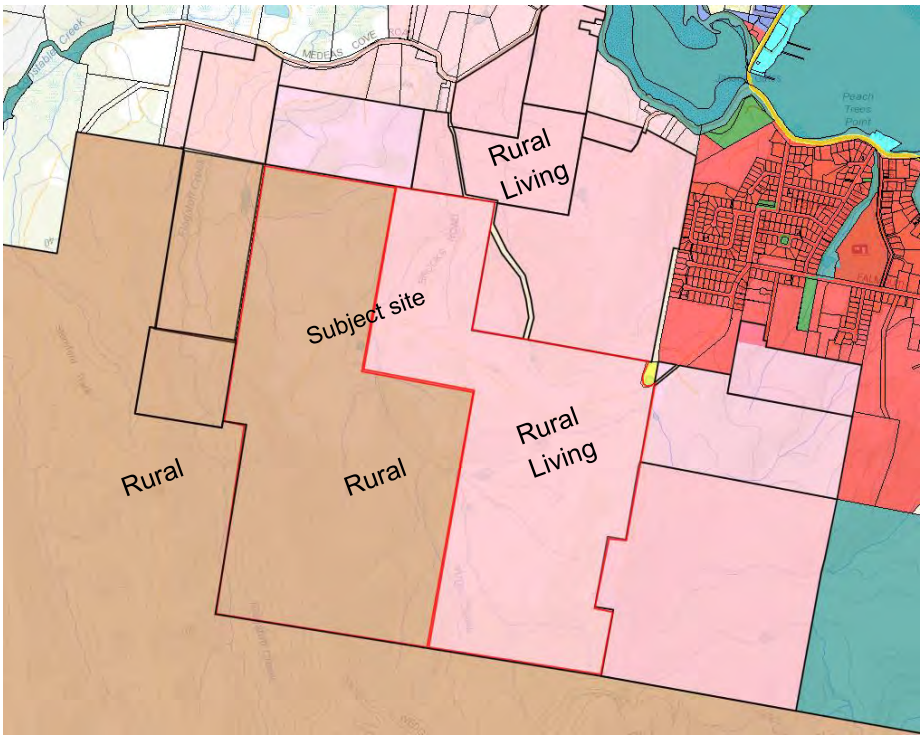



Figure 6 Illustration of potential zoning based on Land capability, lot size, use of the land and proximity to other zones.

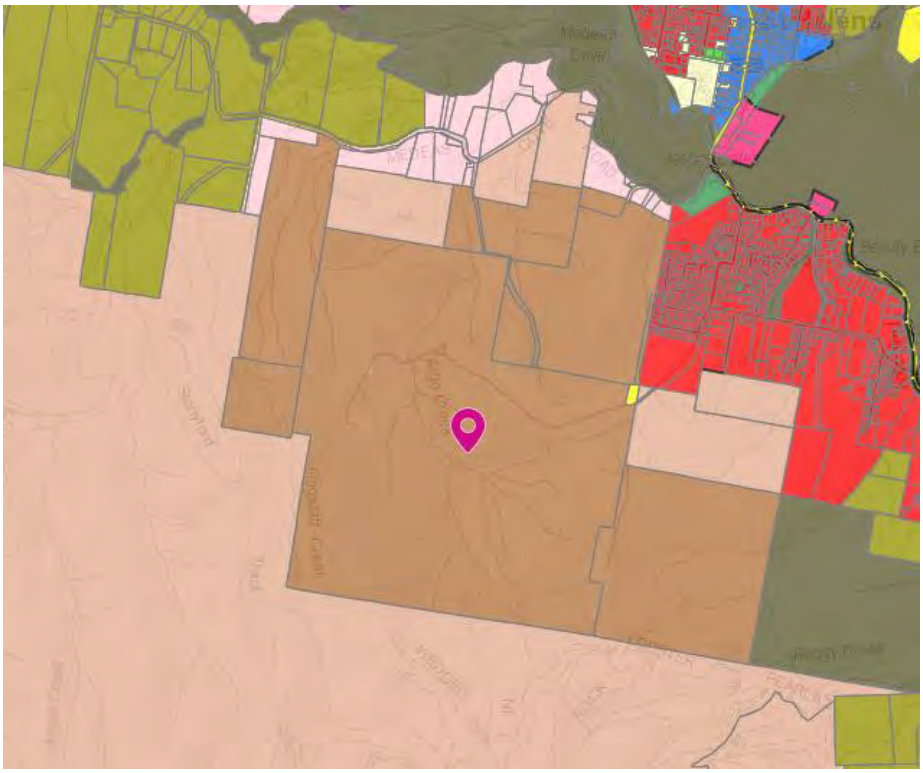


Figure 7 As proposed in the draft LPS

## Application of the Rural Living Zone

The Rural Living Zone (RL) across St Helens, has proposed as 'Rural Living C' as the appropriate density. 'Rural Living C' provides for a minimum lot size of 5ha, with performance criteria allowing a minimum lot size of 4ha, which can be approved at the discretion of Council.

Given that the approved lots for the site range from under 2.0ha up to 45.0ha, the determination of the sub category is not easily determined. The application of Rural Living C would prevent further subdivision on all but four of the approved lots.

If further the prevention of further subdivision is the objective of BODC and TPS, Lots 7 and 8 could also be split zoned to allow Rural Living at the north and Rural at the south of these lots.

The Zone application Guidelines are as follows:

| Zone Application Guidelines | Response |
|---|---|
| **RLZ 1**<br><br>The Rural Living Zone should be applied to:<br><br>a) residential areas with larger lots, where existing and intended use is a mix between residential and lower order rural activities (e.g. hobby farming), but priority is given to the protection of residential amenity; or<br>b) land that is currently a Rural Living Zone within an interim planning scheme or a section 29 planning scheme, unless RLZ 4 below applies. | The subject site represents the transition between residential areas (larger lots), with respect to the approved subdivision; and lower order rural activities, with respect to the low capability of the land for agricultural purposes. This is supported by the Agricultural Assessment at Annexure 5. |
| **RLZ 2**<br><br>The Rural Living Zone should not be applied to land that is not currently within an interim planning scheme Rural Living Zone, unless:<br><br>a) consistent with the relevant regional land use strategy, or supported by more detailed local strategic analysis consistent with the relevant regional land use strategy and endorsed by the relevant council; or<br>b) the land is within the Environmental Living Zone in an interim planning scheme and the primary strategic intention is for residential use and development within a rural setting and a similar minimum allowable lot size is being applied, such as, applying the Rural Living Zone D where the minimum lot size is 10 ha or greater. | The subject site has not been captured in the Land Use and Development Strategy, despite the approved subdivision pre-dating this strategy. However, given the proximity of the subject site to land that has been identified, the contiguous nature of the proposal and the existence of the approved subdivision, it stands to reason that the land be considered for the Rural Living Zone. |
| **RLZ 3**<br><br>The differentiation between Rural Living Zone A, Rural Living Zone B, Rural Living Zone C or Rural Living Zone D should be based on: | The subcategory of the zone is open to discussion and input from BODC and TPS. |

| | |
|---|---|
| a) a reflection of the existing pattern and density of development within the rural living area; or<br><br>b) further strategic justification to support the chosen minimum lot sizes consistent with the relevant regional land use strategy, or supported by more detailed local strategic analysis consistent with the relevant regional land use strategy and endorsed by the relevant council. | |
| **RLZ 4**<br><br>The Rural Living Zone should not be applied to land that:<br><br>a) is suitable and targeted for future greenfield urban development;<br>b) contains important landscape values that are identified for protection and conservation, such as bushland areas, large areas of native vegetation, or areas of important scenic values (see Landscape Conservation Zone), unless the values can be appropriately managed through the application and operation of the relevant codes; or<br>c) is identified in the 'Land Potentially Suitable for Agriculture Zone' available on the LIST (see Agriculture Zone), unless the Rural Living Zone can be justified in accordance with the relevant regional land use strategy, or supported by more detailed local strategic analysis consistent with the relevant regional land use strategy and endorsed by the relevant council. | There is no indication that the subject site has been targeted for greenfield urban development.<br><br>A natural values assessment was prepared for the subdivision proposal and is attached as Annexure 6 to this submission. The assessment shows that the land can be managed for natural values protection. Furthermore, the approved permit provides for specific flora protections on the land. No broader landscape values have been identified except, the Water and Coastal Protection Overlay, which will control development to a degree and protect waterway assets.<br><br>The has been identified as 'Land Potentially Suitable for Agriculture'. The report supplied at Annexure 5 asserts that the site is not suitable for the application of the Agriculture Zone. |

## Application of the Rural Zone

| Zone Application Guidelines | Response |
|---|---|
| **RZ 1**<br><br>The Rural Zone should be applied to land in non-urban areas with limited or no potential for<br><br>agriculture as a consequence of topographical, environmental or other characteristics of the | The Agricultural Assessment provided demonstrates that the land has limited or no potential for agriculture. |

| | |
|---|---|
| area, and which is not more appropriately included within the Landscape Conservation Zone<br><br>or Environmental Management Zone for the protection of specific values. | |
| **RZ 2**<br><br>The Rural Zone should only be applied after considering whether the land is suitable for the Agriculture Zone in accordance with the 'Land Potentially Suitable for Agriculture Zone' layer published on the LIST. | The subject site is proposed to go to Agriculture Zone. This representation submits that this is not an appropriate zone due to the existing dwelling and proximity to a residential subdivision and the reasoning provided in the provided Agricultural Assessment. |
| **RZ 3**<br><br>The Rural Zone may be applied to land identified in the 'Land Potentially Suitable for Agriculture Zone' layer, if:<br><br>a) it can be demonstrated that the land has limited or no potential for agricultural use and is not integral to the management of a larger farm holding that will be within the Agriculture Zone;<br>b) it can be demonstrated that there are significant constraints to agricultural use occurring on the land;<br>c) the land is identified for the protection of a strategically important naturally occurring resource which is more appropriately located in the Rural Zone and is supported by strategic analysis; (d) the land is identified for a strategically important use or development that is more appropriately located in the Rural Zone and is supported by strategic analysis; or it can be demonstrated, by strategic analysis, that the Rural Zone is otherwise more appropriate for the land. | Please refer to the Agricultural Assessment provided at Annexure 5. |

## Conclusion

The proposed zone under the draft LPs is Agriculture Zone. This zone has been applied as the land has been mapped as 'Unconstrained' despite the low land capability and the approved subdivision. It is submitted therefore, that this is an inappropriate zone for the subject site.

The Land Use and Development Strategy for Break O'Day indicates that land adjoining the subject site should be investigated for a residential zone such as Rural Residential. To include the subject site, at least the approved lots 1 through 9, in the Rural Residential Zone would be consistent with the approved permit and intended residential use, and potentially create a contiguous residential zone that is suited to the capability of the land. The appropriate sub-category could be applied to control further subdivision.

The application of the Rural Living Zone would allow future development to be made according to the approved subdivision.

MEDEAS COVE ROAD

BROOKS ROAD (COUNCIL MAINTAINED)

LOT 100. (BALANCE) 106ha±

LOT 1. 1.30ha±

LOT 2. 1.85ha±

LOT 3. 5.32ha±

LOT 4. 2.66ha±

LOT 5. 8.44ha±

LOT 6. 3.00ha±

LOT 7. 35.0ha±

LOT 8. 30.0ha±

LOT 9. 45.0ha±

LOT 101 (ROAD). 3.49ha±

EXISTING DWELLING

1.0 km HIGH WATER BUFFER LINE

SUSAN COURT

COBROOGA DRIVE

105.45

43.39

144.76

97.66

53.42

109.51

82.16

142.11

90.07

50

100

150

DENOTES 30.0m CREEK BUFFER

DENOTES 25m x 25m BUILDING ENVELOPE PLUS BUSHFIRE PROTECTION ZONES

NOTE: CONTOUR INTERVAL IS 10m, CONTOUR INDEX IS 50m.

THIS PLAN HAS BEEN DRAWN TO ACCOMPANY A DEVELOPMENT APPLICATION TO COUNCIL AND SHOULD NOT BE USED FOR ANY OTHER PURPOSE. ALL MEASUREMENTS SUBJECT TO SURVEY.

# PROPOSED SITE PLAN

## "EATON PARK" ST. HELENS

C.T. 148075-2

N

EAST COAST SURVEYING
Ph (03) 6376 1972 Fax (03) 6376 1262
Avery House, Level 1, 48 Cecilia Street
PO Box 430, St Helens TAS 7216
admin@ecosurv.com.au

Job Number 110408

| Drawn | File name | Date | Scale | Edition | Sheet |
|---|---|---|---|---|---|
| ANR | 110408_Site Plan_v3.0_121211.dwg | 12/12/11 | 1:8000@A3 | v2.0 | 1 OF 2 |




THIS PLAN HAS BEEN DRAWN TO ACCOMPANY A DEVELOPMENT APPLICATION TO COUNCIL AND SHOULD NOT BE USED FOR ANY OTHER PURPOSE. ALL MEASUREMENTS SUBJECT TO SURVEY.

# PROPOSED SITE PLAN
## "EATON PARK" ST. HELENS

EAST COAST SURVEYING

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EAST COAST SURVEYING
Ph (03) 6376 1972 Fax (03) 6376 1262
Avery House, Level 1, 48 Cecilia Street
PO Box 430, St Helens TAS 7216
admin@ecosurv.com.au

Job Number 110408

| Drawn | File name | Date | Scale | Edition | Sheet |
|---|---|---|---|---|---|
| ANR | 110408_Site Plan_v3.0_121211.dwg | 6/12/21 | 1:8000@A3 | v2.0 | 1 of 1 |

Break O'Day COUNCIL

ABN 96 017 131 248
Georges Bay Esplanade, St Helens
PO Box 21, St Helens Tasmania 7216
T: (03) 6376 7900 F: (03) 6376 1551
E: admin@bodc.tas.gov.au
W: www.bodc.tas.gov.au

Our ref: DA 2012 / 00013
Enquiries: Rebecca McQueeney

07 March 2012

East Coast Surveying
PO Box 430
ST HELENS TAS 7216

Dear Sir/Madam,

**APPLICATION FOR PLANNING PERMIT**
**9 Lot Subdivision, 1 Balance Lot & 1 Road Lot, 48 Brooks Road, St Helens**

Your application for 9 Lot Subdivision, 1 Balance Lot & 1 Road Lot at 48 Brooks Road, St Helens submitted to Council on 23/01/2012 for planning approval has been approved. Please find attached to this letter your Planning Permit subject to conditions, please **read & understand** these conditions. Council now has a system in place to monitor compliance of these conditions.

As the applicant you have the right to appeal Council's decision on this application, or any conditions to the permit. If you want to do so, you must lodge your appeal with the Resource Management and Planning Appeals Tribunal within 14 days of this notice being served under the Land Use Planning and Approval Act 1993. Your appeal must be sent on the attached appeal notice with the correct fees.

Should you have any queries in regard to this advice, please contact the Planning Department on 03 6376 7933.

Yours Sincerely

Rebecca McQueeney
**PLANNING ADMINISTRATION**

*encl:*
*Notice of Appeal to Resource Management and Planning Appeal Tribunal*





Break O'Day COUNCIL

ABN 96 017 131 248
Georges Bay Esplanade, St Helens
PO Box 21, St Helens Tasmania 7216
T: (03) 6376 7900 F: (03) 6376 1551
E: admin@bodc.tas.gov.au
W: www.bodc.tas.gov.au

# PLANNING PERMIT DA013-2012

| | |
|---|---|
| LOCATION | 48 BROOKS ROAD, ST HELENS |
| TITLE REFERENCE | 148075/2 |
| PROPOSED DEVELOPMENT | 9 LOT SUBDIVISION, 1 BALANCE LOT & 1 ROAD LOT |
| USE CLASS | Residential |
| ZONE | Urban |

Pursuant to Section 57 of the *Land Use Planning & Approvals Act 1993* and the *Break O'Day Council Planning Scheme 1996* as amended that the application for 9 LOT SUBDIVISION, 1 BALANCE LOT & 1 ROAD LOT on land situated at 48 BROOKS ROAD, ST HELENS described in Certificate of Title 148075/2 be APPROVED subject to the following conditions:

1. Development must accord with the Development Application DA 013-12 received by Council 23/01/2012, together with all submitted documentation received and forming part of the development application, except as varied by conditions on this Planning Permit.

2. Approval is for lots 1 to 9, 100 and 101 shown on the plan.

3. All works must be in accordance with the conditions of the Certificate of Consent by Ben Lomond Water, **BLW DA 12-034** as attached to this permit.

4. All building envelopes are to be located where the clearing of native vegetation is avoided.

5. All works must be conducted in accordance with *Environmental Best Practice Guidelines for Undertaking Works in Waterways and Wetlands in Tasmania* as outlined in the Department of Primary Industries, Parks, Water and Environment publication 'Waterways and Wetlands Works Manual 2003'.

6. Standard *Phytophthora* hygiene measures must be implemented for the construction and maintenance of works in accordance with the Forest Practices Authority 'Flora Technical Note No. 8: Management of *Phytophthora cinnamomi* in production forests', November 2006.

7. A *Soil and Water Management Plan* must be submitted to Council for approval prior to a Building Permit being issued, prepared in accordance with *Guidelines for Soil and Water Management*, published by Hobart City Council and available on Council's website (http://www.bodc.tas.gov.au/webdata/resources/files/Guidelines_for_Soil_and_Water_Management.pdf). All works associated with the development must be conducted in accordance with the approved *Soil and Water Management Plan*. All worked areas not covered by structures must be promptly and progressively stabilised (eg revegetated) so that they will not erode and/or act as a source of sediment transfer.

8. Where roads and building envelopes are cleared prior to residential construction works, topsoil and vegetation debris should be managed to minimize the risk of creating further weed infestations within the project area.

9. A detailed landscaping plan for the road reservations demonstrating the proposed species to be used and clumps to be retained, their locations, height and spread at maturity and a specification for soil preparation, weed control, watering, fertilising and general maintenance during establishment is to be submitted to Council for approval. The plans/specifications should bear the name and qualifications of the person responsible for their preparation. Such persons should be qualified landscape architects or horticulturalists, or have demonstrated experience in the design and implementation of landscaping projects in the Break O'Day municipality. Any new tree planting or retention should be a minimum of three (3) metres horizontal distance from underground services to reduce risk of future damage by limbs, roots or the tree planting is planted in a tree planter box root director, and should be able to maintain solar access to adjoining residential properties.

10. The location of all on-site threatened flora as depicted in Figure 6, page 17 of ECOtas ecological assessment dated 16 December 2011 are to be identified and marked. A minimum 10m works exclusion zone is to be placed around each site.

11. A permit "to take" will be required from the Policy and Conservation Assessment Branch (PCAB) of the Department of Primary Industries, Parks, Water and Environment (DPIPWE) (may be downloaded from http://www.dpiw.tas.gov.au/inter.nsf/Attachments/LJEM-789UFG?open ) if it becomes necessary to move or take any threatened flora species.

12. All worked areas not covered by development are to be promptly and progressively stabilised (eg revegetated) so that they will not erode and/or act as a source of sediment transfer.

13. No construction material or equipment associated with the development is to be placed or operated on a public road, footpath, parking area or reserve without written consent of Council's Manager Works and Infrastructure (6376 1866). No unfenced or potentially dangerous activity or material is to be located in close proximity to existing public areas. No unsupervised transit of plant, equipment or vehicles across public areas or other obstruction of those areas is permissible.

14. Developer's suggestions for the names of the new roads, together with the reasons for the proposed, should be submitted to Council for consideration.

15. Lots 1, 2, 3, 5, 7, 8, 9 and 100 Titles are to provide building exclusion areas on the Final Plan of Survey and in the Schedule of Easements. These exclusion zones are to represent the areas of riparian vegetation on these lots that are within 30 metres of designated waterways.

16. Full and detailed engineering design drawings and specifications for roads, storm water and hydraulic services shall be submitted to Council for approval prior to the commencement of works. Storm water designs must unequivocally demonstrate that surface and groundwater quality will be maintained or enhanced by the development and that storm water flows from the subdivision shall be the same as pre-existing storm water flows. Engineering designs shall be certified by an appropriately qualified engineer (qualifications meeting the requirements for admission to the grade of Chartered Professional Engineer for the Institute of Engineers Australia are considered appropriate). Standard Council fees will apply to certify these plans. All infrastructure drawings and specifications must be in accordance with Council Standard drawings and specifications (copies available from Council).

17. Prior to any civil construction works beginning, an onsite meeting must occur between the Civil Contractor for the subdivision and Council's Manager Works and Infrastructure to determine the details and stages for progressive inspections of the subdivision development. At this meeting the responsible person for the development is to be nominated as the project manager.

18. All vehicle crossovers from the carriageway to the property boundaries must be constructed and maintained in general accordance with the vehicular crossing requirements of Council's Works Department (contact on 6376 1866). The construction of a standard duty vehicular crossover will provide effective, safe and nuisance-free vehicle access in connection with the proposed development. All works within the road reservation are subject to the completion of a works permit (application attached) and must be financed by the applicant.

19. Application is to be made to Crown Land Services within 3 months of the date of the Planning Permit and evidence provided to Council, to remove the 20.12m wide Reserved Road from Lot 5.

20. All proposed roads are to be designed and constructed over existing graveled roads.

21. Brooks Road is to be upgraded from the intersection with Medeas Cove Road, to a rural sealed standard with a minimum seal width of 7 metres and a 1 metre gravel shoulder either side, as per IPWEA Standard and approved by Council's Manager Works and Infrastructure.

22. The intersection of Brooks Road with Medea Cove Road is to be upgraded in accordance with Council's Manager Works and Infrastructure. The upgrade is to extend along Medeas Cove Road, a minimum 15 metres in either direction of the centre line.

23. Bollards are to be erected on the boundary line across the Cobrooga Drive end of Lot 101. These bollards must be removable in an emergency situation and are to be of a design approved by Council's Manager Works and Infrastructure, with all supply and installation costs borne by the developer.

24. Electricity reticulation to Lots 1 to Lot 9 is to be reticulated to the requirements of Aurora Energy Pty Ltd, at the developer's expense.

25. Shared trenching should be provided for compatible public utility services (eg water, gas, telecommunications and electricity) wherever practical to maximise landscaping potential within the road reserve.

26. Street lighting is to be installed to provide illumination to the street and to enhance driver safety and security. This is to meet the relevant AS/NZS 1158.1:1997 'Road Lighting'. Street lighting is to enhance the prestige of the development, be energy-efficient in accordance with contemporary technological design, and provide low ongoing costs for other lifecycle items. The developer is to liaise with Aurora Energy Pty Ltd with regard to the location of street lights in relation to the proposed infrastructure; any relevant drawings and specifications are to be submitted to Council's Manager Works and Infrastructure for approval before any works commence. Please note that unless specific approval is issued by Council, lighting is to be of a standard type.

27. The provision of infrastructure to all approved lots including roads, driveways, entries, power, storm water and telecommunications must be completed prior to release of Final Plans or a bond equivalent to 1.1 times the cost of the works submitted to Council to cover the cost. The applicant must provide written advice to Council which option they wish to take.

28. The developer is to provide evidence by way of quotation for works or engineering estimates for the bond. Council will require an additional 10% above the estimated bond amount to be incorporated into the final bond amount.

29. If a bank guarantee is lodged in lieu of a bond it must be undated and endorsed to the effect that it remains in place until such time as notified by Council in writing.

30. If a bond is lodged with Council for the engineering and utilities works then Council will enact that bond after twelve (12) months after lodgment of the bond and complete the works covered by the bond.

31. A copy of the Final Plan of Survey and Schedule of Easements is to be submitted to Council for approval prior to the sealing of the Plans by Council.

32. Once all works are completed, 'as-constructed' plans are to be submitted to Council before submission of the Final Plan of Survey, at which stage the six (6) month maintenance period will commence.

33. The road Title is to be transferred into Council ownership at Developer's cost prior to the end of the maintenance period.

34. Provision is to be made for any necessary drainage easements on the Final Plan of Survey and in the Schedule of Easements.

35. A covenant is to be created on all Titles stating no further subdivision of these Titles will be approved by Council.

36. Any restrictive covenants created by this subdivision are not to preclude the use or development of this land for state/commonwealth or local government purposes.

37. The Final Plan of Survey when submitted and found to be in accordance with the above conditions be sealed.

**PART V AGREEMENTS**

38. A Part V agreement in accordance with Section 71 of the *Land Use Planning and Approvals Act 1993* must be prepared between Council and the land owner(s) of Lot C.T. 148075/2 at the developer's expense, including registration of the agreement, to the following effect:

    a. Ben Lomond Water does not provide a reticulated water or sewage collection service to the proposed lots. None of the proposed Lots shall connect to Ben Lomond Water's water or sewage infrastructure. Onsite disposal of waste water and on-site water supply will be required.
    b. No further subdivision will be allowed on the Title under the current planning scheme.

    The agreement must be complied with at all times.

39. A Part V agreement in accordance with Section 71 of the *Land Use Planning and Approvals Act 1993* must be prepared between Council and the land owner(s) of Lot C.T. 148075/2 at the developer's expense, including registration of the agreement, and to the following effect:
    a. Riparian vegetation is to be designated overland stormwater flow paths.
    b. Vegetation is not to be removed from within the areas indicated on the site plan as riparian vegetation that include the threatened vegetation types *Eucalyptus ovata* and *Eucalyptus viminalis* and the *Hierochloe rariflora* and *Plantago debilis*.

    The agreement must be finalised prior to a building permit being issued and must be complied with at all times.

**ADVICE**

1. Council will not be responsible for the upgrade or maintenance of Cobrooga Drive to the eastern boundary of Lot 101 until such time as Council's Manager Works and Infrastructure has assessed Cobrooga Drive has been constructed to the required Council Standard.

**Advice to Applicant**

**Under section 53(5) of the *Land Use Planning and Approvals Act 1993* This permit is valid for two (2) years only from the date of this notice and will lapse if substantial commencement of the use or development has not taken place within that time. You may apply for a further two years extension prior to this time frame running out.**

# PLANNING PERMIT DA013-2012

Should you wish to appeal against any of the conditions imposed by Council, a notice of appeal may be lodged by you to the Resource Management & Planning Appeal Tribunal, pursuant to Section 61(4) of the *Land Use Planning & Approvals Act 1993.*

Please find enclosed a Notice of Appeal form should you wish to exercise that right. Any appeal should be lodged within fourteen (14) days of receipt of this notice and until the expiry of this period, or, should you lodge an appeal, then this approval will not take effect until the determination or abandonment of the appeal.

You are advised that the Resource Management & Planning Appeals Tribunal under its powers may grant a permit or refuse a permit. Should a permit be refused by the Tribunal, then you may not apply for the same development for a period of two years from the date of the Tribunal decision.

Further to the above, any other approvals which may be required from other authorities for the proposed use or development should be granted, and any fees paid, prior to this planning approval taking effect.

| | | | |
|---|---|---|---|
| **Council Delegate:** | Leigh Stevens | | 06/03/2012 |
| **Title:** | Manager Development Services | **Permit No.** | DA 013-12 |

Enc: Proforma for Resource Management & Planning Appeal Tribunal

| Form 02 | (Office Use Only) BLW DA No. 12-034 |
|---|---|

BEN LOMOND WATER

# DEVELOPMENT CERTIFICATE OF CONSENT

## 1. CERTIFICATE DETAILS

| | | | |
|---|---|---|---|
| Local Authority: | Break O'Day Council | Council DA No. | DA13/12 |
| Council Referral Officer: | Rebecca McQueeney | | |
| Applicant: | East Coast Surveying<br>PO Box 430<br>ST HELENS TAS 7216<br>admin@ecsurv.com.au | | |
| Development Address: | 48 Brooks Road | | |
| Suburb: | St Helens | P/Code: | |

## 2. DETAILS OF WORK

9 Lot Subdivision - 1 Balance Lot & 1 Road Lot

## 3. THE FOLLOWING CONDITIONS TO BE INCLUDED IN STATUTORY APPROVAL No. DA13/12

**BLWDA No.** DA 12-034

**NO SERVICES**

Ben Lomond Water does not provide a reticulate water or sewage collection service to the proposed lots. None of the proposed Lots shall connect to Ben Lomond Water's water or sewerage infrastructure. Onsite disposal of wastewater and onsite water supply will be required.

## 4. SIGNED:

Officer JC

.....

Manager Development (BLW)

Date: 2/2/2012

## Michelle Schleiger

**From:** Jake Ihnen <jake.ihnen@bodc.tas.gov.au>
**Sent:** Monday, 1 March 2021 4:00 PM
**To:** Alicia Barber
**Cc:** Break O Day Office Admin; Brett Woolcott
**Subject:** 9 Lot Subdivision, 48 Brooks Road - Darrell Smith - Substantial Commencement Achieved - DA013-2012

Good afternoon Alicia,

Based on the email advice sent to Council 29th November 2013 confirming the scope of works completed we have confirmed previously to the owner as wellasA previous Valuer.

I am in a position to confirm that substantial commencement has been made and therefore the Planning Permit remains valid (Council Ref: 013-2012).

Regards,

**Jake Ihnen** | Development Services Coordinator | **Break O'Day Council**
t: 03 6376 7900 | m: 0429 853 610
e: jake.ihnen@bodc.tas.gov.au | w: www.bodc.tas.gov.au

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---

**From:** Alicia Barber <admin@ecosurv.com.au>
**Sent:** Monday, 1 March 2021 2:53 PM
**To:** Jake Ihnen <jake.ihnen@bodc.tas.gov.au>
**Cc:** Break O Day Office Admin <admin@bodc.tas.gov.au>; Brett Woolcott <brett@woolcottsurveys.com.au>
**Subject:** FW: DA2012/00013 - 9 Lot Subdivision, 48 Brooks Road - Darrell Smith

Good afternoon Jake,

Can you please confirm substantial commencement for the above mentioned development? The Valuer has asked for something in an email/letter from Council.

It seems obvious from the points and email chain below but we still need to confirm.

Thanks in advance.

Kind regards,

Alicia Barber
Office Manager/Planning Coordinator

P 03 6376 1972
E admin@ecosurv.com.au
W www.woolcottsurveys.com.au
A Avery House, Level 1, 48 Cecilia Street (PO Box 430, St Helens, TAS 7216)

Monday – Thursday 9.00am to 5.00pm

*In response to the recent Coronavirus (COVID-19) pandemic we have decided to implement precautionary measures and are no longer conducting face to face office meetings for the immediate future. Site meetings will be conducted with regard to Social Distancing policies. The entire team are still working and ask that you continue to call and email us just as you usually would. Business will continue as usual.*




Offices located in:

| LAUNCESTON | ST HELENS | HOBART | DEVONPORT |
|---|---|---|---|
| 10 Goodman Crt, Invermay | 48 Cecilia St, St Helens | Rear Studio, 132 Davey St, | 2 Piping Lane, |
| PO Box 593, Mowbray TAS 7248 | PO Box 430, St Helens TAS 7216 | Hobart TAS 7000 | East Devonport |
| P 03 6332 3760 | P 03 6376 1972 | P 03 6227 7968 | P 03 6332 3760 |

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---

**From:** Rebecca Venton <rebecca.venton@bodc.tas.gov.au>
**Sent:** Friday, 29 November 2013 10:52 AM
**To:** Colin Smith <colin.smith@woolcottsurveys.com.au>
**Subject:** RE: TRIM: 9 Lot Subdivision, 48 Brooks Road

Thanks Colin

Rebecca Venton

Development Services Administration Officer | **Break O'Day Council**
t: 03 6376 7900 | f: 03 6376 1551
e: rebecca.venton@bodc.tas.gov.au | w: www.bodc.tas.gov.au

Monday, Tuesday & Thursday 8.45am – 2.45pm
Wednesday & Friday 8.45am – 5.00pm


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---

**From:** Colin Smith [mailto:colin.smith@woolcottsurveys.com.au]
**Sent:** Friday, 29 November 2013 9:44 AM
**To:** Rebecca Venton
**Cc:** Chris Triebe; James Stewart; brett@woolcottsurveys.com.au
**Subject:** TRIM: 9 Lot Subdivision, 48 Brooks Road

Hello Rebecca,

As discussed we have substantially commenced the above subdivision. The supervising Engineer is Risden Knightley.

The works completed to date are as follows:

- Title Boundary Survey and Pegging.
- Engineering Design.
- Preliminary Earthworks of shaping the road.
- All Aurora and Telstra works.

Please let me know if you have any questions.

Regards, Colin.

Colin Smith
Director
Registered Land Surveyor
Planning Officer

Woolcott Surveys
10 Goodman Court, Invermay TAS 7248
PO Box 593, Mowbray Heights TAS 7248

Phone (03) 6332 3760
Fax (03) 6332 3764

East Coast Surveying
Avery House, level 1, 48 Cecilia Street
PO Box 430, St Helens TAS 7216

Phone (03) 6376 1972
Fax (03) 6376 1262

Mobile 0458 353 946
Email: colin.smith@woolcottsurveys.com.au



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DARREL SMITH

# Agricultural assessment and rezoning report

## 48 Brooks Road, St Helens 7216

**DECEMBER 2021**

pinion ADVISORY

43 Formby Road, Devonport, Tasmania 7310

Phone: 1300 746 466

Email: admin@pinionadvisory.com

www.pinionadvisory.com

Report author: Faruq Isu MAppSc (AgrSc)

Jason Barnes BAgrSc(Hons)

An appropriate citation for this report is: Pinion Advisory, 2021, Agricultural assessment and rezoning report, Darrell Smith, Launceston, TAS

Document status:

| Date | Status /Issue number | Reviewed by | Authorised by | Transmission method |
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| 1/12/21 | Draft 1 | JB | FI | Email |
| 7/12/21 | Final Draft | JB | FI | Email |
| 8/12/21 | Final | JB | FI | Email |
| | | | | |

This report has been prepared in accordance with the scope of services described in the contract or agreement between Pinion Advisory and the Client. Any findings, conclusions or recommendations only apply to the aforementioned circumstances and no greater reliance should be assumed or drawn by the Client. Furthermore, the report has been prepared solely for use by the Client and Pinion Advisory accepts no responsibility for its use by other parties.

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# Executive summary

This agricultural assessment and rezoning report has been prepared on behalf of the proponent, Darrell Smith, and covers the various aspects for the proposed rezoning (from agriculture to rural living) of the property at 48 Brooks Road, St Helens TAS 7216, under the transition to the Tasmanian Planning Scheme.

The property has no prime agricultural land and is not located in a Tasmanian Irrigation District.

The property in questions consists of land capability class 5w and class 6e land, that is unsuitable for cropping with moderate to severe limitations on pastoral use. The soil and topography limitations result in restricted pasture production over the winter due to prolonged periods of waterlogging and the low-lying areas becoming unsuitable for grazing.

The property is currently maintained with a small mob of 25 sheep to provide gazing to reduce the fire risk. No commercial agriculture is practiced on the property.

The property is question is constrained agriculturally due to topography, soil limitations and adjacent land use and therefore, is not able to support a profitable grazing and livestock based agricultural business. It is not suitable to support a cropping based enterprise due to the land capability class and lack of irrigation. The area immediately surrounding the property is either Rural or General Residential under the Tasmanian Planning Scheme. Agricultural activity in the form of low intensity grazing is conducted to the north only. Area to the south and southwest is under reserve for future potential production forests. Thus, the property is considered to be a lower order rural land (suitable for hobby farming activities) rather than productive agricultural land and has previously been approved for a 9-lot subdivision.

This agricultural assessment finds that title 166517/1 at 48 Brooks Road, St. Helens is constrained in terms of the current and future potential agricultural land use activity. It supports the rezoning of the property from Agriculture to Rural Living under the Tasmanian Planning Scheme, recognising that subdivisions have previously been approved by the Break O'Day Council on a significant area of the property in question. Failing to achieve Rural Residential Zoning, it is recommended that the property be zoned Rural to allow a broader range of primary industry land uses and recognise the constrains imposed on an agricultural enterprise on the property due to the land capability limitations to current and future capacity to support economically viable and sustainable agricultural land use.

# 1 Purpose

This report has been undertaken on behalf of Darrell Smith (the proponent) in order to support the Rural Living Zoning of the property at 48 Brooks Road, St Helens, under the Tasmanian Planning Scheme.

This report agricultural assessment covers the entire property despite a significant area of the property being previously approved for a 9-lot subdivision by the Break O'Day Council. Lots range in size from 1.3ha to 45ha over approximately 132ha of the property (Appendix A). The balance of the property is assessed in this report for its agricultural land use capabilities in relation to being re-zoned with the approved subdivision to maintain consistence across the property under the new planning scheme.

## 1.1 General Overview

### 1.1.1 Land Capability

The currently recognised reference for identifying land capability is based on the class definitions and methodology described in the Land Classification Handbook, Second Edition, C.J Grose, 1999, Department of Primary Industries, Water and Environment, Tasmania.

Most agricultural land in Tasmania has been classified by the Department of Primary Industries and Water at a scale of 1:100,000, according to its ability to withstand degradation. A scale of 1 to 7 has been developed with Class 1 being the most productive for agriculture and resilient to degradation and Class 7 the least suitable to agriculture. Class 1, 2 and 3 is collectively termed "prime agricultural land". For planning purposes, a scale of 1:100,000 is often unsuitable and a re-assessment is required at a scale of 1:25,000 or 1:10,000. Factors influencing capability include elevation, slope, climate, soil type, rooting depth, salinity, rockiness and susceptibility to wind, water erosion and flooding.

### 1.1.2 Report Author(s)

In providing the opinion enclosed here, it is to be noted that Faruq Shahriar Isu, holds a Master of Applied Science (Agricultural Science) and has over 2 years' experience in agribusiness and agricultural research industry in Tasmania. Faruq is trained to carry out land capability and suitability assessments. He has previously used these skills to select trial sites for agricultural research and more recently engaged to undertake agricultural assessment within several municipalities in northern Tasmania.

Jason Barnes possesses a Bachelors of Agricultural Science with Honours and has over 18 years' experience in the agricultural industry in Tasmania. Jason is skilled to undertake agricultural and development assessments as well as land capability studies. He has previously been engaged by property owners, independent planners, and surveyors to undertake assessments within the, Waratah Wynyard, Circular Head, Break O'Day, Northern Midlands and Launceston municipalities including the Meander Valley. Most of these studies have involved the assessment of land for development purposes for potential conflict with Local Government and the Tasmanian Planning Schemes.

### 1.1.3 Tasmanian Planning Scheme - LPS

The Guideline No.1 Local Provisions Schedule (LPS): zone and code application issued by the Tasmanian Planning Commission under Section 8A of the *Land Use Planning and Approvals Act 1993*, sets out the guidelines for zoning land in the transition to the Tasmanian Planning Scheme.

# 2 Property details

## 2.1 Location

The property at 48 Brooks Road, St Helens TAS 7216 is owned by Darrell Smith (Figure 1, Table 1).

**Table 1 Property location identification details**

| Address | Property ID | Title Reference | Hectares *(Approx.)* |
|---|---|---|---|
| 48 Brooks Road, St Helens TAS 7216 | 3262428 | 166517/1 | 247.8ha |

The property is located approximately 2km to the southeast of St Helens township. There are currently two points of entry to the property, one through Brooks Road to the north of title boundary and the other through the east, via Cobrooga Drive. The property resides on low hills formed on lower Devonian granite and granodiorite, with Mathinna Beds over sandstone and mudstone sequences in higher elevation. Argo creek bisects the property, entering from the south and exiting through the northern boundary, flowing into Medeas Cove (Figure 2).

Vegetation present in the property consists of degraded pasture (mostly covered with overgrown bracken fern) and woodland forest.

The property is held as private freehold land and immediately surrounded by the same to the north, northwest and east. To the south and southwest is crown land reserved under Future Potential Production Forest (Figure 3).

The property is zoned Rural Resource under the Break O'Day Interim Planning Scheme and immediately surrounded by the same. The property adjoins General Residential land on the northwest corner albeit separated by a small area zoned Utility for a town water reservoir. There are small parcels of Environmental Living land to the north and east (Figure 4). It is proposed to be zoned Agricultural (potentially unconstrainted) by the Break O'Day council in the transition to the Tasmanian Planning Scheme (Figure 5).

The property is outside any Tasmanian Irrigation Districts.

There is a small pocket of Threatened Native Vegetation Communities of *Melaleuca ericifolia* swamp forest along the northern property boundary (Figure 6).

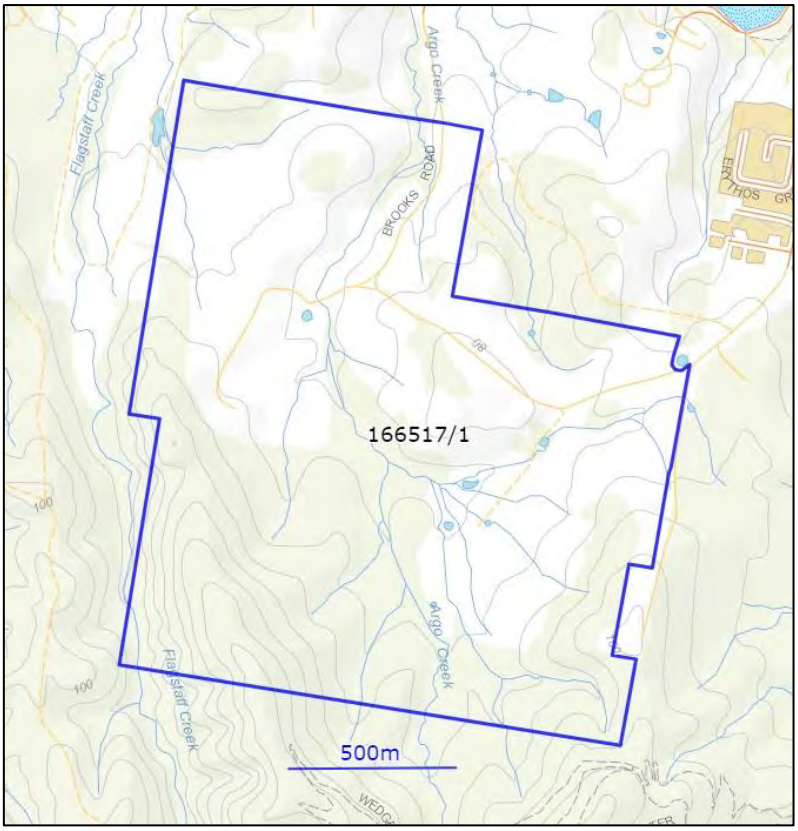



**Figure 1. Approximate location of the property outlined in blue. (Source: The LISTMap)**

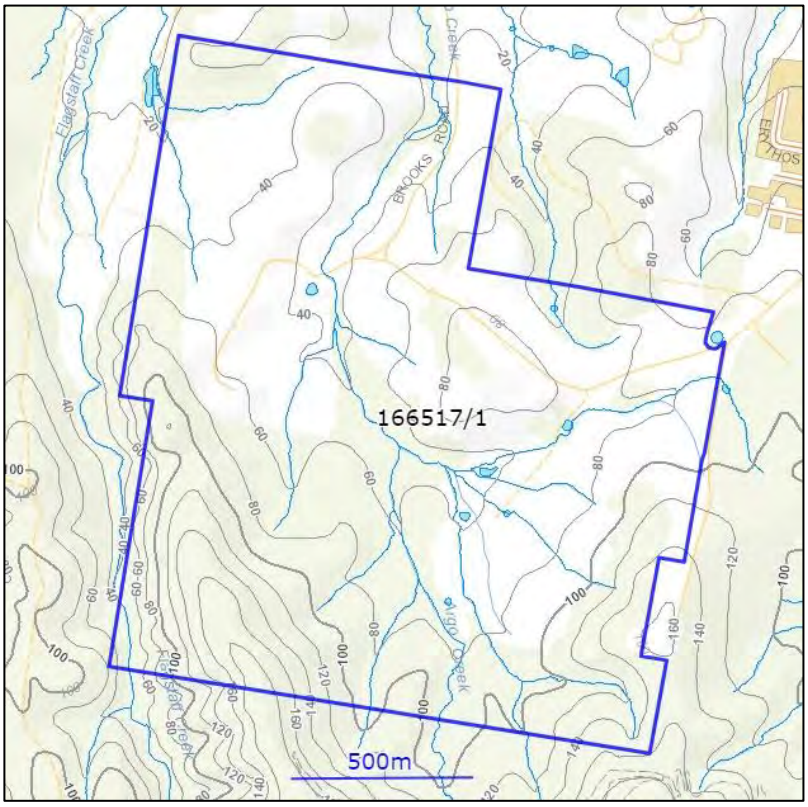



**Figure 2. Topographic map of the property (Source: The LISTMap)**

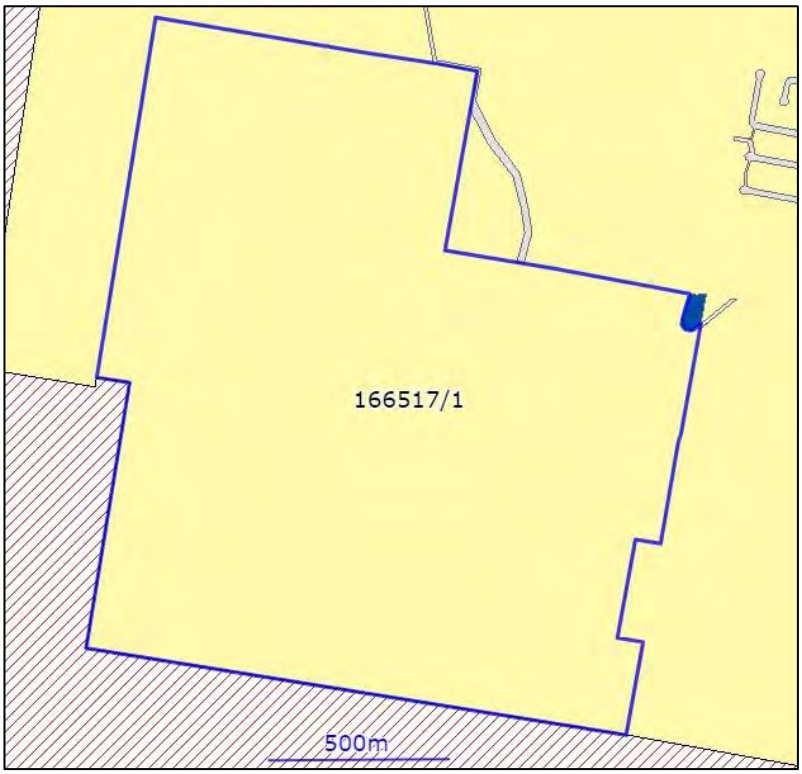



**Figure 3. Land tenure on and surrounding property is private freehold (yellow), except to the south and southwest which is crown land (stripes). (Source: The LISTMap)**

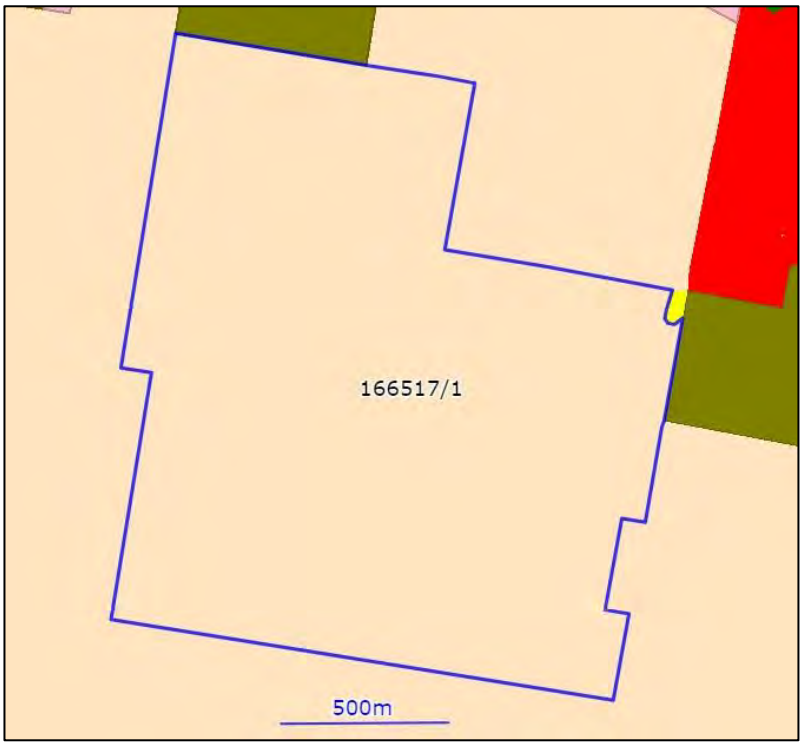



**Figure 4. The property is zoned Rural Resource (pink) under the Break O'Day Interim Planning Scheme and mostly bordered by same. Green areas indicate Environmental Living and red area indicate General Residential. (Source: The LISTMap)**

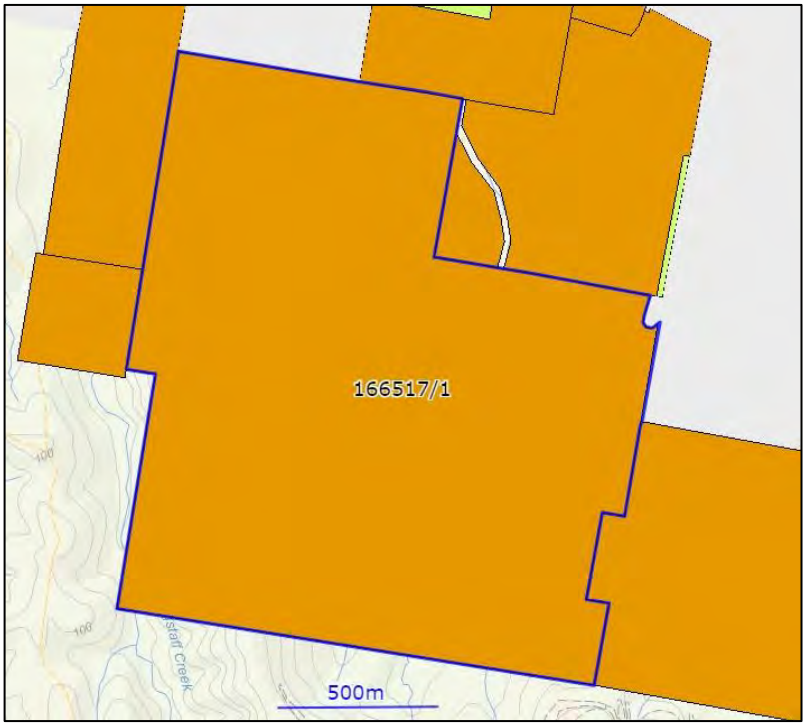



**Figure 5. Land potentially suitable for Agricultural zone. Orange areas indicate potentially unconstrained. (Source: The LISTMap)**




**Figure 6. There is Threatened Native Vegetation Communities of *Melaleuca ericifolia* swamp forest recoded along the northern boundary of the property (orange highlight). (Source: The LISTMap)**

# 3 Land capability

Land capability of the property was assessed according to the Tasmanian Land Capability Classification System (Grose, 1999). Land is ranked according to its ability to sustain a range of agricultural activities without degradation of the land resource. Class 1 land is considered to be prime agricultural land and Class 7 land is unsuitable for agriculture due to severe limitations. A wide range of limitations are considered, and the most significant limitation determines its final classification. Limitations in relation to soils include stoniness, topsoil depth, drainage and erosion hazard. Limitations to topography include slope and associated erosion hazard.

This St. Helens property consists predominantly of class 6e (69% or 170.37ha) land with areas of class 5w (31% or 77.13ha) interspersed in the gullies on the property (Figure 7). The land is not prime agricultural land. The land is unsuitable for cropping with severe limitations to pastoral land use.

The primary limitation for class 6 area is erosion (both water and wind), with areas limited by soil depth and abundance of course rock fragments. Class 6 land is not suitable for pasture renovations and should remain undisturbed and under natural vegetation.

The class 5 areas are primarily limited by frequent waterlogging, particularly in winter and including significant periods in autumn and spring depending on rainfall, resulting in land being unsuitable for grazing during the period.

Class 5 land is defined as:

*This land is unsuitable for cropping, although some areas on easier slopes may be cultivated for pasture establishment or renewal and occasional fodder crops may be possible. The land may have slight to moderate limitations for pastoral use. The effects of limitations on the grazing potential may be reduced by applying appropriate soil conservation measures and land management practices.*

Class 6 land is defined as:
*Land marginally suitable for grazing because of severe limitations. This land has low productivity, high risk of erosion, low natural fertility or other limitations that severely restrict agricultural use. This land should be retained under its natural vegetation cover.*

The key land capability limitations associated with this property are:

- Erosion (e): caused by wind and/or water if soils are exposed or left bare. Recommended to keep under natural vegetation
- Wetness (w): caused by the movement of water from overflow of drainage channels and watering holes and surface runoffs accumulating in areas on the flatter soil lower on the slope. The resulting areas remaining wet for prolonged periods, over and above what it normally

would under average rainfall conditions. This restricts the usable arable areas, only allowing for grazing during dry periods.

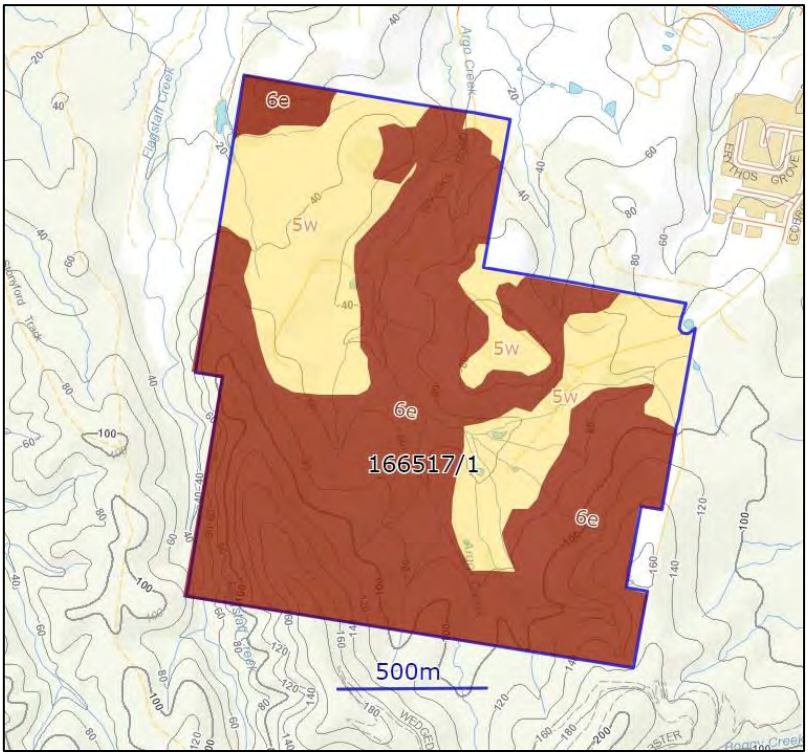



**Figure 7. Land capability map of the property. Areas have been defined after site inspection on 19/11/21. Pale yellow indicates class 5w land and brown indicates class 6e land. (Source: The LISTMap)**

**Table 2 Land capability assessment over titles.**

| Land Capability Class (ha) | Land Characteristics | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | Geology & Soils | Slope (%) | Topography & Elevation | Erosion Type & Severity | Soil Qualities | Agricultural Versatility | Main Land Management Requirements | Climatic Limitations |
| 5w<br><br>(approx. 77.43ha) | Grey clay loam to gravelly clay loam topsoil gradationally transitioning to brown clay sub soil.<br><br>Presence of tertiary deposits or granite throughout the profile.<br><br>Dermosol | 0-10% | Rolling low hills and frequent depressions.<br><br>20-70m above sea level. | Moderate sheet and rill erosion. Prone to moderate to high wind erosion on lower elevation if soil is exposed. | Imperfectly drained on depressions and drainage lines to moderately well drained on slopes. Slowly permeable to moderately permeable in higher elevation. Topsoil depth approximately 10-15cm | Not suitable for cropping.<br><br>Suitable to pasture with some limitations (periods of water logging). Topography in gullies and minor tributaries leading into Argo Creek and Agro Creek itself limit machinery operation and livestock grazing in the riparian zones along the watercourses.<br><br>Bracken fern weed infestation needs to be managed, prior to commencing full scale pastoral use. | Avoid situations that lead to the exposure of bare soil, therefore maintain sufficient ground cover. The risk of compaction in winter from machinery and stock increases significantly during periods of water saturation and logging. | Minor climatic limitations.<br><br>This region experiences cold winter and warm summer conditions. Receives an average of 701.6mm annual rainfall, can experience 4 frost days annually, 1132 GDD (October – April) and 778 chill hours (May – August).<br><br>Horticultural crops requiring high chill in the winter are not suitable for this area. |

| Land Capability Class (ha) | Land Characteristics | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | Geology & Soils | Slope (%) | Topography & Elevation | Erosion Type & Severity | Soil Qualities | Agricultural Versatility | Main Land Management Requirements | Climatic Limitations |
| 6e<br><br>(approx. 170.37ha) | Grey, clay loam to gravelly clay loam topsoil gradationally transitioning to brown clay sub soil.<br><br>Presence of tertiary deposits or granite throughout the profile.<br><br>Dermosol | 0-30% | Rolling low hills, open slopes and foot slopes<br><br>20-180m above sea level. | Severe sheet, rill and gully erosion. Prone to moderate to high wind erosion risk if soil is exposed. | Moderately well drained and moderately permeable soil. Varying topsoil depth ranging from (approximately) 0-10cm | Not suitable for cropping.<br><br>Suitable to pasture with severe limitations (nil to shallow topsoil and abundance of course fragments in some areas).<br><br>Land not suitable for cultivation and pasture renovation, maintain as a native grass pasture. | Avoid situations that lead to the exposure of bare soil, therefore maintain sufficient ground cover. The risk of compaction in winter from machinery and stock increases significantly during periods of water saturation and logging, in lower areas. | Minor climatic limitations.<br><br>This region experiences cold winter and warm summer conditions. Receives an average of 701.6mm annual rainfall, can experience 4 frost days annually, 1132 GDD (October – April) and 778 chill hours (May – August).<br><br>Horticultural crops requiring high chill in the winter are not suitable for this area. |

## 3.1 Soils

Soils present on the property are grey, clay loam to gravelly clay loam (high elevation), gradational dermosols. In lower elevations and depressions, the soil is prone to frequent waterlogging. Majority of the soils on the southern part of the property has low fertility and should be left to native cover to avoid risk of erosion.

The topography of the property is rolling low hills formed on lower Devonian granite and granodiorite. Mathinna Beds over sandstone and mudstone sequences, with northerly aspects, in higher elevation to the southwest of the property. Argo creek bisects the property, with numerous minor tributaries joining Agro Creek from the foothills across the property. The soil is imperfectly drained on depressions and drainage lines to moderately well drained on slopes and is slowly permeable to moderately permeable in higher elevation. Topsoil depth varies according to location, ranging from nil on hill tops (with abundance of coarse fragments) to approximately 10-15cm deep.

The key limitations associated with the soil type are:

- Wetness (w) resulting in waterlogging during winter or periods of heady rainfall.
- Erosion (e) when soil exposed without vegetation are subject to sheet, rill, and gully erosion, depending on the slope. Therefore, maintaining sufficient ground cover is advised.



**Image 1. Soil Pit 1 defined as grey, clay loam over clay, Dermosol on class 5 land (taken at site assessment on 19/11/21)**



**Image 2. Soil pit 2. Orange mottling observed indicating prolonged waterlogging on class 5 land (taken at site assessment on 19/11/21).**



**Image 3.Soil pit 3, showing lack of topsoil in class 6 land in southern part of property (taken at site assessment on 19/11/21).**



**Image 4. Soil pit 4. General soil profile of the property, taken on class 6 land (taken at site assessment on 19/11/21)**



**Image 5. Argo creek bisecting property (taken at site assessment on 19/11/21).**



**Image 6. Utility structure – "Carroga Storage" TasWater reservoir connected to mainline supplying water to general residential areas, near entrance 2 on the eastern boundary of the property. Internal fencing in need of repair (taken at site assessment on 19/11/21)**



**Image 7. Derelict holding yard near manager's residence on class 5 land, covered in bracken fern. Area behind residence is land capability class 6, under native vegetation (taken at site assessment on 19/11/21).**



**Image 8. Typical landscape of class 5 area. Depressions and flats overgrown with bracken fern (taken at site assessment on 19/11/21).**



**Image 9. An area of land capability class 6 (taken at site assessment on 19/11/21).**

# 4 Proposed development

## 4.1 Subdivision

The property in question has already had a 9-lot subdivision approved in 2012 (Appendix A), with a balance lot of approximately 106ha (Lot 100) and a road lot (lot 101) of approximately 3.49ha (Figure 8, Appendix B).

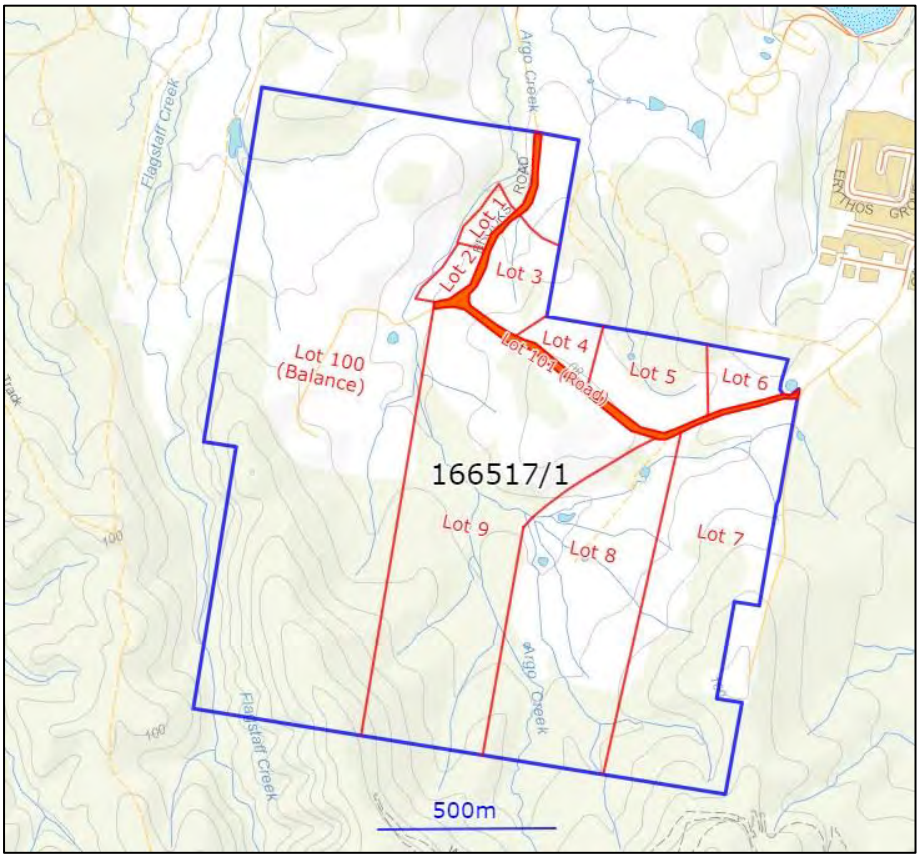



**Figure 8. Simplified version of map showing approved subdivision of the property in question outlined in red. Red shaded area is road lot 101. Subdivision boundaries are approximates only (Source: The LISTMap)**

# 5 Land Use Activity

## 5.1 Current agricultural activities conducted

The property at 48 Brooks Road, St. Helens was acquired approximately 13 years ago and currently has limited agricultural land use activity. There are 25 sheep set stock grazing the property to maintain the grass cover. The shearer takes away the wool after the sheep are shorn. Existing infrastructures such as internal fencing, holding yards, paddock gates are all derelict and overgrown with weeds. There is a residential dwelling for the manager / caretaker at the property.

### 5.1.1 Adjacent land use activity

Dryland, low intensity grazing is conducted to the north of the property. South and southwest are under Tasmanian Reserve Estate for future potential production forest (crown). Northwest and northeast are under rural residence without agriculture and southeast is under residual native cover in conservation.

## 5.2 Potential agricultural land use activity

### 5.2.1 Pastoral use

The property is suitable for pastural use with severe limitations on the land capability class 5 and class 6 land. Pastoral use is limited to dryland based as property does not fall under an Irrigation District and has soil and topography limitations to develop under irrigation. Based on the property's size, land capability, topography and in conjunction with growing season duration and rainfall, it would be reasonable to consider that it can support a potential carrying capacity of 5.4 DSE/ha for a total of approximately 1,327 DSE/year.

Thus, it is reasonable to consider that the property has the potential to support 1,327 head of dry ewes which represents an approximate total annual gross margin of $59,715 or $241/ha.

A total farm gross margin income of $59,715 constitute a marginal income from an agricultural business and requires a significant investment from the owner to support its financial commitments to land. Infrastructure maintenance, replacement livestock purchases, animal husbandry and business operation costs. Therefore, it has the economic scale of a lifestyle block that required financial support from the owners off-farm employment, business or investment income rather than the farm generated income supporting the agricultural business and its expenses including wages to the owner / managers.

### 5.2.2 Cropping use

The property consists of land capability class 5 and 6 land, that is unsuitable for cropping activities.

### 5.2.3 Perennial horticulture use

The climate is not suitable for high winter chill (>800hrs) horticulture (ie apples, cherries, cane berries). The topography and soil type limitations would significantly limit the areas of the property that could be developed to support and sustain other forms of horticulture, particularly in the absence of irrigation water there is no opportunity to utilise the land and climate for the horticultural enterprise, including berries and viticulture.

## 5.3 Impact on agricultural activities and residential amenity of neighbouring land

The potential agricultural land partly borders proposed rural zones to the north and east (Appendix C). The general residential zone adjoins the property on the eastern corner and is approximately 50m away from the Cobrooga drive entrance (east) of the property. The nearest dwelling lies approximately 180m to the east.

The proposed dwellings on the approved subdivision (Figure 10, Appendix A2) of the property would have negligible impact on the balance lot of the property due to the low intensity agricultural use and 200m setback encroachments (Figure 10) being predominantly on severely limited class 6 land and riparian sections of class 5 land.

The shortest setback to the proposed agricultural land to the north is approximately 75m and to the east is approximately 44m. However, the siting of the proposed dwellings and the surrounding topography (acting as a natural buffer) mitigates any adverse impacts on agricultural activities on surrounding (proposed) agriculture and rural land.

After inspecting the site (site assessment completed November 19th, 2021), it has been concluded that the low intensity agricultural use coupled with proposed buffer distances, siting of dwellings and topography are sufficient to prevent unreasonable impact of agricultural on residential amenity and vice versa in the greater area.

## 5.4 Impact of agricultural activity on neighbouring land to the proposed development

Normal agricultural activities are not expected to have any unreasonable impact on the proposed development and vice versa in the future. An assessment of the key risks is summarised in Table 3. This has been compiled on the basis that the neighbouring farm activities are likely to include livestock grazing.

**Table 3 Potential risk from agricultural land and activities on neighbouring land**

| Potential Risk from Neighbouring Agricultural Land Activity | Extent of Risk & Possible Mitigation Strategy |
|---|---|
| 1. Spray drift and dust | Risk = low. Low intensity agriculture is conducted only to the north. Existing buffer distances and topography will mitigate the impact of sprays and dust if applied under normal recommended conditions. Ground or spot spraying is a practical and mostly used alternative on the adjacent agricultural land used for pastoral land use activities. Spraying events should be communicated in a timely manner to the inhabitants of the dwelling. The use and application of agricultural sprays must abide by the Tasmanian Code of practice for ground spraying 2014. |
| 2. Noise from machinery, livestock and dogs. | Risk = low. Some occasional machinery traffic will occur when working and undertaking general farming duties on adjacent land. |
| 3. Irrigation water over boundary | Risk = nil. This is not expected to be an issue. Irrigation is not practiced on neighbouring lands. |
| 4. Stock escaping and causing damage. | Risk = medium. Provided that boundary fences are maintained in sound condition. |
| 5. Electric fences | Risk = low. Mitigated by the proponent attaching appropriate warning signs on boundary fencing. |

## 5.5 Impact of proposed development on agricultural activity of neighbouring land

The proposed rezoning, in consideration with the buffer zones, physical barriers and agricultural land use, have all been assessed as low risk impact to agricultural activity on neighbouring land. These potential impacts are usually manifested as complaints that could be made by residents of nearby dwellings. Other risks to neighbouring agricultural activity are outlined in Table 4. Some of these risks rely on an element of criminal intent and it could well be argued that this is very much lower with inhabitants of the dwelling than with other members of the public.

Table 4 Potential risk from proposed development on neighbouring agricultural land use and activity

| Potential Risk to Neighbouring Agricultural Land Activity | Extent of Risk & Possible Mitigation Strategy |
|---|---|
| 1. Trespass | Risk = low. Mitigation measures include installation and maintenance of sound boundary fencing, lockable gates and appropriate signage to warn inhabitants and visitors about entry onto private land; report unauthorised entry to police. |
| 2. Theft | Risk = low. Ensure there is good quality boundary fencing on neighbouring properties and appropriate signage to deter inadvertent entry to property; limit vehicle movements and report thefts to police. |
| 3. Damage to property | Risk = low. As for theft. |
| 4. Weed infestation | Risk = medium. Risks are expected to be medium, with the proponents needing to conduct weed management to improve productivity. Biosecurity practices are followed with dirt covered vehicles washed down before visiting the property and vehicles staying on established gravel roads. |
| 5. Fire outbreak | Risk = medium. Native and semi-improved grasslands and pastures need to be grazed or mown to lower fuel loads. Fire risk can be mitigated by careful operation of outside barbeques and disposal of rubbish. A bushfire management plan may be required for the proposed development. |
| 6. Dog menace to neighbouring livestock | Risk = low. Mitigated by ensuring that good communication is maintained between the proponent and residents of the neighbouring properties. Dogs would be managed as per the guidelines determined by the council. |

## 5.6 Impact of proposed development on amenity of dwellings on nearby land

There are no residential dwellings within a 1km vicinity from the approximate middle of the property. However, the area does cover part of the undeveloped section of a General Residential Zoned land (Figure 9). There are no residential dwellings on neighbouring land within 200m of proposed dwellings on the property (Figure 10).



**Figure 9. Residential dwellings (Blue pins) within 1km from middle of property (green circle). Red area indicates current General Residential zone. (Source: The LISTMap).**

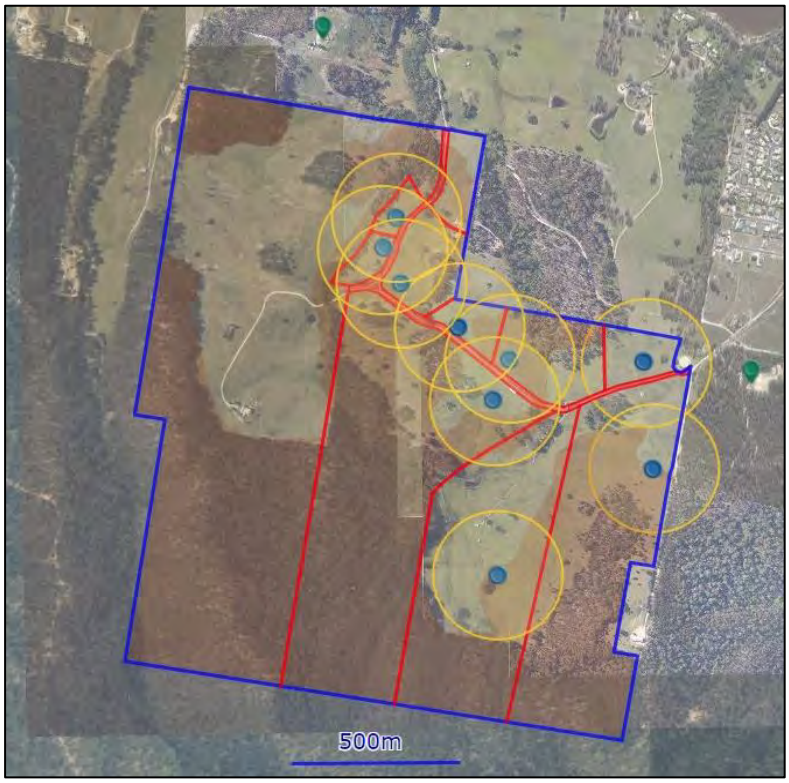



**Figure 10. No neighbouring dwellings (green pins) within 200m vicinity (yellow circle) of proposed dwellings (blue dots) on approved subdivision lots (red outline). Brown shared area signifies land capability class 6 land, unshaded are class 5 (Source: The LISTMap).**

## 5.7 Water storage and resources

The property is serviced by TasWater for the provisions of drinking water but not sewerage service (The LISTMap).

The property is not located in an Irrigation District.

There are no current (other than stock watering holes) or potential irrigation dam sites on the property.

Therefore, the property is restricted in terms of its current and future diversity and intensity of agricultural land use activity due to the lack of availability of irrigation water.

# 6 Local and Regional Agricultural Significance

The property title in question holds a negligible level of recognised local and regional agricultural significance.

There is only 5% of class 4 land in the whole Georges Bay area of modelled land capability classes (Appendix B), non of which is within the property. The area within the title bouderies are land capability class 5 and class 6 land, that is not suitable for cropping, with severe limitations to pastoral use.

The property has no prime agricultural land present on it.

The property is not within a Tasmanian Irrigation District

# 7 Property Improvement and Development Consideration

The property will require significant investment in order to restore infrastructure for agricultural activities for limited financial reward. The property has been approved for a subdivision development (Appendix A).

# 8 Potential Constraint Analysis

The property has already had a 9-lot subdivision approved on it (Appendix A). Therefore, it is reasonable to expect that the land price will reflect a rural residential area, given the approved development.

An analysis of potential constraints for agricultural use on the title in question (166517/1) following the methodology established in the Agricultural Mapping Project (May 2017).

***Criteria 1: Is the title size a potential constraint for agricultural use?***

This property under its current use (dryland pasture) and size is classified under the Enterprise Suitability Cluster as (ES5) Broadacre –Dryland Pasture. As such the title is smaller than the minimum size of 333ha for the Enterprise Suitable Cluster. Go to criteria 2.

***Criteria 2: Are there potential constraints for the title being used or amalgamated with adjoining agricultural land?***

Due to the approved subdivision, the capital value is expected to be more than $50,000/ha (criteria 2A) as rural residential land and therefore, the land is too expensive to amalgamate as and with adjoining agricultural land. There is also no meaningful or commercial agricultural land use on the neighbouring properties for the property to be amalgamated with. The title adjoins a General Residential area with a capital value greater than $50,000/ha. Go to Criteria 3.

***Criteria 3: Is the residential development potentially constraining agricultural land?***

There is General Residential Zoned land adjoining the property on the northeast corner, therefore Criteria 3 applies. The adjoining land on the other boundaries to title 166517/1 is proposed to be zoned Rural (north, east and south) and Agriculture (north and east). Adjoining areas to the south and southwest are potential future forest reserves. If the adjoining General Residential zone is not recognised, the property is Potentially Constrained (Criteria 2A), that it has high capital value, not (directly) adjoining residential development and adjoining unconstrained land.

# 9 Proposed Rezoning

The proponent wishes to have the 48 Brooks Road, St. Helens property zoned to Rural Living under the Tasmanian Planning Scheme.

The property in question is restricted in terms of the current and future potential agricultural land use activity due to a combination of factors including area of land available (after subdivision), restricted land capability class (predominantly class 6 land), meaning most of the property is best suited to be under natural vegetation cover due to the land's low productivity, high risk of erosion, lower natural fertility that severely restrict agricultural use. Therefore, it is incapable of supporting commercial scale agricultural land use activities and better suited as a lifestyle block and lower order rural activities.

In order to support the zoning proposal, responses to key considerations have been provided as per the Local Provision Schedule (LPS) zone and code application RLZ 1, RLZ 2, RLZ 4 and AZ 6

***RLZ 1 The Rural Living Zone should be applied to:***

*(a) residential areas with larger lots, where existing and intended use is a mix between residential and lower order rural activities (e.g. hobby farming), but priority is given to the protection of residential amenity; or*

*(b) land that is currently a Rural Living Zone within an interim planning scheme or a section 29 planning scheme,*

***Response:***

(a) The property in question is only suitable for low intensity (livestock stocking rates), dryland pastoral land use activity which is consistent and would be recognised as lower order rural

activities (eg hobby farming). Information regarding the current and potential restricted and limited nature of the property's agricultural land use is extensively covered in section 5.1 and 5.2 of the agricultural report.

(b) Not applicable

***RLZ 2 The Rural Living Zone should not be applied to land that is not currently within an interim planning scheme Rural Living Zone, unless:***

*(a) consistent with the relevant regional land use strategy, or supported by more detailed local strategic analysis consistent with the relevant regional land use strategy and endorsed by the relevant council; or*

*(b) the land is within the Environmental Living Zone in an interim planning scheme and the primary strategic intention is for residential use and development within a rural setting and a similar minimum allowable lot size is being applied, such as, applying the Rural Living Zone D where the minimum lot size is 10 ha or greater.*

***Response:***

(a) The property in question holds a negligible level of local and regional agricultural significance in relation to its current and potential future agricultural qualities and/or features. The property has no prime agricultural land present on it, is not adjacent to a larger parcel of contiguous agricultural land which is prime or non-prime agricultural land capability that could see this property combined with another agricultural property. Areas of the property are subject to erosion and waterlogging nor is it located in an irrigation district.

(b) Not applicable.

***RLZ 4 The Rural Living Zone should not be applied to land that:***

*(a) is suitable and targeted for future greenfield urban development;*

*(b) contains important landscape values that are identified for protection and conservation, such as bushland areas, large areas of native vegetation, or areas of important scenic values (see Landscape Conservation Zone), unless the values can be appropriately managed through the application and operation of the relevant codes; or*

*(c) is identified in the 'Land Potentially Suitable for Agriculture Zone' available on the LIST (see Agriculture Zone), unless the Rural Living Zone can be justified in accordance with the relevant regional land use strategy, or supported by more detailed local strategic analysis consistent with the relevant regional land use strategy and endorsed by the relevant council*

***Response:***

(a) The land is not targeted for future greenfield urban development (ie General Residential), it would be suitable but has an existing approved subdivision to lots of a size that align with a Rural Living Zone. Therefore, the balance of the property would be developed in the same way, under Rural Living.

(b) There are no important landscape values on the property. There is a small area (approximately 0.25ha) of *Melaleuca ericolia* swamp forest on the northern boundary that would remain protected regardless of the zoning. There are no areas of important scenic values.

(c) The property in question has been identified as being unconstrained according to the 'Land Potentially Suitable for Agriculture Zone' (Figure 5). However, this report re-assesses the property under the "Constrains Analysis Flow Chart" as per the "Agricultural Land Mapping Project (2017)" and concludes that the potential suitability of the land for Agricultural Zone is Constrained (section 8). This report also assesses the agricultural land use potential as low and limited in its use (section 5).

***AZ 6 "Land identified in the 'Land Potentially Suitable for Agriculture Zone' layer may be considered for alternative zoning if:***

*(a) Local or regional strategic analysis has identified or justified the need for alternate consistent with the relevant regional land use strategy, or supported by more detailed local strategic analysis consistent with the relevant regional land use strategy and endorsed by the relevant council;*

*(b) For the identification and protection of a strategically important naturally occurring resource which requires an alternate zoning;*

*(c) For the identification and protection of significant natural values, such as priority vegetation area as defined in the Natural Assets Code, which required an alternate zoning, such as the Landscape Conservation Zone or Environmental Management Zone;*

*(d) For the identification, provision or protection of strategically important uses the require an alternate zone; or*

*(e) It can be demonstrated that:*

*(i) The land has limited or no potential for agricultural use and is not integral to the management of a larger farm holding that will be within the Agriculture Zone;*

*(ii) There are significant constraints to agricultural use occurring on the land; or*

*(iii) The Agriculture Zone is otherwise not appropriate for the land*

***Response:***

(a) The property title 166517/1 has been identified as unconstrained in the "Land potentially suitable for agriculture zone". However, a potential constraint analysis (outlined in section 8 of this report) found that this property is potentially constrained (Criteria 3). The property in question holds a negligible level of local and regional significance (section 6) in relation to its current and potential future agricultural qualities and/or features. The property has no prime agricultural present on it, is not adjacent to a larger parcel of contiguous agricultural land which is prime agricultural land capability, has low productivity, high risk of erosion, lower natural fertility that severely restrict agricultural use.

(b) Not applicable.

(c) The property in question has areas of land covered by the Waterways and Coastal protection area linked with the riparian zone associated with Argo Creek and its minor tributaries, and an isolated area of Priority vegetation (0.25ha *Melaleuca ericifolia* swamp forest) on the northern

boundary, which is protected as a Threatened Native Vegetation Community (2021). Where required and applicable, the land covered by the protection areas would be left undisturbed and preserved.

(d) Not applicable.

(e) The property title in question has a severely limited level of current and potential agricultural land use activity, due to:

  (i) The low level of land capability present, that being dominated by class 6 (69%) land and the remainder of the property is class 5 (31%). The land has significant limitations that restrict the agricultural activities to grazing native pastures on low fertile soils. The land is not suitable for cropping or most horticultural activities (section 5). The area has been deemed to be potentially constrained and therefore, is not integral to the management of a larger farm holding that will be within the Agriculture Zone as those properties are also constrained being on land capability class 5 and 6 land (The LIST).

  (ii) There are significant constraints on the property for agricultural use. The property has a lower level of land capability (6 and 5), only suited to limited pastoral use and is subject to erosion and waterlogging. The property requires significant investment in terms of repair and maintenance to achieve potential carrying capacity (see section 5.2 of report for details). The productivity gains from improving the fencing, renovating the pastures, and using fertiliser would not result in a significant improvement in the properties agricultural production relative to the cost of the improvements due to the inherent land capability limitations. Furthermore, the property already has a subdivision approved on it. Therefore, it is reasonable to state that there are significant constraints to agricultural use occurring on the land, as the property would not be capable of supporting intensive agricultural land use activity and the associated level of investment required to develop this property is not practical.

  (iii) The Agriculture Zoning is not appropriate for the land as it is only suitable for severely restricted agricultural land use activity – dryland low intensity pastoral use. Given that subdivision have already been approved on the property, Rural Living zoning would be appropriate, or at the very least, the land should be zoned Rural.

# 10 Conclusion

1. The property does not have any prime agriculture land.
2. The property consists of primarily land capability Class 6e with a smaller area of class 5w land. The property is unsuitable for cropping and severely limited to pastoral land use activity. Practically, the property is only capable of supporting small scale and low intensity intermittent dryland grazing.
3. Limitations to developing the agricultural land uses, now and in the future, with no access to irrigation scheme water or the capacity to capture water on farm. The property is located outside irrigation districts.
4. A review of the property using the Constraints Analysis Flow Chart as set out in the Agricultural and Mapping Project (2017) demonstrated that the property is Potentially Constrained (Criteria 2A), rather than Unconstrained. This is consistent with the agricultural assessment of the property and the potential conflicts with the surrounding and associated limitations to agricultural land use.
5. The property has a 9-lot subdivision already approved on it.
6. Agricultural economic returns are not adequate to support the enterprise and employees and is therefore, a large lifestyle property that's operations are subsidised by off-farm income.
7. It is not practical or feasible for the property to be integrated into a larger agricultural property.
8. The Rural Living Zoning of the property title in question is commensurate with the current and future potential land use activity that could be conducted on the property and associated severe limitations associated with this land.
9. The proposal is consistent with the Local Provision Schedule (LPS) zone and code application RLZ 1, RLZ 2, RLZ 4 and AZ 6

# 11 References

Agricultural Land Mapping Project May 2017, Department of Justice, Planning Policy Unit

Break O'Day Interim Planning Scheme 2013

Cotching B. (2009) Soil Health for Farming in Tasmania.

Department of Natural Resources and Environment Tasmania, Modelled Land Capability Maps https://nre.tas.gov.au/agriculture/land-management-and-soils/land-and-soil-resource-assessment/land-capability/modelled-land-capability-maps

Grose C.J. (1999) Land Capability Handbook: Guidelines for the Classification of Agricultural Land in Tasmania. 2nd Edition, DPIWE, Tasmania.

Guideline No.1 Local Provisions Schedule (LPS): zone and code application, Tasmanian Planning Commission, Amended June 2018.

Isbell R.F., National Committee on Soil and Terrain (2021), 'The Australian Soil Classification. 3rd edn. CSIRO Publishing Melbourne.

National Committee on Soil and Terrain (2009) 'Australian soil and land survey field handbook (3rd edn).' (CSIRO Publishing: Melbourne).

Tasmanian Planning Scheme

Tasmanian Planning Scheme – Rural Living Areas, Factsheet 6, Department of Justice, Tasmanian Government, 2017.

# 12 Declaration

I declare that I have made all the enquiries which I consider desirable or appropriate, and no matters of significance which I regard as relevant have, to my knowledge, been withheld.

Faruq Isu

Mr. Faruq Isu MAppSc (AgrSc)
Consultant
Pinion Advisory Pty Ltd
December 2021

Jason Barnes

Mr. Jason Barnes BAgrSc (Hons)
Senior Consultant
Pinion Advisory Pty Ltd
December 2021

# 13 Appendices

## Appendix A: 1. Planning approval letter

Break O'Day COUNCIL

ABN 96 017 131 248
Georges Bay Esplanade, St Helens
PO Box 21, St Helens Tasmania 7216
T: (03) 6376 7900 F: (03) 6376 1551
E: admin@bodc.tas.gov.au
W: www.bodc.tas.gov.au

Our ref: DA 2012 / 00013
Enquiries: Rebecca McQueeney

07 March 2012

East Coast Surveying
PO Box 430
ST HELENS TAS 7216

Dear Sir/Madam,

**APPLICATION FOR PLANNING PERMIT**
**9 Lot Subdivision, 1 Balance Lot & 1 Road Lot, 48 Brooks Road, St Helens**

Your application for 9 Lot Subdivision, 1 Balance Lot & 1 Road Lot at 48 Brooks Road, St Helens submitted to Council on 23/01/2012 for planning approval has been approved. Please find attached to this letter your Planning Permit subject to conditions, please **read & understand** these conditions. Council now has a system in place to monitor compliance of these conditions.

As the applicant you have the right to appeal Council's decision on this application, or any conditions to the permit. If you want to do so, you must lodge your appeal with the Resource Management and Planning Appeals Tribunal within 14 days of this notice being served under the Land Use Planning and Approval Act 1993. Your appeal must be sent on the attached appeal notice with the correct fees.

Should you have any queries in regard to this advice, please contact the Planning Department on 03 6376 7933.

Yours Sincerely

Rebecca McQueeney
**PLANNING ADMINISTRATION**

*encl:*
*Notice of Appeal to Resource Management and Planning Appeal Tribunal*

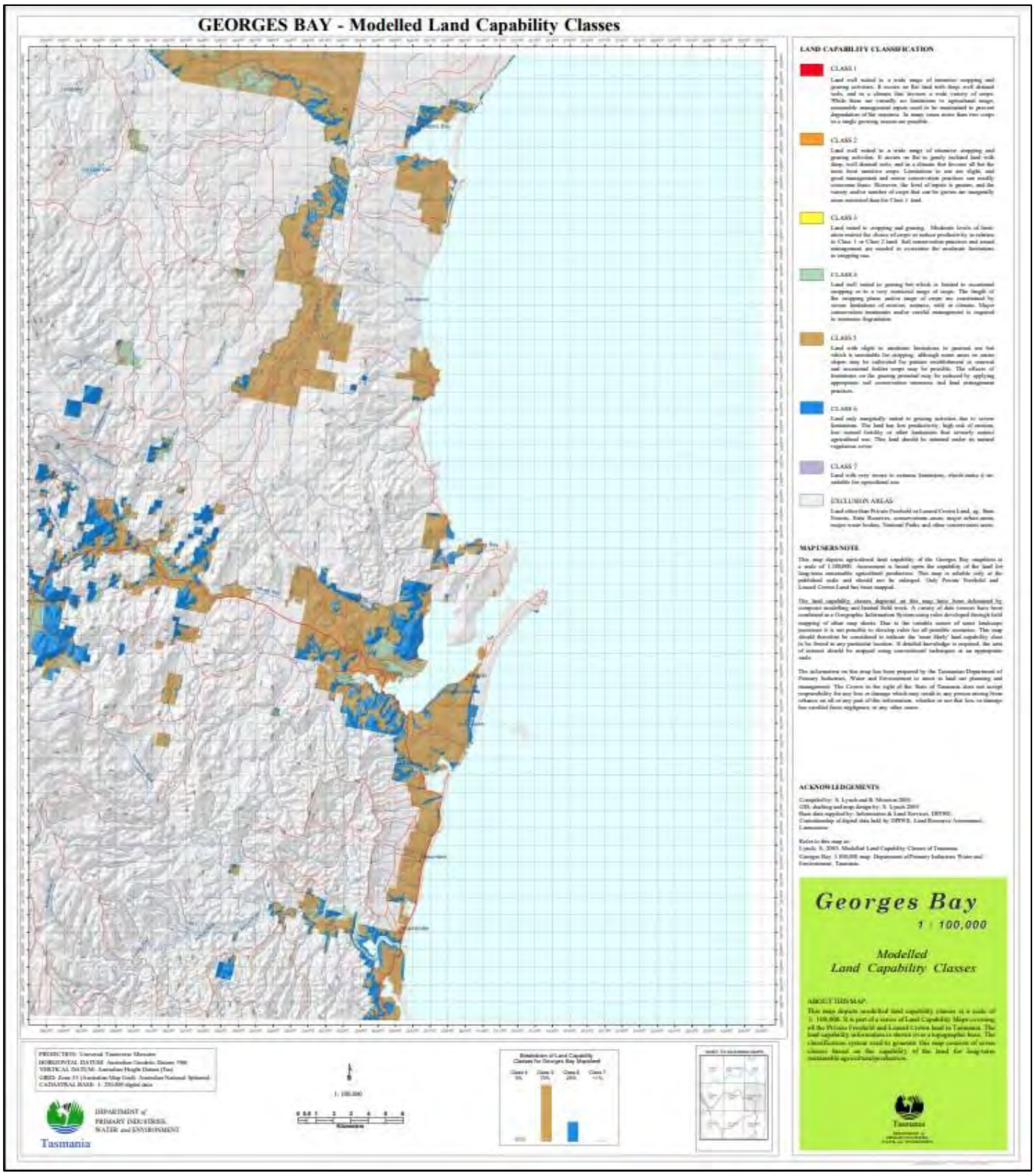
from the **mountains** to the **sea**



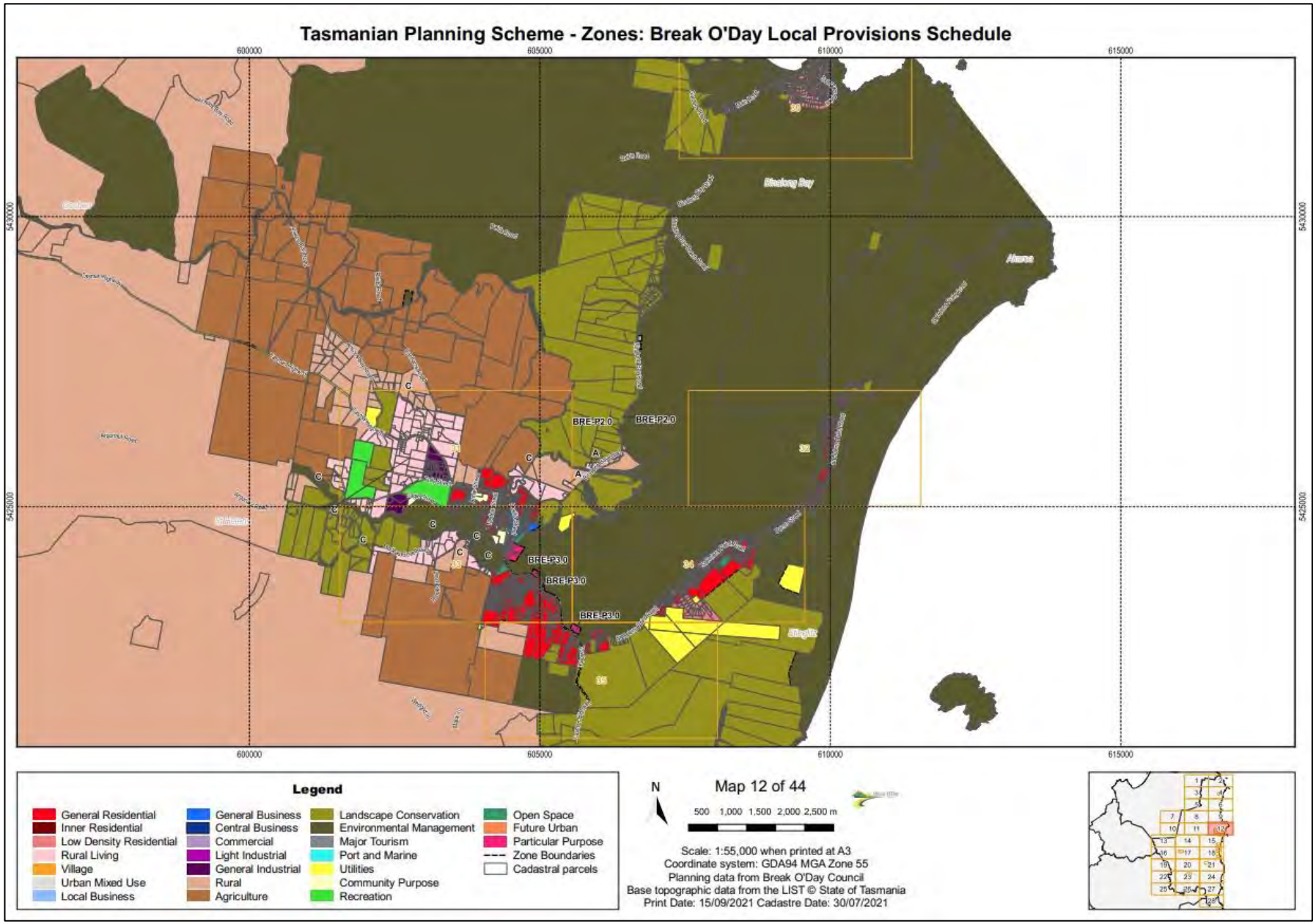
# Appendix A: 2. Approved Subdivision Plan



# Appendix B: Modelled land capability map of Georges Bay Area



# Appendix C: Proposed zones under the new Tasmanian Planning Scheme



| SCHEDULE OF EASEMENTS | Registered Number |
|---|---|
| **NOTE:** THE SCHEDULE MUST BE SIGNED BY THE OWNERS & MORTGAGEES OF THE LAND AFFECTED. SIGNATURES MUST BE ATTESTED. | SP 166517 |



## EASEMENTS AND PROFITS

Each lot on the plan is together with:-
(1) such rights of drainage over the drainage easements shown on the plan (if any) as may be necessary to drain the stormwater and other surplus water from such lot; and
(2) any easements or profits a prendre described hereunder.
Each lot on the plan is subject to:-
(1) such rights of drainage over the drainage easements shown on the plan (if any) as passing through such lot as may be necessary to drain the stormwater and other surplus water from any other lot on the plan; and
(2) any easements or profits a prendre described hereunder.
The direction of the flow of water through the drainage easements shown on the plan is indicated by arrows.

Lot 1 on the Plan is SUBJECT TO a right of carriageway (appurtenant to Lot 4 on Sealed Plan No. 123944) over RIGHT OF WAY (PRIVATE) shown on Plan 148075. & shown on the plan.

**SIGNED** by ANDREW GEOFFREY ROBERTS )
being and as MANAGER CROWN LAND SERVICES )
)
and pursuant to an Instrument of Authorisation )
dated the 27th day of February, 2012 in the )
presence of:- )

Name of witness: ROLI SOLENICA
Signature of witness:
Occupation: STATE SERVANT
Address: 8/134 MACQUARIE ST HOBART

(USE ANNEXURE PAGES FOR CONTINUATION)

| | |
|---|---|
| SUBDIVIDER: THE CROWN & D.L. SMITH | PLAN SEALED BY: |
| FOLIO REF: 166517/1000 & 148075/2 | DATE: |
| SOLICITOR & REFERENCE: CROWN SOLICITOR 42117 SJL | ..... REF NO. ..... Council Delegate |

**NOTE:** The Council Delegate must sign the Certificate for the purposes of identification.

# RESULT OF SEARCH

RECORDER OF TITLES

*Issued Pursuant to the Land Titles Act 1980*

SEARCH OF TORRENS TITLE

| VOLUME | FOLIO |
|---|---|
| 166517 | 1 |
| EDITION | DATE OF ISSUE |
| 2 | 12-May-2014 |

SEARCH DATE : 13-Dec-2021
SEARCH TIME : 10.44 AM

## DESCRIPTION OF LAND

Parish of MORIARTY Land District of CORNWALL
Lot 1 on Sealed Plan 166517
Derivation : Whole of Lot 28045, 128A-1R-32P, Part of Lot 27780, 98A-0R-20P & Part of Lot 27847, 298A-2R-5P Gtd to G.M.L. and J.F. Johnson, Whole of Lot 10517, 50A-0R-0P Gtd to F.N. Kruse, Whole of Lot 15932, 50A-0R-0P Gtd to Perpetual Trustees and Whole of Lot 1000, 1.128ha The Crown
Prior CTs 148075/2 and 166517/1000

## SCHEDULE 1

C784686 & D27197 TRANSFER to DARRELL LAWRENCE SMITH

## SCHEDULE 2

D27196 & D27197 Land is limited in depth to 15 metres, excludes minerals and is subject to reservations relating to drains sewers and waterways in favour of the Crown
SP166517 EASEMENTS in Schedule of Easements
D27197 FENCING PROVISION in Transfer
D125063 MORTGAGE to Australia and New Zealand Banking Group Limited Registered 12-May-2014 at 12.01 PM

## UNREGISTERED DEALINGS AND NOTATIONS

No unregistered dealings or other notations

OWNER: DARRELL LAWRENCE SMITH, THE CROWN.
FOLIO REFERENCE: F.R.148075-2, SECTION 27A APPL. (D27196)
GRANTEE:
~~PART OF (2A-0R-38P) & WHOLE OF LOT 26307 (70A-1R-18P), GTD TO JASON JOSEPH BROOK. PART OF LOT 1946 (39A-3R-0P), GTD TO HENRY BENTLEY. WHOLE~~ PART OF LOT 27780 (98A-0R-20P), GTD TO GERTRUDE MAUDE LIVESEY JOHNSON & JOHN FREDERICK JOHNSON. ~~PART OF LOT 8088 (23A-0R-25P), GTD TO JOHN CHARLES MACMICHAEL.~~ WHOLE OF LOT 1000 (1.128ha), THE CROWN. (SP166517)

# PLAN OF TITLE

LOCATION
LAND DISTRICT OF CORNWALL
PARISH OF MORIARTY
FIRST SURVEY PLAN No
COMPILED BY OFFICE OF THE SURVEYOR GENERAL
SCALE 1: 10000 LENGTHS IN METRES

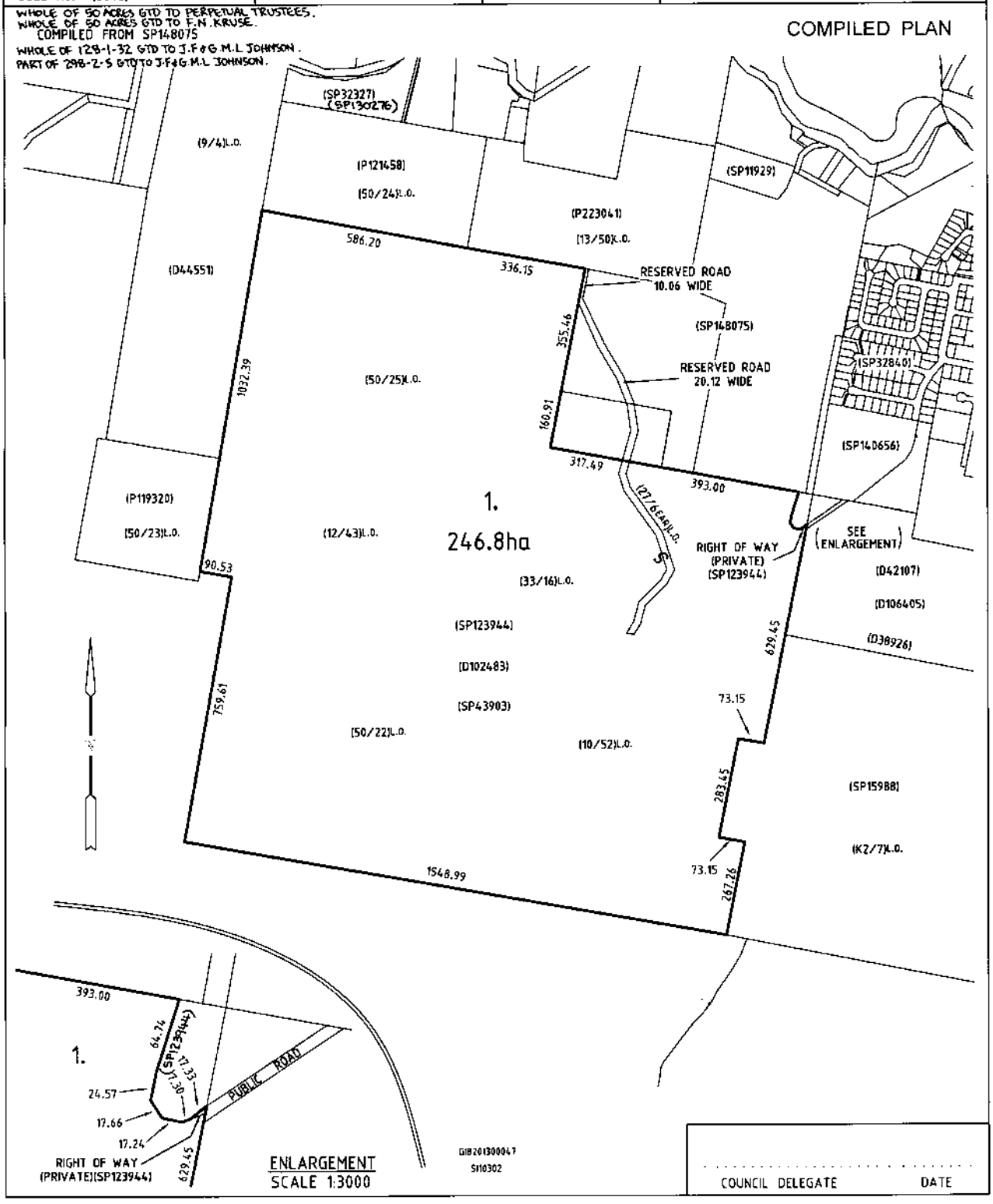
REGISTERED NUMBER
**SP166517**

~~APPROVED~~
EFFECTIVE FROM - 6 NOV 2013
Alice Kawa
Recorder of Titles

| MAPSHEET MUNICIPAL CODE No. (6042) 101 | LAST LPI No. JXY85 | LAST PLAN No. SP148075 | ALL EXISTING SURVEY NUMBERS TO BE CROSS REFERENCED ON THIS PLAN |
|---|---|---|---|

WHOLE OF 50 ACRES GTD TO PERPETUAL TRUSTEES.
WHOLE OF 50 ACRES GTD TO F.N. KRUSE.
COMPILED FROM SP148075
WHOLE OF 129-1-32 GTD TO J.F & G.M.L JOHNSON.
PART OF 298-2-5 GTD TO J.F & G.M.L JOHNSON.

COMPILED PLAN



# Representation No 46

| | |
|---|---|
| **From:** | Michelle Schleiger |
| **To:** | Break O Day Office Admin |
| **Cc:** | James Stewart; Brett Woolcott |
| **Subject:** | Break O"Day LPS Representation - Lot 1 Ocean Drive Beaumaris |
| **Date:** | Monday, 13 December 2021 11:29:54 AM |
| **Attachments:** | image003.jpg<br>image002.jpg<br>FolioPlan-141533-1.pdf<br>FolioText-141533-1.pdf<br>210415 - Representation to the draft LPS - Lot 1 Ocean Drive Beaumaris - Swanson.pdf |

CAUTION: Do not click links or attachments unless you recognize the sender and know the content is safe

Good Morning

Please find the attached representation to the Break O'Day Council Draft Local Provisions Schedule (LPS).

The representation relates to land at Lot 1 Ocean Drive Beaumaris (CT 141533-1) and is lodged on behalf of the property owner.

If you have any questions or require further information, please don't hesitate to let me know.

With Regards

Michelle Schleiger
Town Planner

M 0477 332 008
P 03 6332 3760
E michelle@woolcottsurveys.com.au
W www.woolcottsurveys.com.au
A 10 Goodman Court, Invermay TAS (PO BOX 593, Mowbray Heights TAS 7248)

WARNING: The number of frauds relating to the transfer of money is increasing rapidly. Accordingly, it is essential that you only act on emails and letters that come from '@woolcottsurveys.com.au' email accounts. If you are unsure, please check by contacting our office prior to transferring funds. We do not accept any responsibility for any loss or damage arising from any electronic transfers or deposits made by you that are not received into our bank account.

OWNER

FOLIO REFERENCE FIR 127763-1

GRANTEE
PART OF LOT 33064, 200 ACRES GTD TO MONTAGU CHARLES SAUNDERS

# PLAN OF TITLE

LOCATION
CORNWALL - FRAMPTON

FIRST SURVEY PLAN No. 52/14 L.O.

COMPILED BY L.T.O

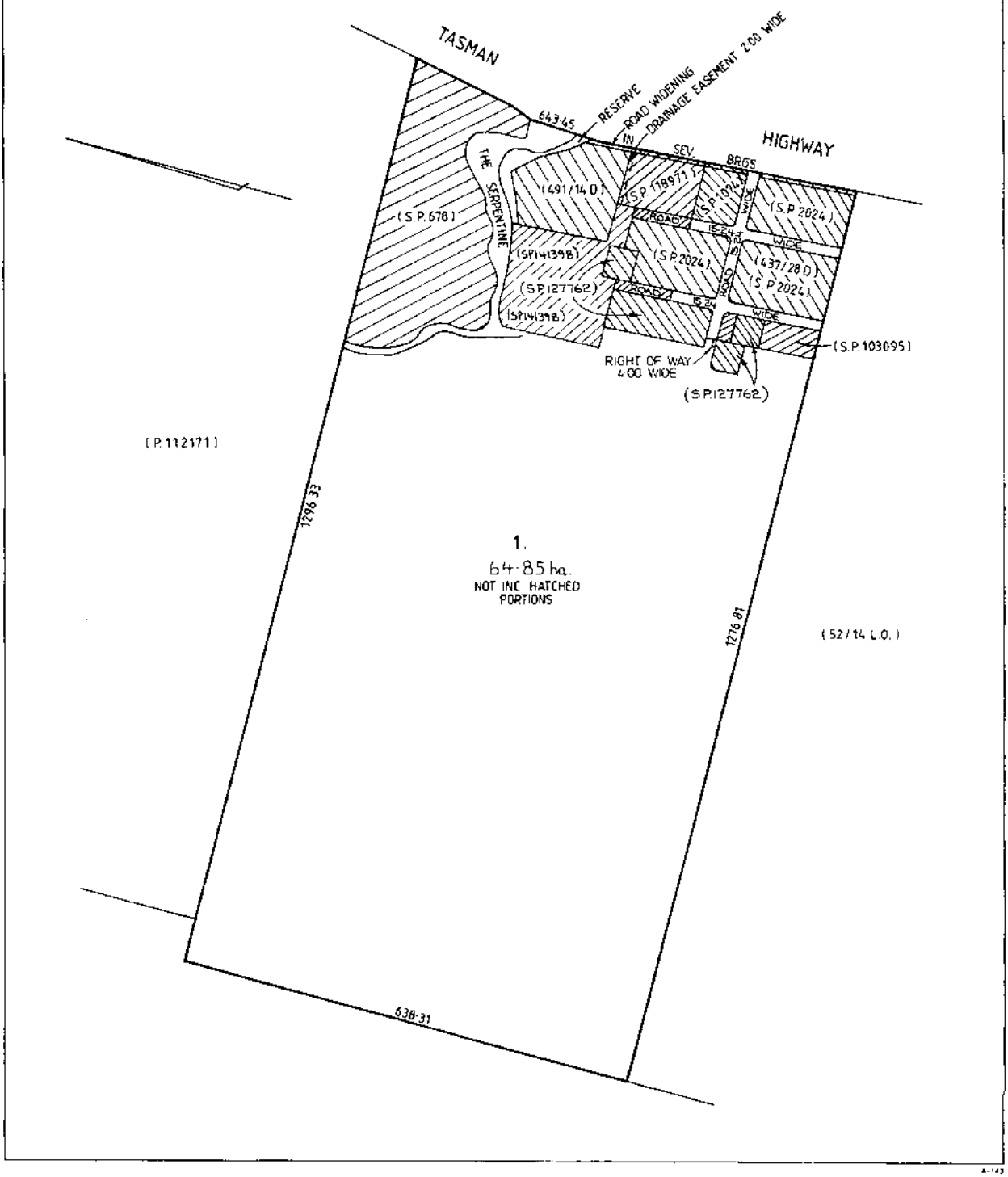
SCALE 1: 5000 LENGTHS IN METRES

REGISTERED NUMBER
P 141533

APPROVED -2 JUL 2004
Alice Kawa
Recorder of Titles

| MAPSHEET MUNICIPAL CODE No. 101 (6040) | LAST UPI No. FEY 93 | LAST PLAN No. P. 127763 | ALL EXISTING SURVEY NUMBERS TO BE CROSS REFERENCED ON THIS PLAN |
|---|---|---|---|

## BALANCE PLAN



# RESULT OF SEARCH

RECORDER OF TITLES

*Issued Pursuant to the Land Titles Act 1980*

SEARCH OF TORRENS TITLE

| VOLUME | FOLIO |
|---|---|
| 141533 | 1 |
| EDITION | DATE OF ISSUE |
| 3 | 19-Aug-2013 |

SEARCH DATE : 24-May-2021
SEARCH TIME : 04.38 PM

## DESCRIPTION OF LAND

Parish of FRAMPTON Land District of CORNWALL
Lot 1 on Plan 141533
Derivation : Part of Lot 33064 Gtd. to M.C.Saunders
Prior CT 127763/1

## SCHEDULE 1

D99686 TRANSFER to ANTHONY GEORGE SWANSON Registered 19-Aug-2013 at noon

## SCHEDULE 2

Reservations and conditions in the Crown Grant if any
BURDENING EASEMENT: Right of carriageway (appurtenant to Lots 2,12,13,14,25 and 30 on Diagram No.437/28) over the Roads 15.24 metres wide on Plan 141533
BURDENING EASEMENT: Right of carriageway (appurtenant to 4A-0R-12&4/10P on Diagram No.491/14 over the lands marked "Road Widening" and "Reserve" on Plan 141533
SP118971 BENEFITING EASEMENT: Right of Drainage over the Drainage Easement 2.00 wide shown on Plan 141533
SP127762 BURDENING EASEMENT: Right of Carriageway (appurtenant to Lot 8 on SP127762) over Right of Way 4.00 wide on Plan 141533

## UNREGISTERED DEALINGS AND NOTATIONS

No unregistered dealings or other notations



WOOLCOTT SURVEYS

EAST COAST SURVEYING
CONSULTING SURVEYORS & LAND PLANNERS

# Submission to the Break O'Day Council draft Local Provisions Schedule

Representation to Rezone Lot 1, Ocean Drive, Beaumaris from proposed Landscape Conservation Zone to Low Density Residential Zone (partial)

**December 2021**

Job Number: 210405
Prepared by: Michelle Schleiger (michelle@woolcottsurveys.com.au)
Town Planner
Reviewed by: James Stewart (james@woolcottsurveys.com.au)
Senior Planner

| Rev. no | Description | Date |
|---|---|---|
| 1 | Draft | 9 December 2021 |
| 2 | Final | 13 December 2021 |
| 3 | | |

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# Contents

1. Introduction ..... 1
1.1 Summary ..... 1
1.2 The Proposal ..... 2
2. Zone Assessment ..... 5
3. Summary ..... 6

# 1. Introduction

This report has been prepared as a representation to rezone land at Lot 1 Ocean Drive, Beaumaris (the 'subject site'). The representation is lodged under Section 35E of the Land Use Planning and Approval Act 1993 (the Act) in response to Break O'Day Council advertising the Local Provisions Schedule for public consultation.

## 1.1 Summary

The following is a summary of the representation information:

| | |
|---|---|
| Address | Lot 1 Ocean Drive Beaumaris TAS 7215 |
| Property ID | 2503189 |
| Title | 141533/1 |
| Part 5 Agreement or Covenants | NIL |
| Total Site Area | 63.75 ha |
| Council | Break O'Day Council |
| Planning Scheme Current | Break O'Day Interim Planning Scheme 2013 (the 'Scheme') |
| Planning Scheme transition | Tasmanian Planning Scheme – Break O'Day |
| Zone Current | Environmental Living Zone (ELZ) |
| Overlay/s Current | Bushfire Prone Areas – Whole of site<br>Coastal Height Reference<br>Priority Habitat<br>Scenic Road Corridor |
| Zone Proposed TPS | Landscape Conservation |
| Overlays Proposed TPS | Waterway and Coastal Protection<br>Priority Vegetation Area<br>Landslip Hazard<br>Bushfire Prone Areas<br>Coastal Inundation Hazard<br>Scenic Protection (Road Corridor) |
| Existing Buildings | Vacant |
| Frontage | Ocean Drive – 15.24<br>Tasman Highway – 86m (approximately) no access/river |
| Existing Access | Access from Ocean Drive.<br>Private Vehicular Track running east to west.<br>Access from Forestry Track at west end. |




Figure 1 Aerial view of the subject site (Source: LISTMap)

## 1.2 The Proposal

According to the draft Break O'Day draft Local Provisions Schedule, the subject site is to go to the Landscape Conservation Zone.

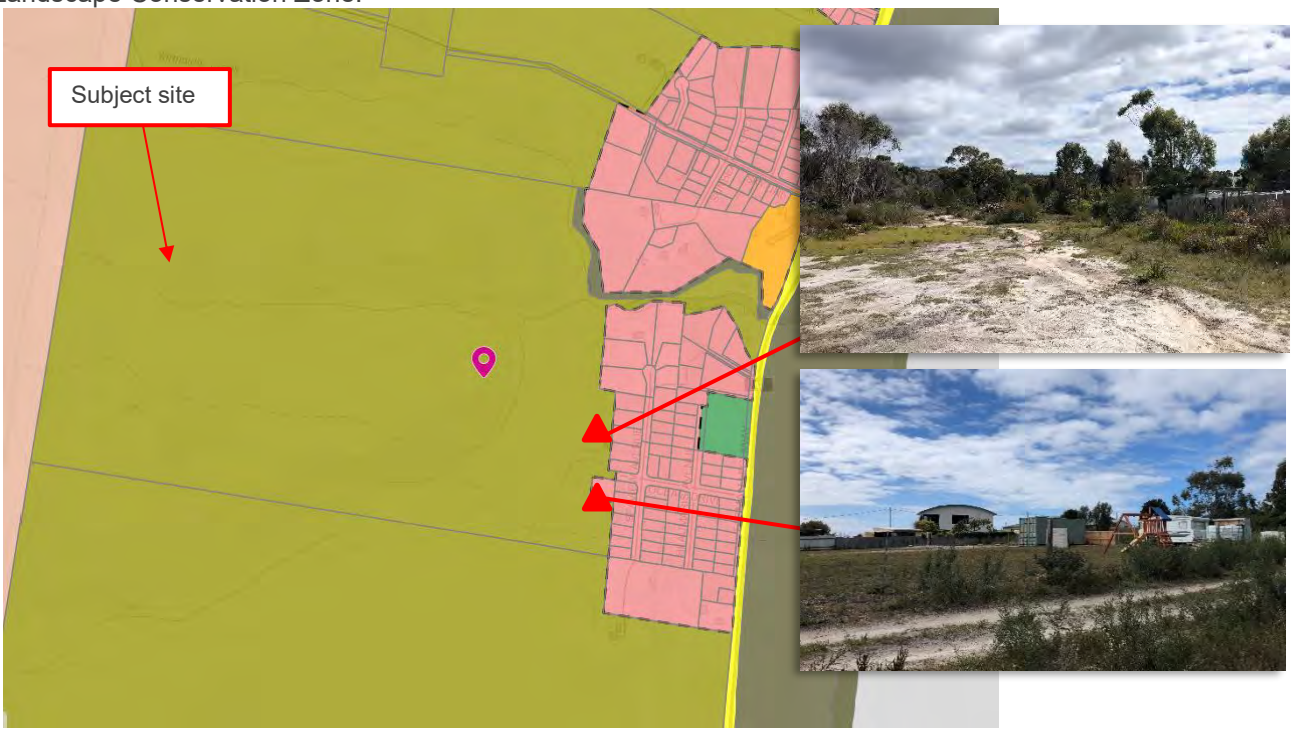



Figure 2 Zoning for the subject site under the TPS (Source: Insight GIS the LIST; State of Tasmania) and photos of surrounding area.

This representation requests that a portion of the site go to Low Density Residential Zone (LDRZ), along the section of the site that adjoins the LDRZ to the east.
The rezone is requested not to be able to create new lot but allow the lots on the boundary to increase their lot size by boundary adjustment.

Many land owners in the LDRZ have approached the owner of Lot 1 Ocean Drive to do so, and all parties are in agreement, but under the current scheme it is not possible due to Clause 14.4.3; A4 All new lots must be located a minimum of 1km from High Water Mark and have a minimum lot size of 20ha. The proximity of Yarmouth Creek on the property prevents any possibility of subdivision.

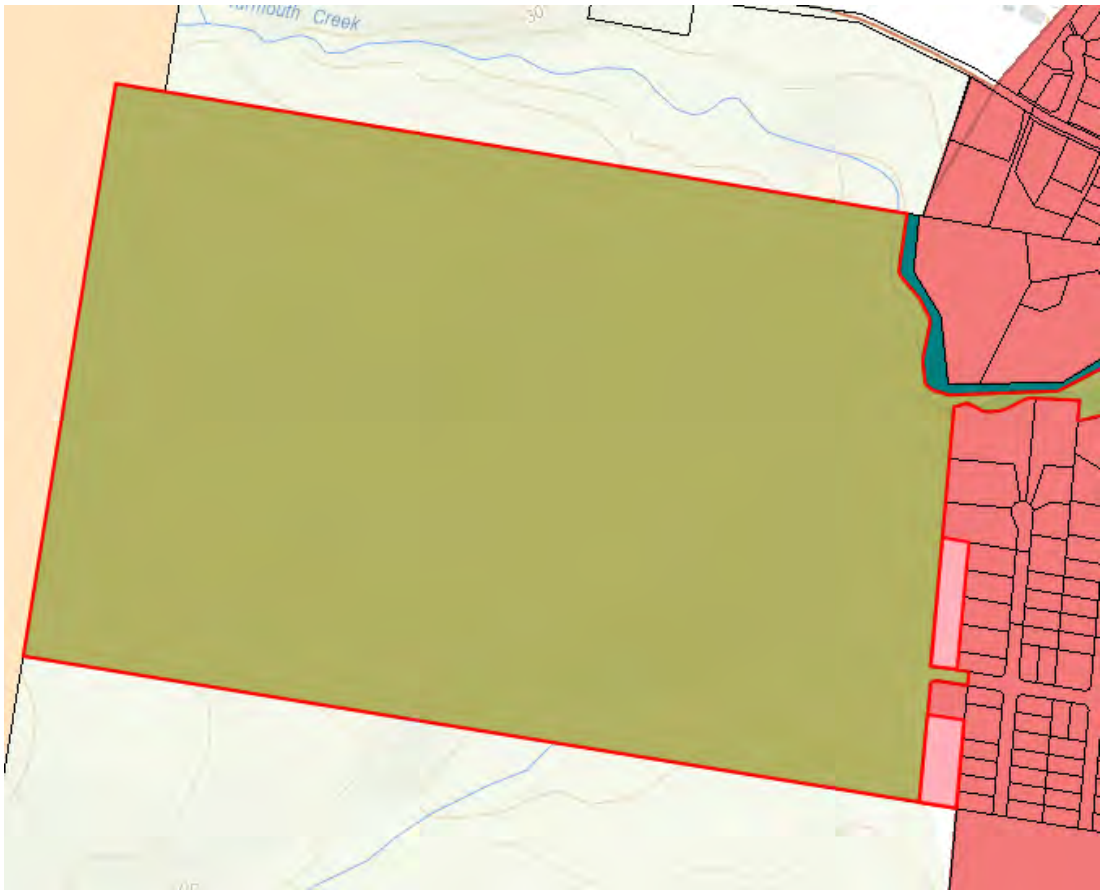



Figure 3 Proposed re-zone for the subject site (Source: LISTMap).

Under the TPS, Landscape Conservation Zone, subdivision will not be possible to achieve these boundary adjustments as the lot size will not be able to be met under Clause 22.5.1 Lot design, A1: Each lot, or a proposed lot in a plan of subdivision, must: (a) have an area of not less than 50ha, or 20ha under the performance criteria.

In addition, the development could not be made under 7.3 Adjustment of a boundary due to the zone boundary.

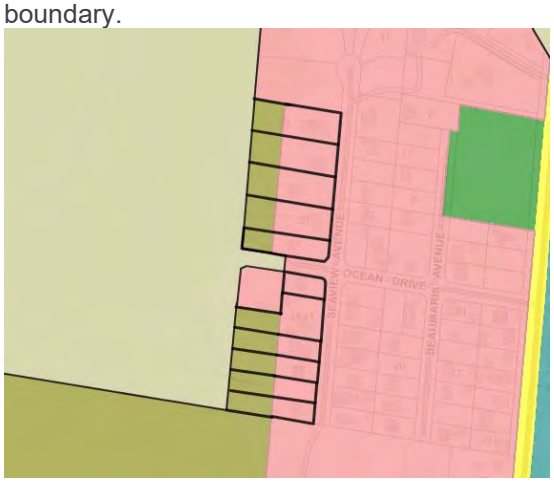



Figure 4 Example of lot design proposal

Applying the LDRZ would be of no significant consequence to others and would allow orderly extension of these boundary lots. The following provides an assessment of the LDRZ to this land.

# 2. Zone Assessment

## 11.0 Rural Living Zone

### Zone Application Guidelines

LDRZ1 The Low Density Residential Zone should be applied to residential areas where one of the following conditions exist:

a) residential areas with large lots that cannot be developed to higher densities due to any of the following constraints:

i. lack of availability or capacity of reticulated infrastructure services, unless the constraint is intended to be resolved prior to development of the land; and

ii. environmental constraints that limit development (e.g., land hazards, topography or slope); or

b) small, residential settlements without the full range of infrastructure services, or constrained by the capacity of existing or planned infrastructure services; or

c) existing low density residential areas characterised by a pattern of subdivision specifically planned to provide for such development, and where there is justification for a strategic intention not to support development at higher densities.

LDRZ2 The Low Density Residential Zone may be applied to areas within a Low Density Residential Zone in an interim planning scheme or a section 29 planning scheme to lots that are smaller than the allowable minimum lot size for the zone, and are in existing residential areas or settlements that do not have reticulated infrastructure services.

LDRZ3 The Low Density Residential Zone should not be applied for the purpose of protecting areas of important natural or landscape values.

LDRZ4 The Low Density Residential Zone should not be applied to land that is targeted for greenfield development unless constraints (e.g., limitations on infrastructure, or environmental considerations) have been identified that impede the area being developed to higher densities.

**Response:**

LDRZ1 The land in question can be included in the LDRZ as it abuts residential large lots that cannot be developed to higher densities. The land is not serviced for water of sewer. Lots are dependent on onsite wastewater management and larger lot sizes will increase each lots capacity for this.

LDRZ2 Not applicable

LDRZ3 The land in question, although in the Environmental Living Zone, and to go to the Landscape Conservation Zone, is largely unmanaged and a combination of native plants and introduced weeds. The intention is not to provide any protections, but in understanding that the land would be better managed under individual ownership. Weeds and unruly growth would be controlled and the bushfire risk would be greatly reduced. The remainder of the lot, Lot 1 Ocean Drive, at more than 60ha, would preserve the landscape values.

LDRZ4 The land is not targeted for future greenfield development.

### Zone Purpose

The purpose of the Rural Living Zone is:

| **Provision** | | **Response** |
|---|---|---|
| 10.1.1 | To provide for residential use and development in residential areas where there are infrastructure or environmental constraints that limit the density, location or form of development. | The subject site adjoins land being used for residential purpose with limited services. The land would become a part of these residential titles. |
| 10.1.2 | To provide for non-residential use that does | No non-residential use is proposed or |

| | | |
|---|---|---|
| | not cause an unreasonable loss of amenity, through scale, intensity, noise, traffic generation and movement, or other off site impacts. | considered in this context. |
| 10.1.3 | To provide for Visitor Accommodation that is compatible with residential character. | This would be as existing or case by case. |

**Response**

The land adjoining the LDRZ is within the Environmental Living Zone and drafted to go to the Landscape Conservation Zone. Under each zone, a boundary adjustment to allow larger lot sizes to the adjoining lots is not possible. Rezoning this strip of land to LDRZ would be a marginal change to the parent lot but would allow for the adjoining lots to increase their land holdings, to better service their onsite wastewater systems, and ultimately, better manage the land along this portion.

## 3. Summary

This submission seeks for a strip of land that adjoins the LDRZ, but drafted to go to the LCZ, be considered to be zoned LDRZ. Discussions between land owners has several residents wishing to do this but unable to under the current or future planning scheme.

The purpose of this would be to allow the adjoining lots to increase their land area by boundary adjustment. The rezone would not result in additional lots as access requirements could not be met. The adjoining land is suitable and the change would not create detriment. The land would be more likely to be managed well and maintained for weeds and bushfire risk. In addition, onsite wastewater servicing would be more appropriately managed.

As such, consideration of a rezone is requested.




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# Representation No 47

**From:** Raoul Harper
**To:** Break O Day Office Admin
**Subject:** Draft LPS Representation
**Date:** Monday, 13 December 2021 11:32:09 AM
**Attachments:** RH Submission to BODC Draft LPS FINAL.pdf

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Please find attached a representation in relation to the Draft LPS for the Break O'Day Council.

Regards,

Raoul Harper
265 Gardens Road
Binalong Bay
TAS 7216

13th December 2021

General Manager
John Brown
Break O'Day Council

Via email

Dear Mr Brown,

I write to make formal representation to the relevant exhibition documents namely the draft Local Provisions Schedule (LPS) for the Break O'Day municipal area. The following representation is submitted as part of the formal process required of the Council by the Tasmanian Planning Commission (TPC) under Section 35B of the Land Use Planning Approvals Act 1993 (the Act). I thank Council and the TPC for the opportunity to make a formal representation.

As I understand it, representations are to be confined to matters specifically relevant to section 35E of the Act, the operative section of the Act that defines what can be included in a representation is as follows:

*(3) Without limiting the generality of subsection (1) but subject to subsection (3A), a person or body may make in relation to the relevant exhibition documents in relation to a draft LPS a representation as to whether –*
*(a) a provision of the draft LPS is inconsistent with a provision of the SPPs; or*
*(b) the draft LPS should, or should not, apply a provision of the SPPs to an area of land; or*
*(c) the draft LPS should, or should not, contain a provision that an LPS is permitted under section 32 to contain.*

To that end I provide the following representation in relation my property at 265 Gardens Road (PID 7156198) and more broadly in response to the Particular Purpose Zone – Coastal Settlement.

1) (a) a provision of the draft LPS is inconsistent with the required application of the State Planning Provisions (SPP), namely the proposed use of the Landscape Conservation Zone has been incorrectly applied given the residential nature and usage of the property.

   (b) the draft LPS should apply a provision of the SPP's to an area of land, namely 265 Gardens Road, Binalong Bay should be zoned Low Density Residential land.

   (c) the application of a Particular Purpose Zone - Coastal Land is excessively broad with its proposed application. This broadscale rezoning with only the "coastline" as a site-specific qualification does not deliver a planning outcome consistent with the Act. The proposed PPZ – Coastal Land has been developed to deliver modified standards over a number of local areas because of a view that the State Planning Provision standards

are not appropriate. This approach is inconsistent with the requirements of Section 32(4) of the Act.

Representation: Supporting Commentary

The guideline provided by the TPC to local government in relation to the development of the Tasmanian Planning Scheme (TPS) outlines the following:

"The Tasmanian Planning Scheme (TPS) sets out the requirements for use or development of land in accordance with the *Land Use Planning and Approvals Act 1993* (the Act).

The TPS comprises two parts:

The State Planning Provisions (SPPs) which includes the identification and purpose, the administrative requirements and processes, including exemptions from the planning scheme and general provisions that apply to all use and development irrespective of the zone, the zones with standard use and development provisions, and the codes with standard provisions; and

The Local Provisions Schedules (LPSs) that apply to each municipal area and include zone and overlay maps, local area objectives, code lists, particular purpose zones, specific area plans, and any site-specific qualifications.

The SPPs and the relevant LPS together form all of the planning provisions that apply to a municipal area (the local application of the TPS). These will be administered by planning authorities.

The SPPs also set out the requirements for the Local Provisions Schedules.

The provisions in the TPS should be read together with the Act."

The TPS will have a defined set of SPPs that are to be complied with in a consistent manner across the State. A state-wide planning scheme that supports a consistent, sustainable, and reliable legislative framework for all Tasmanian's to be afforded the same benefits regardless of the Council area they may own property and/or reside within. A level of localised variation is acceptable via the LPS when and where the Planning Authority can reasonable show compliance with the SPP's and the existing intent and legislative requirements of the Land Use Planning Approvals Act (1993) (LUPAA).

The draft LPS is inconsistent with the SPPs via the incorrect use and application of the Landscape Conservation Zone as a replacement for the current Environmental Living Zone. The proposal to include a Particular Purpose Zone – Coastal Living to transition the remained of Environmental Living Zoned lots also to the Landscape Conservation Zone does not meet the requirements of Section 32(4)(a) of LUPAA.

The Break O'Day Council in the document currently under exhibit state the following in support of this representation:

‘ *3.1.15 Landscape Conservation Zone (LCZ)*

*The Landscape Conservation Zone should be applied to land with landscape values that are identified for protection and conservation, such as bushland areas, large areas of native vegetation, or areas of important scenic values, where some small scale use or development may be appropriate.*

*The Landscape Conservation Zone may be applied to:*

*(a) large areas of bushland or large areas of native vegetation which are not otherwise reserved, but contains threatened native vegetation communities, threatened species or other areas of locally or regionally important native vegetation;*

*(b) land that has significant constraints on development through the application of the Natural Assets Code or Scenic Protection Code; or*

*(c) land within an interim planning scheme Environmental Living Zone and the primary intention is for the protection and conservation of landscape values.*

*The Landscape Conservation Zone may be applied to a group of titles with landscape values that are less than the allowable minimum lot size for the zone.*

*The Landscape Conservation Zone should not be applied to:*
*(a) land where the priority is for residential use and development (see Rural Living Zone); or*
*(b) State-reserved land (see Environmental Management Zone).*

***The Landscape Conservation Zone is not a replacement zone for the Environmental Living Zone in interim planning schemes. There are key policy differences between the two zones. The Landscape Conservation Zone is not a large lot residential zone, in areas characterised by native vegetation cover and other landscape values. Instead, the Landscape Conservation Zone provides a clear priority for the protection of landscape values and for complementary use or development, with residential use largely being discretionary.***

*Together the Landscape Conservation Zone and the Environmental Management Zone, provide a suite of environmental zones to manage use and development in natural areas. ‘*

The operative wording contained within this statement relates to use and development in natural undeveloped areas, not large lot residential areas or other existing settlement areas with existing environmental values that currently are zoned and used for residential purposes.

The zoning changes proposed in the draft LPS from EL to the LCZ in effect makes residential use a discretionary use. Given the residential nature of many of these enclaves and communities, it incorrectly applies the SPP and the intent of the TPS on a large number of titles and landowners within the municipality with little if any strategic, economic or socially defined reasoning, beyond the desire to protect landscape and environmental values above

the existing residential use and the potential for these areas for further considered development.

If this approach is extrapolated across the state, all small enclaves, residential hamlets and the like will be rezoned under a use class that waters down their residential use rights and further entrenches the challenges and costs of residing and developing land in and around the coastline of the state. There are already a suite of protections in place to mitigate unsustainable coastal development and the blanket use of the LCZ as a corner stone to the transition to the TPS would seem draconian given the legislative mantra that bought about the state planning reform process in the first place.

It is important when considering decisions such as this to consider the desires of the government of the day when the Act that directed a TPS to be created be taken into account. On the 24th of September 2015, the Minister for Planning and Local Government the Hon. Peter Gutwein stated the following:

"For too long, the planning system has acted like a handbrake on our economy. We want to fix the planning system to attract investment, grow our economy and create jobs.'

It's clear the current regionally based approach to planning isn't working, with different rules for different areas making the system complex and difficult to navigate.

That is why we are introducing a new Tasmanian Planning Scheme which will take a state-wide approach. This will result in consistency across the State.

Currently, there is only 15 per cent consistency across the 29 councils in the three regional areas.

Under the new Tasmanian Planning Scheme, there will be around 80 percent consistency state-wide, providing more clarity and certainty for everyone.

This is all about creating a planning system that is faster, fairer, simpler and cheaper, making it easier to invest in Tasmania and encouraging more economic development and job creation.

One state-wide planning system will provide confidence for those looking to invest and expand.

It means housing providers, developers, designers, planners, and builders who operate across different council areas from Bicheno to Queenstown, Devonport to Dover, will not need to use a set of different rules for each place."

The legislative intent of the government of the day and the intent of the Act is to avoid wherever possible zoning anomalies across the state, regions and Council areas. The Liberal government remains in office and I contend that their position has not changed. The proposed PPZ and the use of the LCZ outlined in the Break O'Day draft LPS is in conflict with the governments stated intent for planning reform.

The Council within its report are open and transparent about transitioning the majority of ELZ land across to the LCZ. They outline the challenge they have faced when seeking to implement the SPPs while attempting to maintain the previous integrity and intent of the ELZ.

As I understand it my property (265 Garden Road, Binalong Bay) will not be included in the PPZ. Properties directly to the east of the Gardens Road have been included.

The Gardens Road, Jeanneret Beach and Lyall Road area are already a defined residential area and to those that live here a community. It is characterised by a mixed size of land titles, residential homes, holiday houses and accommodation, including an already approved but not yet built visitor accommodation project of significant size only footsteps from my property, as well as sizeable strata developments and newly built homes. By way of example of the confused use of zoning in this area alone, the DLPS has sought two separate planning pathways to create the same zone intent, in effect of the same community of residents, that being the incorrect use of the LCZ across all titles in this area. The same approach appears to have been implemented in other similar areas of the municipality.

The draft LPS seeks to utilise not only a direct transition for some titles from the ELZ to the LCZ but also a PPZ to transition others also to the LCZ.

The commentary relating to the rationale behind the need for a PPZ to effectively transition lots to the LCZ in coastal areas is in effect the same provided for those lots outside of the PPZ being transitioned also to the LCZ:

"5.1 Particular Purpose Zone – Coastal Settlement

The PPZ is proposed in the following locations: The Gardens, Seaton Cove, Jeanneret Beach, Bayview, Diana's Basin and Four Mile Creek. All sites are currently within the Environmental Living Zone under the interim scheme. Water and sewer infrastructure are not provided in these locations; the lots are generally small clusters of lots, with an area less than 4,000 $m^2$, supporting existing residential uses and located in areas with scenic and natural value.

These sites are isolated from settled areas and land within other residential zones and are located in unique areas that offer no further development in the future. These are primarily in coastal locations, surrounded by land within the Environmental Management Zone or Environmental Living Zone with large lots sizes (that have transitioned to the Landscape Conservation Zone).

In most cases the houses that have been established are of long standing and created at a time when planning controls were not as comprehensive as existing and prior to introduction of the State Coastal Policy.

A review of the SPP Low Density Residential Zone (LDRZ) and Landscape Conservation Zone (LCZ) was undertaken. This analysed the zone purpose, use classifications and acceptable solution standards as detailed in the SPPs as well as the direction on how they should be applied as specified in the 8A Zone Application Guideline.

The review highlights the considerable difference between the two zones and that neither are intended or the desired fit for the established use and character of the sites in question.

To summarise, the LCZ should be applied to:

- large areas of native vegetation (bushland) or scenic values;
- ELZ land where the primary intention is protection and conservation of landscape values; and
- **Should not be applied to land where the priority is for residential use and development**.

  While the LDRZ should be applied to:

  - residential areas with large lots that are constrained i.e. through infrastructure services or attributes of the land; and
  - should not be applied for the purpose of protecting areas of important natural or landscape value.

    There is a clear gap between these two zones. A zone that allows for residential lots on land that is less than an acre, that is not serviced, has established residential character and scenic or natural values that should be preserved. A zone that strikes more of a balance between protection of environmental values and residential character.

    This gap between the zones is further identified in reviewing the development and subdivision standards. The LCZ has an Acceptable Solution standard of 10m frontage setback and a 20m side and rear setback. While the LDRZ has an 8m frontage setback and a 5m side and rear setback. Further, the LDRZ allows for multiple dwellings with a site are of 1,500 $m^2$.

    If the LCZ was applied to the sites, it is likely that any extension to the existing dwelling would trigger discretion due to the side and rear setback requirements being targeted for significant land holdings. While if the LDRZ was applied to the sites, the side and rear setback, coupled with the multiple dwelling standards would allow for densification of these coastal shack settlements."

Firstly, I would like to reject out of hand the premise of the following statement:

"In most cases the houses that have been established are of long standing and created at a time when planning controls were not as comprehensive as existing and prior to introduction of the State Coastal Policy."

The reason for this rejection is that quick reference to development applications approved, and in some cases built, in the Gardens Road precinct while the Interim Planning Scheme has been in place will evidence that this assertion is patently untrue.

The intent of the SPP is clear and the transitioning of some existing lots zoned as EL inside and outside of the PPZ to the LCZ disregards the predominant residential use already well established in these areas. Many of these areas are residential communities close to the coast that are surrounded or have large lot residential properties abutting them, often some distance from the coastline itself. The two differing types of properties work in harmony to

create the sense of place and community that is evident in these areas. Moreover these areas are also characterised in most part by being situated close to or adjacent to the state coastal reserve and/or national parks land. The statement provided by Council in support above is generalised and non-specific. Many of these areas do in fact have the ability for further considered development, and for the most part are not 'isolated' from other residential areas, including nearby townships.

By way of example, Binalong Bay is immediately adjacent to Lyall Road which has a defined residential use, adjoining this area are properties that stretch to Jeanneret Beach, Jeanneret Court, along the length of the Gardens Road both on the east and western side from the intersection of Binalong Bay Road. This enclave and village are a community but under the interim planning scheme and the proposed draft LPS will be zoned entire differently. Binalong Bay, unserviced with either water or sewage, visually prominent and adjoining a coastal reserve, will be zoned LDR while the other parts of the area will be swept into a zone where their existing residential use is effectively unrecognised in favour of landscape conservation of what is already residential land.

All this is proposed to occur right beside unregulated campground(s) on the edge of the coast that stretch from the final houses in the Jeanneret Beach area north to The Gardens. These campgrounds are situated directly on the foreshore, are visually prominent for many residents of the area and have minimal toilets and services for the large number of visitors that utilise the area on a year-round basis. It is difficult as a resident to not see a significant inequity in the planning regime proposed under the draft LPS for the area when visitors can enjoy unfettered use of the coastline directly adjacent to this community.

While the transition may be difficult for the Council, the correct application of the SPP, in particular for the properties to the north of Binalong Bay is the LDRZ. This may well be the case for many parts of the coastal communities that will be affected by the PPZ – Coastal Settlement and the proposed transition from the ELZ to the LCZ.

Council note their concern of the potential impacts of such an approach in the draft LPS report:

"Applying the LDRZ to these lots has the potential to change the character of the locations. If densification in these areas occurred, it would change the local visual amenity as most of the lots are located along or adjacent to the foreshore.

All the sites are located in areas that have scenic, topographic and natural value with established residential character. The provisions of the LCZ restrict and don't align with the residential character while the LDRZ would allow for further development/densification of these site which could result in changing of their intrinsic value. Preservation of these sites aligns with the following Strategies detailed in the Northern Tasmanian Regional Land Use Strategy."

I note that in the draft quoted above, namely the Northern Tasmanian Regional Land Use Strategy, no strategies as such are provided in support of the statement. I presume this to be

an editing error but none the less it is a significant one for a document that presumably relies on these strategies as justification for the proposed PPZ.

Council goes on to state:

"Further to this, based on the Guidelines the General Residential, Rural Living and Village Zones of the SPP were not considered appropriate to apply to these sites.

The creation of the PPZ – Coastal Settlement was derived from the PPZ – Ansons Bay Small Lot Residential as well as a review of the above-mentioned SPPs zones and other compatible PPZs such as the PPZ – Tomahawk and Mussleroe Bay/Poole Defined Settlement Areas.

The creation of the PPZ satisfies 32(4)(a) of the Act as the titles collectively have significant social, economic and environmental benefits to the municipal area."

Section 32(4)(a) of the Act is very specific in its application and directive that for an area to have a PPZ applied it must meet the following criteria:

" (4) An LPS may only include a provision referred to in subsection (3) in relation to an area of land if –
(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; or
(b) the area of land has particular environmental, economic, social or spatial qualities that require provisions, that are unique to the area of land, to apply to the land in substitution for, or in addition to, or modification of, the provisions of the SPPs."

To my mind, given the scale that the PPZ – Coastal Settlements relates to in Break O'Day, the draft LPS has not provided a sufficient level of justification as to the significance at a social or economic level of why a PPZ is required. The environmental values of these coastal areas are mapped and already form part of the planning controls that exist in directing sustainable use and development under LUPAA. These will continue under the TPS. The social and economic impacts and constraints on development that the application of the PPZ would apply have not been quantified (or consulted). The existing residential values of the area(s) and the desires of community members who reside in these enclaves as to their support (or not) of considered intensification of the existing residential use equally have not been consulted in any way of which I am aware.

The impact on property owners and the region more broadly could be significant in economic and social terms, however given the government's desire to make the planning system faster, fairer, simpler and cheaper, it would be difficult to contend that the PPZ as proposed would assist in delivering this goal. I contend that the requirements of Section 32(4)(a) of the Act have not been achieved.

In summary, I submit that Council via the draft LPS have sought to maintain the status quo of the interim scheme by utilising a combination of a coastal PPZ and direct transition of the current ELZ lots across to the LCZ.

This broadscale rezoning with only the “coastline” as a site-specific qualification does not deliver a planning outcome consistent with the Act. The proposed PPZ – Coastal Land and the blanket transition of ELZ lots across to the LCZ has been developed to deliver modified standards over a number of local areas because of a view that the State Planning Provision standards are not appropriate. This approach is inconsistent with the requirements of Section 32(4) of the Act.

I appreciate Councillors and staff have put an enormous amount of work into the planning reform process over many years. This submission in no way underestimates that effort or the difficulties that are inherent within this reform agenda. Council is to be congratulated on its efforts and I thank you for the opportunity to make a submission on this important plan.

Yours sincerely,

Raoul Harper

265 Gardens Road

Binalong Bay

TAS 7216

bayoffires@mac.com

# Representation No 48

**From:** maree willcox
**To:** Break O Day Office Admin
**Subject:** LPS representation
**Date:** Monday, 13 December 2021 12:47:13 PM

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**TO: Mr John Brown, General Manager, Break O Day Council**
**FROM: Maree Willcox**
**RE: REPRESENTATION ON DRAFT BREAK O'DAY LPS**

As a Break O'Day ratepayer and property owner I wish to make a representation regarding certain aspects of the Break O'Day Draft Local Provisions Schedule (LPS), in particular with regard to the description of the Landscape Conservation Zone (LCZ) which is to replace the Environmental Living classification.

I have read the summary sheets from a recent BoD information session, and I have also read the BoD LPS as well as the State Planning Scheme (SPS) documentation. The message conveyed is that an LPS should be consistent with the State Planning Scheme; it is welcome news that there is to be statewide planning consistency at last.

My concern with the BoD Draft LPS is as follows. The information sheet entitled "Environmental Living to Landscape Conservation" which was handed out at BoD Council information sessions states that for Landscape Conservation: "Minimum 100ha to be able to subdivide into 50ha minimum lots." When I asked about this 50ha minimum, the BoD employee present did not mention any alternative possibility. Whilst the State Planning Provisions, in section A1 of Acceptable Solutions for subdivision in a Landscape Conservation Zone, do also refer to each lot having an area of not less than 50ha, they clearly do also allow some discretionary flexibility, with section 22.5 Development Standards for Subdivision stating, under Performance Criteria P1, that "Each lot, or a proposed lot in a plan of subdivision. … **must have an area not less than *20ha*.**"

I urge BoD Council to also include this 20ha possibility in their LPS description of the transition from Environmental Living to Landscape Conservation. This allows for a certain amount of welcome flexibility. A 20ha lot, just shy of the old 50 acres, is by no means a small lot, and this size is compatible with both maintaining the landscape values of the property whilst also accommodating a single discreet

environmentally sound dwelling.
It is pleasing that the blanket restriction on building within 1km of the high tide mark is being phased out with the Environmental Living classification. A lot of people simply wished to enjoy their land with minimal impact on the plant and animal environment but also erect on their 20ha or more of land an unobtrusive single dwelling which did not have to be built some 800m back in the forest (if the length of the lot would even allow for this).
Thank you for considering my representation.
Maree Willcox

# Representation No 49

**From:** James Stewart
**To:** Break O Day Office Admin
**Cc:** Michelle Schleiger; Brett Woolcott
**Subject:** Break O"Day LPS Representation - 24833 Tasman Highway, St Helens.
**Date:** Monday, 13 December 2021 2:24:12 PM
**Attachments:** image001.jpg
image002.jpg
180103 - 24833 Tasman Highway, St Helens - BODC LPS Representation.pdf
Annexure 1 - Historical Information and Council Correspondance.pdf

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Good Morning

Please find attached representation to the Break O'Day Council Draft Local Provisions Schedule (LPS).

The representation relates to land at 24833 Tasman Highway, St Helens. The representation is made on behalf of the property owner, Lee Hindrum.

If you have any questions or require further information, please don't hesitate to let me know.

Kind regards

James Stewart
Senior Town Planner | Accredited Bushfire Practitioner
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WARNING: The number of frauds relating to the transfer of money is increasing rapidly. Accordingly, it is essential that you only act on emails and letters that come from '@woolcottsurveys.com.au' email accounts. If you are unsure, please check by contacting our office prior to transferring funds. We do not accept any responsibility for any loss or damage arising from any electronic transfers or deposits made by you that are not received into our bank account.

WOOLCOTT SURVEYS

EAST COAST SURVEYING

Date 13/12/2021

Planning Department
Break O'Day Council

Via Email: admin@bodc.tas.gov.au

**RE: 24833 TASMAN HIGHWAY, ST HELENS – BREAK O'DAY LPS ZONING**

To The General Manager

We wish to provide this submission in relation to the property at 24833 Tasman Highway, St Helens. Representation is made on behalf of the property owner, Lee Hindrum.

An aerial view of the subject site is provided below:



*Figure 1 - aerial view of site, showing extent of clearing.*

The site is located on the western side of the Tasman Highway, on the approach to St Helens.

Flagstaff road, which provides vehicular access to the mountain bike trails, is located south of the lot. A portion of the title was recently acquired for the upgraded intersection to this site. The land is generally clear of native vegetation, with the majority of the site maintained as clear land. There are pockets of vegetation throughout. The site contains a dwelling, along with other sheds and buildings of an industrial appearance and use.

The land is currently within the Environmental Living (ELZ) zone, under the current Interim Planning Scheme. Council has proposed to zone the site as Landscape Conservation Zone (LCZ) under the draft Local Provision Schedule (LPS). The purpose of this submission is to advocate against the LCZ being applied to the site, and rather seek to apply the Rural Living zone provisions, and look at site specific qualifications to recognise existing use.

A brief response to the 8A guidelines is provided below.

| | |
|---|---|
| ***LCZ 1** - The Landscape Conservation Zone should be applied to land with landscape values that are identified for protection and conservation, such as bushland areas, large areas of native vegetation, or areas of important scenic values, where some small scale use or development may be appropriate.* | **Response:**<br><br>The site does not have any landscape values that have been identified for protection. The land is subject to a Scenic Road corridor overlay as identified on a planning scheme map, however it is noted this area is already cleared and contains buildings. The site has been used as a depot, for contractors undertaking Highway and Flagstaff road works.<br><br>Council has previously confirmed the use of the site is industrial.<br><br>In a letter dated 14th Feb 2008, from Council, it was stated, *"the eastern portion of the land is developed for industrial purposes and includes a number of sheds and open storage areas in proximity to the Highway. The area is currently used for panel beating, a mechanics workshop and a water cartage and crane depot",*<br><br>It was further stated,<br><br>*"Council clearly details the current use of the land to be industrial, i.e. the existing sheds together with the associated car parking, manoeuvring area and outside storage area are all part of the existing Industrial Use".*<br><br>The current uses are, as they were in 2008, panel beating, boat repairs and maintenance, a mechanics workshop and water cartage and crane depot. These constitute the use classes of 'Service Industry' and 'Transport Depot and Distribution' under the Interim Planning Scheme table of uses. Uses are defined as below:<br><br>***Service Industry** - use of land for cleaning, washing, servicing or repairing articles, machinery, household appliances or vehicles. Examples include a carwash, commercial laundry, electrical repairs, motor repairs and panel beating.*<br><br>***Transport Depot and Distribution** - use of land for distributing goods or passengers, or to park or garage vehicles associated with those activities, other than Port and shipping. Examples include an airport, bus terminal, council depot, heliport, mail centre, railway station, road or rail freight terminal and taxi depot.* |

| | |
|---|---|
| ***LCZ 4 -*** *The Landscape Conservation Zone should not be applied to: (a) land where the priority is for residential use and development (see Rural Living Zone); or (b) State-reserved land (see Environmental Management Zone).* | **Response:**<br><br>The site contains a single dwelling and other industrial development. The intention of the site is not for the protection of native values. |

The industrial uses on the site date back to 1987. These are reflected in the Property Report which lists the use as "Commercial – Retail/Business (valuation purposes only). The property was previously 'Rural Zone B', under the Portland Planning Scheme 1984, and Rural Zone B, under the Portland s.46 Planning Scheme No 1, 1993. The site continues to be used for industrial purposes.



*Figure 2 - current view of site, cleared and used for industrial purposes/site depot.*

Under section 32 (3)(c) of the Act, an LPS can include site specific qualificiations. We submit that the application of an SSQ for this site, to recognise the existing use which has been confirmed by Council would be appropriate. The site has a unique charcater as a result of that use, and thus is considered to comply with section 32 (4)(b) of the Act.

Should site specific qualificaitons be deemed to not meet the test in 32 (4), we would maintain that Rural Living is the most appropriate zoning for the land, as Landscape Conservation would be in conflict with the existing uses onsite.

If you have any questions regarding the contents of this letter, please don't hesitate to contact me on the numbers provided.

Kind regards
Woolcott Surveys



James Stewart
Senior Town Planner

**Annexure 1** – Extract of Historic Council correspondence regarding Use, agenda item etc.

Break O'Day
COUNCIL

ABN 96 017 131 248
32-34 Georges Bay Esplanade
St Helens Tasmania 7216
T: (03) 6376 7900 F: (03) 6376 1551
E: admin@bodctas.gov.au
W: www.bodctas.gov.au

**Our Ref:** PID 6792512
**Enquiries:** Chris Triebe

15 August 2017

L Hindrum
PO Box 387
ST HELENS TAS 7216

Dear Lee

**Re: Existing Industrial Use Rights at CT 119032 Folio 1**

Thank you for dropping the documents including the applicant's explanatory letter and Section 57 Planning Permit issued under DA 157-2007.

I can confirm the above property that was zoned Environmental Protection under the *Break O'Day Council Planning Scheme 1996 as amended* is now zoned Environmental Living under the *Break O'Day Interim Planning Scheme 2013*.

The building referred to in the introduction of the enclosed Council Agenda Item for DA 157-07 retains the existing industrial use rights. Table 14.2 Use Table stipulates the use of land for manufacturing, assembling or processing products other than resource processing is considered 'Manufacturing and Processing Use', a prohibited use in this Zone.

While this building is continued to be used in the existing industrial manner, this use will be retained.

Please don't hesitate to contact Council should you have any questions.

Regards

Chris Triebe
Town Planner.

ATTACHMENT 5

14th February 2008

Our Ref: 070705

Lee Hindrum
Po Box 387
St Helens 7216

Dear Lee,

**RE: DEVELOPMENT APPLICATION FOR CONSTRUCTION OF DWELLING – 24833 TASMAN HIGHWAY, ST HELENS**

Please find enclosed herewith Council's Planning Permit for the construction of a dwelling and building additions.

The Condition of Approval is not too onerous so I presume that you do not wish to appeal Council's decision.

If you do wish to appeal the decision this can only be done within 14 days of the date of the Planning Permit.

Note that as Todd Dudley put in a representation against the development he has the opportunity to appeal Council's decision and may only do so within 14 days of the date of the Planning Permit, therefore the permit does not take effect until 14 days from the date of the permit.

With regard to Council's opinion on the status of the existing Use of the land I have attached the Agenda item form the Council Meeting on the 11th of February 2008 where Council clearly details the current Use of the land to be industrial, i.e. the existing sheds together with the associated car parking, manoeuvring area and outside storage area are all a part of the existing industrial Use.

Once you build the approved dwelling the land will contain two Uses, the existing industrial Use and the new residential Use, both on separate portions of the land.

Note that an industrial Use is prohibited for the zoning of your land (Environment Protection Zone) and therefore this Use can not be expanded,

i.e. new buildings can't be erected for an expansion of the existing industrial Use nor can new buildings be used for an additional industrial use.

With regard to the Temporary Occupancy Permit for the shed I advise that the permit is current until the 17th May 2008 even though prior to the expiry date certain milestones are required to be achieved, i.e. obtain planning Approval prior to 31st July 2007, obtain Building Approval prior to 31st August 2007, etc..

The reason for this is that we have informed Council of the problems associated with achieving the milestones which is exactly what Condition Number 3 of the permit says we must do, the fact that Council has not replied is irrelevant.

As the dwelling will not be constructed by the 18th of May 2008 you will need to apply for an extension to the Temporary Occupancy Permit.

Regards

**N. J. Von Stieglitz**

**Our Ref:** DA 159-07
**Enquiries:** Jacci Viney

East Coast Surveying Pty Ltd
PO Box 362
**ST HELENS TAS 7216**

from the **mountains** to the **sea**

## PLANNING PERMIT DATED 12 FEBRUARY 2008
## DWELLING

The Break O'Day Council has resolved pursuant to Section 57 of the *Land Use Planning & Approvals Act 1993* and the *Break O'Day Council Planning Scheme 1996* that the application for DWELLING on land situated at 24833 TASMAN HIGHWAY, BEAUMARIS described in Certificate of Title 119032/1 be APPROVED subject to the following conditions:

1. Development must accord with the development Application DA 159-07 received by Council 16 August 2007, together with all submitted documentation including additional details submitted since that time, and forming part of the development application, except as varied by conditions of this Permit.

2. No works are to commence until building approval has been issued.

3. All stormwater runoff from the proposed buildings must be detained by on-site water storage systems and disposed of by means that will not result in soil erosion or other stormwater nuisance in accordance with Table 7.1 Clause 4.2(a) of the *Break O'Day Council Planning Scheme 1996.*

4. Works on the site must not result in a concentration of flow onto other property, or cause ponding or other stormwater nuisance.

5. All runoff from the proposed buildings must be disposed of within the confines of the property by means that will not result in soil erosion or other stormwater nuisance. Soakage drains must be of sufficient size to absorb stormwater runoff.

6. As no evidence has been provided in the application the lawful access can be gained over the laneway to the east of the dwelling site, nor has any access licence over Flagstaff Road been provided, all access to the site including the dwelling site must be restricted to the existing access from the Tasman Highway.

7. The internal access road between the existing industrial site and the proposed dwelling site must be constructed in such a way that results in minimal vegetation removal and to a standard Table 22.3 of the Break O'Day Planning Scheme.

8. All works within 50 metres of the outer boundary of any waterway or recharge basin must:
   a. Avoid pollution of the waterway;
   b. Minimise sediment and disturbance and sediment flow;
   c. Eliminate drainage scour;
   d. Maximise retention of native riparian vegetation; and
   e. Divert drainage into surrounding vegetation or sediment traps in accordance with Part 3 of the Forest Practices Code 1985.

9. All works associated with the development must be conducted in accordance with a soil and water management plan, *Guidelines for Soil and Water Management*, Hobart City Council. Material must not be burnt on site and all trade waste must be disposed of in a licensed waste disposal facility. All worked areas not covered by structures must be promptly and progressively stabilised (eg revegetated) so that they will not erode and/or act as a source of sediment transfer. This management plan is to be submitted and approved by Council prior to further works commencing on the site.

10. Effluent disposal is subject to a Special Plumbing Permit to be issued by Council's Environmental Health Officer.

11. Site benching through cut and fill must be in keeping with the physical and environmental capabilities of the site.

12. Any necessary exterior building lighting must be located under eaves and limited to that essential to allow the safe and secure movement of pedestrian at night.

13. Standard *Phytophthora* hygiene measures must be implemented for the construction and maintenance of works in accordance with the Forest Practices Authority 'Flora Technical Note No. 8: Management of *Phytophthora cinnamomi* in production forests', November 2006.

14. The fuel modified buffer zone must be selectively maintained to ensure that any threatened species habitat or species of conservation significance which germinate and seed are retained.

15. Native vegetation must not be removed outside that necessitated by the proposed development (this includes the clearing of vegetation to retain or expand views or vistas) unless consented to by Council.

16. Patches of *Gahnia radula* (Chaostola habitat) should not be disturbed or must be utilised as a landscape feature within the development.

17. Reflective materials must not be used as visible external elements in the building and the colours of external surfaces must be the same shades and tones of the surrounding landscape and vegetation elements in accordance with Table 11.1 Clause 6.5 of the *Break O'Day Council Planning Scheme 1996*.

18. The development site must provide not less than 20,000 litres of static water storage reserved and available for fire fighting purposes in accordance with Table 22.1 Clause 3.2(a) of the *Break O'Day Council Planning Scheme 1996*. This supply must be stored so as to prevent damage to the water supply in the event of a fire and must be a minimum of 5m from the dwelling. The supply must be maintained and accessible to brigade vehicles, providing clear access with hard standing to within 3m and must be fitted with a 64mm 5V female thread coupling. This is to be provided by way of waster tanks adjacent to the dwelling. The use of dam water can not be assured nor is it readily accessible to the dwelling.

19. Bushfire protection measures as proposed in the development application must be completed prior to residential occupation and must be maintained at all times.

**Advice to Applicant**

**Under section 53(5) of the *Land Use Planning and Approvals Act 1993* This permit is valid for two (2) years only from the date of this notice and will lapse if substantial commencement of the use or development has not taken place within that time. You may apply for a further two years extension prior to this time frame running out.**

Should you wish to appeal against any of the conditions imposed by Council, a notice of appeal may be lodged by you to the Resource Management & Planning Appeal Tribunal, pursuant to Section 61(4) of the *Land Use Planning & Approvals Act 1993*.
Please find enclosed a Notice of Appeal form should you wish to exercise that right. Any appeal should be lodged within fourteen (14) days of this notice and until the expiry of this period, or, should you lodge an appeal, then this approval will not take effect until the determination or abandonment of the appeal.

You are advised that the Resource Management & Planning Appeals Tribunal under its powers may grant a permit or refuse a permit. Should a permit be refused by the Tribunal, then you may not apply for the same development for a period of two years from the date of the Tribunal decision.

Further to the above, any other approvals which may be required from other authorities for the proposed use or development should be granted, and any fees paid, prior to this planning approval taking effect.

Tom Boarder
**Acting Manager Development Services**

Encs.
Proforma for Resource Management & Planning Appeal Board.

associated with the dwelling and water tanks are proposed adjacent all buildings. The dwelling will be serviced by open parking spaces proposed adjacent the existing shed.

On site waste water treatment will be subject to a *Special Plumbing Permit* from Council's Environmental Health Officer. The proposed caravan will be subject to a separate licence and waste water approval from Council.

**Jennifer Binns**
**Development Officer**

**Attachments: Circulated Attachments – Page 72**

## 15.4 DWELLING AND ADDITIONS – 24833 TASMAN HIGHWAY, ST HELENS – EAST COAST SURVEYING OBO L HINDRUM

**(File No: DA 159-07)**

### RECOMMENDATION

That, pursuant to Section 57 of the *Land Use Planning & Approvals Act 1993* and the *Break O'Day Council Planning Scheme 1996*, the application for a dwelling and additions on land situated at 24833 Tasman Highway, St Helens, as defined in Certificate of Title Volume 119032 Folio 1, be APPROVED subject to the following conditions;

1. Development must accord with the development Application DA 159-07 received by Council 16 August 2007, together with all submitted documentation including additional details submitted since that time, and forming part of the development application, except as varied by conditions of this Permit.

2. No works are to commence until building approval has been issued.

3. All stormwater runoff from the proposed buildings must be detained by on-site water storage systems and disposed of by means that will not result in soil erosion or other stormwater nuisance in accordance with Table 7.1 Clause 4.2(a) of the *Break O'Day Council Planning Scheme 1996.*

4. Works on the site must not result in a concentration of flow onto other property, or cause ponding or other stormwater nuisance.

5. All runoff from the proposed buildings must be disposed of within the confines of the property by means that will not result in soil erosion or other stormwater nuisance. Soakage drains must be of sufficient size to absorb stormwater runoff.

6. As no evidence has been provided in the application the lawful access can be gained over the laneway to the east of the dwelling site, nor has any access licence over Flagstaff Road been

provided, all access to the site including the dwelling site must be restricted to the existing access from the Tasman Highway.

7. The internal access road between the existing industrial site and the proposed dwelling site must be constructed in such a way that results in minimal vegetation removal and to a standard Table 22.3 of the Break O'Day Planning Scheme.

8. All works within 50 metres of the outer boundary of any waterway or recharge basin must:
   a. Avoid pollution of the waterway;
   b. Minimise sediment and disturbance and sediment flow;
   c. Eliminate drainage scour;
   d. Maximise retention of native riparian vegetation; and
   e. Divert drainage into surrounding vegetation or sediment traps in accordance with Part 3 of the Forest Practices Code 1985.

9. All works associated with the development must be conducted in accordance with a soil and water management plan, *Guidelines for Soil and Water Management*, Hobart City Council. Material must not be burnt on site and all trade waste must be disposed of in a licensed waste disposal facility. All worked areas not covered by structures must be promptly and progressively stabilised (eg revegetated) so that they will not erode and/or act as a source of sediment transfer. This management plan is to be submitted and approved by Council prior to further works commencing on the site.

10. Effluent disposal is subject to a Special Plumbing Permit to be issued by Council's Environmental Health Officer.

11. Site benching through cut and fill must be in keeping with the physical and environmental capabilities of the site.

12. Any necessary exterior building lighting must be located under eaves and limited to that essential to allow the safe and secure movement of pedestrian at night.

13. Standard *Phytophthora* hygiene measures must be implemented for the construction and maintenance of works in accordance with the Forest Practices Authority 'Flora Technical Note No. 8: Management of *Phytophthora cinnamomi* in production forests', November 2006.

14. The fuel modified buffer zone must be selectively maintained to ensure that any threatened species habitat or species of conservation significance which germinate and seed are retained.

15. Native vegetation must not be removed outside that necessitated by the proposed development (this includes the clearing of

vegetation to retain or expand views or vistas) unless consented to by Council.

16. Patches of *Gahnia radula* (Chaostola habitat) should not be disturbed or must be utilised as a landscape feature within the development.

17. Reflective materials must not be used as visible external elements in the building and the colours of external surfaces must be the same shades and tones of the surrounding landscape and vegetation elements in accordance with Table 11.1 Clause 6.5 of the *Break O'Day Council Planning Scheme 1996*.

18. The development site must provide not less than 20,000 litres of static water storage reserved and available for fire fighting purposes in accordance with Table 22.1 Clause 3.2(a) of the *Break O'Day Council Planning Scheme 1996*. This supply must be stored so as to prevent damage to the water supply in the event of a fire and must be a minimum of 5m from the dwelling. The supply must be maintained and accessible to brigade vehicles, providing clear access with hard standing to within 3m and must be fitted with a 64mm 5V female thread coupling. This is to be provided by way of waster tanks adjacent to the dwelling. The use of dam water can not be assured nor is it readily accessible to the dwelling.

19. Bushfire protection measures as proposed in the development application must be completed prior to residential occupation and must be maintained at all times.

**MOVED** **SECONDED**
**FOR**
**AGAINST**

**Introduction**

Application is made to the Break O'Day Council for a permit for a new dwelling and additions to the existing industrial building (6 square metres) on Lot CT 119032/1 as owned by Lee Hindrum and Julie Anne McLaughlin. The land is situated approximately 1.5 kilometres to the south of the urban zone of St Helens and is currently accessed off the Tasman Highway.

The subject land measures 6.125 hectares in area and is bound by the Tasman Highway to the east, Flagstaff Road to the south and private allotments to the north and west.

The eastern portion of the land is developed for industrial purposes and includes a number of sheds and open storage areas in proximity to the Highway. This area is currently used for panel beating, a mechanic's workshop and a water cartage and crane depot. Council has also issued a temporary occupancy for a portion of the existing buildings pending the

completion of the dwelling to which this application applies. The land includes native vegetation and environmental weeds.

Council has recently issued a permit for the adjoining industrial building to be used for a business and civic use.

The site is zoned Environment Protection and the proposed residential use constitutes an allowable use class in this zone. Conversely, the additions (which comprise a kitchenette and verandah) are to an existing industrial building and constitute an Industrial use. In accordance with Clause 11.3.2 of the *Break O'Day Council Planning Scheme 1996* ('the Scheme') this is a prohibited use class under the current scheme, however this building would have existing rights use as it has been used for a number of different industrial and commercial uses over a 20 year period. The proposed extension is only 6 square metres on a building of 288 square metres. The addition does not intensify the current use and being a small kitchenette would be normal for any workplace.

The land does not have access to Council's reticulated sewer and water infrastructure.

**Strategic Plan**

The Strategic Plan of the Break O'Day Council supports quality sustainable development.

Settlement is encouraged to be based upon existing settlement areas, preferably with available service connections.

**Statutory Requirements/Government Department**

Council has an obligation under section 48 of the *Land Use Planning and Approvals Act 1993* to observe and enforce its own planning scheme.

The application has relied on performance criteria rather than an acceptable solution under the planning scheme and must therefore be treated in accordance with section 57 of the *Land Use Planning and Approvals Act 1993*.

The application was referred to the Department of Infrastructure, Energy and Resources ('DIER') who undertook a desktop assessment of DIER's road video database. The department concluded that the unsealed Flagstaff Road access onto the Tasman Highway 'would need to be upgraded to conform with the Department's minimum requirements in relation to geometric standards' if the development was to proceed. This could constitute a condition of consent on a permit.

Flagstaff Road is used by a number of properties and the construction of a further dwelling that travelled over the road would have minimal impact. The site also has an existing access directly to the Tasman Highway and this could be used to access the new dwelling.

**Community Consultation**

The application was advertised on 29 August 2007 pursuant to Section 57 of the *Land Use Planning and Approvals Act 1993*. During this time one (1) representation was received on 11 September 2007.

REPRESENTATION 1

This representation raises concern over the expansion of the industrial use on the site;

*The addition to the existing building, which has been used for an industrial and most likely business and civic use over the past 20 years only involves 6 square metres on a building of 288 square metres would not result in an expansion of the existing use of the building. It is being constructed on hard fill and in an area that has no environmental values or could possibly lead to an effect on environmental values. It will not lead an expanded industrial use on the site.*
Its potential impact on threatened species habitat, notably *Gahnia radula* (host plant for the Chaostola skipper butterfly) and *Eucalyptus globulus* (swift parrot).

*The applicant has proposed to replace the Eucalptus glonulus 5 fold. There has not been any recorded sightings of the skipper butterfly in this area and the gahnia radula can be maintained on the site and form part of the landscaping.*

It verily notes that the environmental assessment is inadequate and laments at a strategic level that the Scheme permits multiple dwellings/ buildings on one title in the Environment Protection Zone.

*This application is not for multiply dwellings, and it is quite normal to have multiple buildings on a single site. The proposal does not result in more that 205 of the allotment being developed which is the permitted coverage within the Environment Protection Zone.*

The representation further lists a number of perceived non-compliance issues under the Scheme.

*Table 11.1 Clause 7.1(a) of the Scheme requires the submission of a Forest Practices Plan where 'Vulnerable land' as defined in the Forest Practices Regulations 2007 is required to be cleared. A Forest Practices Plan is not submitted with the development application but a letter of exemption from Fred Duncan, Manager (Biodiversity Program), Forest Practices Authority, for the clearing of 'five blue gum trees' is provided on the basis of a 5:1 offset. Clause 4.2.2 of the Scheme states that 'where the applicant demonstrates that any of the required information or plans is not relevant to the assessment of the proposal such information or plans may be omitted'. Hence, although a Forest Practices Plan is required under the performance criterion, the submitted letter is in accordance with Clause 4.2.2 of the Scheme. The representation declares that this is an unsustainable practice and that Council must*

*consider the objectives of the Scheme that it administers. In addition to this the exemption ignores blue gum saplings and seedlings and the potential for threatened species within the development site.*

*Table 11.1 Clause 11.1(a) of the Scheme defines that only 20% of the land area may be developed 'for buildings, roads, private roadways, parking areas, power line easements or storage areas, including all existing developments on the lot'. The only discretion permissible is for roads or driveways. An assessment of the site under Google Earth indicates that the development is within these parameters.*

*Table 11.1 Clause 14.1(a) of the Scheme relates to the discharge of pollutants into surface or ground water and may be addressed through conditioning a permit subject to the issue of a special plumbing permit.*

*The Wetlands and Waterways Code of the Scheme is addressed by the applicant as follows:*

> 'The development will not impact on any wetland or waterway, the closest wetland or waterway is located a distance of approximately 66 metres from any proposed development and there are no roads, bridges, quarries or borrow pits involved in the application'.

*This statement is essentially correct (provided Council issues a Special Plumbing Permit), although omits the Scheme requirement described under Table 18.1 Clause 2.1(a). This states that 'no native vegetation is to be removed either in or within 30 metres of the outer boundary of ... a recharge basin'. Schedule 1 of the Scheme defines a recharge basin as 'an area in the headwaters of any waterway which acts as an aquifer for the waterway'. The internal driveway linking the western portion of the allotment to the eastern is proposed to traverse a depression that would form the catchments area of the waterway that tends to form on the northern boundary of the property. All land forms the catchments of some waterway or another. This catchment has already been compromised by the construction of a small dam. It is proposed to use the dam wall for the roadway, which will allow easy access to water supply for fire fighting purposes, therefore the works in the low section have already been undertaken. The access road would have minimal impact of the catchment area.*

*References made in the representation to the Industrial Code are inadmissible under Clause 11.3.2 of the Scheme.*

*Attenuation distances are addressed in the Report below which concludes that the development is consistent with the performance criterion.*

**Annual Plan**

There will be no requirement for Council to provide funds for any part of the making of this development.

Any appeal by the developer will retain the onus of proof on the applicant and is not anticipated to be a financial impost on the Council.

**Liability Assessment**

Following the request from the applicant to defer this matter from the January meeting an extension of time was given to 13 February 2008. If Councillors do not make a decision at this convening of Council then a deemed approval could eventuate, resulting in any the costs of any subsequent appeal being awarded against Council.

**Officers Report**

Application is made to the Break O'Day Council for the granting of a permit for a dwelling and additions on Lot CT 119032/1. The dwelling is proposed on the western side of the allotment and is intended to be accessed off Flagstaff Road and then via a right-of-way over Lot CT 52481/2 (which adjoins the western boundary of the development site). This Lot is subject to a right of way appurtenant to Lots 1 and 2 on Sealed Plan No. 123204 and does not provide lawful access for the development site. In addition, Flagstaff Road is Crown land and is subject to the issue of an access licence. As stated by the Resource Management and Planning Appeal Tribunal (400/06P, 28 February 2007:5), the conditioning of a permit subject to an access licence is difficult as 'there is no certainty that such a licence will be granted and any licence granted would not run with the land but be limited to the licensee for a specified period of time'. Given the fact that no evidence has been provided that the owner does not have a legal right of way over the adjoining property access from Flagstaff Road should not be permitted as part of this permit. Existing access is available from Tasman Highway and it is proposed to construct an access anyway from this point, it is recommended approval be conditional upon this access being used.

The development purports to establish a sensitive use within the distance attenuation area of the Dianas Basin Quarry as operated by Dennis Fieldwick Pty Ltd. Although currently closed for exceeding permissible annual extraction limits, the quarry is certified to blast and crush as a level 1 operation under the Environmental Management and Pollution Control Act through the Mining Lease 16M/94.

The attenuation distances for blasting and crushing are described under Table 15.2 of the Scheme. Crushing operations have a distance attenuation of 750 metres while blasting (Council has advice from Stewart of Mineral Resources Tasmania that blasting only occurs at the quarry when 'hard rock' is encountered, although it is not tight rock and is easily blasted through a light, lifting blast) has a distance attenuation of 1 kilometre. The proposed dwelling is to be located within this 1 kilometre radius but outside the 750 metre radius, being approximately 900 metres from the quarry.

An application for development from Dennis Fieldwick Pty Ltd was received by Council on Friday 21 December 2007. This application

includes the necessary data to permit an assessment of DA159-07 against Table 15.1 Clause 1.1(a) of the Scheme.

The effects of noise and ground vibration from blasting within the quarry were modelled due to the irregular blasting regime conducted at the site. Council has models derived from two specialists for disparate applications within the distance attenuation area of the quarry: Terrock (consulting engineers utilised by Dennis Fieldwick Pty Ltd) and Pearu Terts (Consulting Engineer, Architectural Acoustics Noise Control).

The effects of noise from blasting calculated by Terrock found that air blast over pressure levels were approximately 8dB(Lin) higher in front of the blast as compared to the levels behind it. 'In front of the blast' in this instance relates to the north of the quarry operation and is subsequently in the direction of the development site. This places the proposed dwelling within the 105dBL contour. This contour mapping is compatible with the calculations conducted by Terts and is under the 115dB(Lin) permissible for 95% of blasts under the Quarry Code of Practice and the 120dB(Lin) capacity therein cited.

The Terrock study also indicated that the planned house location was outside the 1mm/s ground vibration contour (Richards & Moore 2007:7). This is consistent with the modelling conducted by Terts on the property Lot CT 127841/1 as located 180m further to the south of the development site (i.e. closer to the quarry). At this site Terts calculated ground vibration for average rock at 1.4mm/s. The Tasmanian Quarry Code of Practice (June 1999) stipulates that ground vibration must not exceed 5mm/s peak particle velocity (PPV). Most buildings can withstand low levels of PPV, with heritage mediaeval castles, for example, considered able to cope with 2mm/s. As such, ground vibration meets the performance criterion.

Although these reports provide an arbitrary figure, they are sufficient to demonstrate compliance against Table 15.1 Clause 1.1(a) of the Scheme as it is evident from the data compiled that occupants and users of the site will not be adversely affected by emissions from activities within the attenuation area. Further, Category 1 construction (standard construction) for the proposed dwelling and additions would be permissible under AS 3671.

The quarry is a valuable asset and a strategic resource, being the only quarry in the municipality which supplies good quality material to DIER standards for roads (Fieldwicks). The quarry is a known and important resource and the establishment of a dwelling at the proposed location will not jeopardise that resource. As such Council should favourably exercise its discretion under Table 15.1 Clause 1.1(a) of the Scheme.

It is submitted in the application to Council that static water supplies, as necessitated for the use of the Tasmania Fire Service in bushfire prone areas, will be provided as a dam with an alleged 'minimum capacity of 20,000 litres of water'. The Tasmania Fire Service were contacted on this matter and responded to the effect that 'this proposed storage of

suggested 20,000 litres would be more than effective if it was continuous and maintained'. The applicant responded that they would cart water to maintain that supply, this may be a practical solution in the circumstances that the current owner of the land has a water cartage business, it is not reasonable should there be a subsequent owner of the property. Although this dam could constitute an excellent back up for fire fighting it should not be the primary source and there should be a compliant supply adjacent to the dwelling.

The additions to the existing workshop will not lead to any increase use of the site at all. The small kitchenette is only 3 metres by 3 metres and would be a normal requirement for any workplace. The application also includes the front veranda/deck which was constructed some time ago. The construction of the deck and sails improves the appearance of the workshop from the Tasman Highway.

Approval is recommended with conditions.

**Tony Walker**
**Acting General Manager**

**Attachments: Circulated Attachments – Page 74**

## 15.5 RETAIL COMPLEX – 10 SHOPS 12 CECILIA STREET, ST HELENS – URBAN PLANNING & DEVELOPMENT OBO JOWAR PTY LTD

**(File No: DA 477-07)**

**RECOMMENDATION**

That, pursuant to Section 57 of the *Land Use Planning & Approvals Act 1993* and the *Break O'Day Council Planning Scheme 1996*, the application for Retail Complex – 10 Shops and Associated Works including Demolition of the Existing Structures, on land situated at 12 Cecilia Street, St Helens, as defined in Certificate of Title Volume 51347 Folio 3, be APPROVED subject to the following conditions;

1. Development must be in accordance with the development application DA 477-07 received by Council 14 December 2007, together with all submitted documentation, and forming part of the development application, except as varied by conditions of this permit.

2. Demolition work is not to commence until such time as the site is securely fenced, arrangements are made for the disposal of the demolished materials, all services are disconnected to Council's satisfaction and a works permit is issued by Council for encroachment arrangements onto the footpath.

3. Certification is to be provided that any asbestos in the existing buildings is being removed and disposed in a compliant manner.

# Representation No 50

**From:** geoffmurray48@dodo.com.au
**To:** Break O Day Office Admin
**Subject:** Fwd: Local Planning Scheme
**Date:** Monday, 13 December 2021 2:37:01 PM
**Attachments:** Break O Day Future Directions.docx

---

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-------- Original Message --------
Subject: Local Planning Scheme
Date: 2021-12-13 10:39
From: geoffmurray48@dodo.com.au
To: admin@bodc.tas.gov.au

The General Manager
Break O' Day Council

Please find enclosed our response to this matter which has to be submitted today.

I would appreciate an indication of receipt of this email.

Thanks

Geoff and Rosie Murray

Ph 0439 80 27 05

908 Oceana Drive
Howrah
12th Dec 2021

The General Manager
Break O Day Council
St Helens

**Subject Local Planning Scheme**

I am writing to provide my opinion on some of the essential features of future planning in the Break O' Day municipality and particularly at Binalong Bay where my family has a long time association and particular interest. My family has multiple properties the first of which was acquired in the early 1950's when Binalong Bay (or Boat Harbour as it was then known) was a genuine natural paradise.

Our interests are in ensuring that the future direction of any development is based on the principle of retaining as much of the natural values that make this area so unique. My comments are based on my personal experience of more than 70 years and an appreciation of the intrinsic qualities this municipality offers.

**Acknowledge Intent of Zones**
It is essential that the conditions and restrictions of zones be acknowledged and respected despite the pressure that may arise from those with particular (and often financial interests).

**Over Development**
One of the most important considerations is imposing limits on development in terms of:

*Lot Size*: There should be sensible limits on the minimum lot sizes depending on the actual zone. For example general residential lots should be limited to 700$m^2$ or greater.

*Strata Development*: An essential requirement is the implementation of restrictions on strata and multiple dwellings developments to those areas which are appropriately serviced and not within sensitive zones such as the Landscape Conservation Zone.

*Ribbon Development Prevention*: If one reflects on sensible development strategies from other countries such as the UK there will be an appreciation of measures that have been imposed to prevent one of the most inappropriate development outcomes, namely ribbon development which is seen so often in other states. We support the retention of prohibition of further subdivisions within one km of the coastline.

*Site Coverage*: Similarly limits on site coverage will encourage retention of the greenery and natural vegetation and minimise the rainwater runoff. Each zone will

need to have specific limits and these should not be discretionary and general residential should be no greater than 40%. Furthermore there should be provisions to account for concrete surfaces which should in some proportional ratio add to the site coverage.

*Height Envelope*: Ensuring compliance with height envelopes will benefit the community by minimising the overwhelming intrusion of towering buildings in contrast to the natural trees and vegetation. Whilst these may be some discretion on minor non-compliance these must be minimal.

**Scenic Protection**
It is recognised by all and sundry that the scenic values of this municipality are exceptional and apply across the whole of the region and are not limited to narrow corridors or just the coastline. Accordingly we fully support a wide ranging Scenic Protection Code encompassing valued sites throughout the whole municipality.

**Stormwater Management**
As evidenced by industries sensitive to storm water outflows, (such as the oyster industry) there is need to have a quality storm water management system. It is regrettable that other Councils ignore the adverse impact of outflow and mandate storm water be directed away from local greenery (lawns and gardens) that would absorb so much but rather direct it all to the river and sea via the storm water pipes and gutters. The environmental consequences are obvious and highly visible particularly after a downpour when the waterways become a brown sludge. A more enlightened approach is required.

Appropriate infrastructure needs to be provided to minimise outflows into waterways by means of appropriate treatment/retention facilities. Fortunately so much of the municipality use water tanks whereby the water is a critically important resource to be retained.

**Environmental Management Zone:**
Because of the high conservation values combined with scenic values we support the Future Potential Production Forests (FPPF) as Environmental Management

**Rural vs Landscape Conservation Zone**
There is a need to review the Council's use of the Rural Zone which incorporates area which are clearly not currently nor intended to be rural, but rather serve non-rural purposes. These have scenic and environmental qualities that merit rezoning into the Landscape Conservation Zone.

**Native Vegetation**
The scenic and conservation values are enhanced by retention and encouragement of much appropriate native vegetation as possible. The Council displays the opposite in so many ways. One example is mowing parks and greenery where the Council so often destroys young native trees with complete disregard or reason. A more

enlightened policy will ensure that selective parks management will ensure the retention of young native trees and vegetation.

**Weed Management**
This is a ubiquitous problem for all Councils and we are aware of the resources required. With reference to the above point where resources are employed to destroy native vegetation, the foreshores in so many areas are polluted with massive weed infestations that need to be removed under a scheduled management plan.

**Wildlife Protection**
It is a well understood principle that there is an obvious link between protection of the natural environment, particularly the flora and the well-being of the native wildlife. This is further reason for protection of the native vegetation and removal of weeds. A policy that creates wildlife corridors is essential for protection of these creatures and is a feature of so many progressive Councils and should be adopted by this Council.

**Reticulation Systems**
So many regions in the municipality never had nor require reticulated sewerage or water services. So many dwellings are used on a part time basis for holiday or visitor accommodation and are well served by the current arrangements. Most residents have adequate water tanks using this resource that would otherwise be an environmental problem feeding the waterways as mentioned before.

Some would like to argue that septic systems should be replaced with reticulated systems on the basis of efficiency. However even the dated systems operate efficiently and without problems as evidenced by our own systems which have trouble free operation for the last 60+ years. The more recent development of a plethora of efficient waste management technologies used throughout the country supports the case for on-site self-contained systems. It is likely that those seeking sewerage systems at massive expense to all believe it will allow for more concentrated development and subdivision of existing lots.

It is regrettable that so often community comment and advice based on personal experience and common sense have in the past been ignored in the quest for inappropriate development. By means of an example I reference my objection (Jan 2018) to the massive break wall where I foreshadowed the rocks falling into the gulch "*the surge will assuredly move any in-fill material* "and "*issue of repositioning of displaced rocks and material needs to be funded*", and restricted visibility of on-coming waves resulting in boats being washed onto the rocks – both of which have now resulted from this obvious Council-endorsed danger. Warning signs now acknowledge the danger to all mariners using the facility.

The point of this is that the community rather than bureaucrats lacking familiarity are in a much better position to make appropriate recommendations.

This is an opportunity of the Council to give serious consideration to the objective wishes of the Break O'Day community wishing to sensibly retain the qualities of the region, rather than responding to the developers or those who have a financial interest in particular options. Decisions of today will determine the future direction of this outstanding Tasmanian municipality.

Thank you for considering our submission and will be willing to provide additional information if required.

Geoff and Rosie Murray

Ph 0439 80 27 05

c.c The Mayor and Aldermen Break O'Day Council

# Representation No 51


**From:** alison bleaney
**To:** Break O Day Office Admin

**Subject:** LPS - BODC
**Date:** Monday, 13 December 2021 2:38:17 PM

CAUTION: Do not click links or attachments unless you recognize the sender and know the content is safe

These are my points with regard to the formulation of a new planning scheme for BODC,

The new plan needs to:

* Support the retention of a prohibition of subdivision within 1km of the high-water mark along the coast to help prevent ribbon development and urban sprawl and focus development in serviced settlements

* Stop multiple dwellings and strata developments for tourism accommodation outside serviced areas including in the Landscape Conservation Zone

* Support a Scenic Protection Code that protects landscape values across the municipality while noting that the Council has adopted a minimalist position of only looking at scenic protection along narrow road corridors

* Improve the proposed Stormwater Specific Area Plan (SAP)
A key objective of a Stormwater SAP should be to reduce the overall quantity and improve the quality of urban stormwater flows to waterbodies as part of a comprehensive stormwater management program that is premised on the identification of important aquatic ecosystem values and the need to avoid or minimise any potential ecological impacts. A priority should be the management of stormwater to reduce overland flow and to improve water quality at source and where this is impractical then use treatment processes incorporated into the council stormwater infrastructure.

The current Council Stormwater SAP will not achieve these outcomes.

* Support zoning Future Potential Production Forests (FPPF) land as Environmental Management Zone in recognition of the FPPF areas significant high conservation values and in some cases important scenic values

* Support split zoning of Agricultural zoned land where there are important landscape conservation and or scenic values with non farming areas zoned Landscape Conservation Zone

* The Council has also zoned large amounts of private land as Rural. In the Rural Zone forestry and intensive uses such as feedlots and fish farms do not require a planning permit while Landscape Conservation Zoning emphasises protecting landscape values. Areas such as between the bottom of Elephant Pass through to the Nicholas Range around St Marys are environmental lifestyle areas not Rural industry areas. As such the majority of properties in such areas should be zoned Landscape Conservation Zone.

* Ensure that the biodiversity overlay in the Natural Assets Code is comprehensive and takes into account the importance of landscape connectivity/wildlife habitat corridors

Sincerely

Alison Bleaney
Binalong Bay

# Representation No 52

**From:** Valerie
**To:** Break O Day Office Admin
**Subject:** Re: HPE CM: LPS representation
**Date:** Tuesday, 14 December 2021 10:16:23 AM
**Attachments:** image001.jpg
LPS Page 1.tiff
LPS Page 2.tiff

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Hello,
Thank you for contacting me about this.
Try this one. If not, I can drop the printed document into the office this afternoon.
Regards,
Valerie Legg

On Tue, 14 Dec 2021 at 09:43, Break O Day Office Admin <admin@bodc.tas.gov.au> wrote:

> Good Morning Valerie
>
> Unfortunately I have been unsuccessful in opening the attachment, are you able to possibly forward this on in another format?
>
> Reference 21/26822
>
> Regards
>
> Administration | **Break O'Day Council**
>
> t: 03 6376 7900
>
> e: admin@bodc.tas.gov.au | w: www.bodc.tas.gov.au
>
> cid:image001.jpg@01D7EC16.B3EEB440

**From:** Valerie <grevillea250@gmail.com>
**Sent:** Monday, 13 December 2021 2:43 PM
**To:** Break O Day Office Admin <admin@bodc.tas.gov.au>
**Subject:** HPE CM: LPS representation

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Please find attached my representation concerning the proposed rezoning.

# LPS Representaion

To Whom it may Concern:- 10/12/2021

Thank you for the opportunity to make a representaion about such an important matter.

Firstly, I have to say that during the 20years we have lived here, we have noticed the immense degradation of the natural environment, by various means, replaced by a built environment. This is particularly so along the Tasman Highway between Scamander and St Helens.

So, I support the retention of the prohibition of subdivision within 1km of the high water mark along the coast to help prevent ribbon development and urban sprawl and focus development in serviced settlements.

There is a need also to stop multiple dwellings and strata developments for tourist accommodation outside serviced areas including in the Landscape Conservation Zone.

I note that our property will be changed from "Environmental Living" to "Landscape Conservation", with many structures and businesses then allowed. Once there is a loophole i.e.discretionary, it will be abused.

You can use all the fancy titles for zones you like e.g. Landscape Conservation, it means nothing if you're not actually conserving the landscape - for which read the natural environment. I am at pains to see how most of the discretionary facilities can possibly be in keeping with conservation of the landscape/ scenery. None of these items which were previously not allowed in Environmental Living should not be allowed now either.

# LPS Representaion

The Lifestyle we moved here for has been/ is being/ will be eroded. We're getting all the downsides of urbanisation - e.g. Traffic, noise, rubbish, pollution - but none of the benefits - e.g shops and better services.

Infrastructure is not keeping pace with dwellings and tourism either. For example, the water restrictions imposed in Scamander in 2019.

In conclusion then, I am not in favour of allowing the "discretionary" items to be allowed in the new Landscape Conservation category.

Please peruse this representation with the same gravitas with which it was written.

Valerie Legg
Henderson House, 23200 Tasman Highway (PO Box 51)
Scamander
Email: grevillea250@gmail.com

# Representation No 53

**From:** Paul Thomas
**To:** Break O Day Office Admin
**Subject:** LPS representation submission
**Date:** Monday, 13 December 2021 3:03:46 PM
**Attachments:** Breakoday lps.pdf

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Good afternoon,
Please find attached representation regarding Break O'Day Council's LPS process. Could you please put forward the representation for me.
Wishing all the team in the council a safe and Merry Christmas,
Kindest regards,
Paul

--

**Paul Thomas**
Teacher
A: 282 Westbury Rd, Prospect TAS 7250 AU
P: PO Box 401, Prospect TAS 7250
T: 03 6341 9988
E: paul.thomas@stpatricks.tas.edu.au
W: www.stpatricks.tas.edu.au

With deep respect, St Patrick's College acknowledges the Tasmanian Aboriginal Community as the traditional and ongoing custodians of this land. We recognise their connection to the land, seas, air and waterways of lutruwita, and commit ourselves to the ongoing journey of reconciliation.

This email and any files transmitted with it contain confidential information intended for the use of the individual or entity named above. If you are not the intended recipient you are hereby notified that you must not disseminate, copy or take action in reliance upon it. While virus-scanning software is utilised by us, no responsibility is taken for the virus damage that may originate from this transmission. If you received this communication in error please contact the sender immediately and delete this email and associated material from any computer.

I am writing as a rate payer of Break O'Day Council to contribute to the LPS process through representation. Firstly, there appear to be many good initiatives contained in the draft.
I have some constructive feedback and wish to put in representation regarding the following:

**Subdivisions within 1km of the high water mark along the coast line:**
The fact that there is minimal development within these areas is one of the major reasons why the East Coast is recognised internationally for its uniqueness. Subdividing these areas would compromise this uniqueness. There is no getting away from the fact that development would undoubtedly result in loss of native habitat, see the introduction of problematic foriegn flora, and introduce pets and pests that impact native fauna, and create a range of other issues.

All this combined with the clearing of native vegetation for fire protection and increased pressure for fuel reduction burns on adjoining properties including adjacent private land and Parks and Wildlife reserves would alter the landscape indefinitely.

Therefore, it is critical for long term environmental and economical sustainability (and for the international reputation of the Break O'Day Council community) that the prohibition of development within 1km of the high water is upheld. The world renowned natural values and ecological sensitivity of these areas needs to be reflected through robust protection and promotion of native flora, fauna, and respect for indigenous habitat. Development within these important areas would be an ad hoc approach and short sighted.

**Natural Assets Code:**
The biodiversity overlay in the code needs bolstering to be thoroughly inclusive regarding wildlife habitat corridors. Further, it needs to actively consider and highlight the importance of the connectedness of those wildlife corridors to the surrounding landscape. The biodiversity overlay needs to be both comprehensive and informative regarding this.

**Tourism accommodation outside serviced areas:**
Strata developments and multiple dwellings developments should definitely not happen, or even be considered within Landscape Conservation Zones, period. Nor should they be considered outside serviced areas. Areas zoned as conservation have been done so for important ecological reasons to promote the protection of native flora, fauna, and to respect indigenous habitat. Therefore, developments within these zones would be highly inappropriate and also disrespect first nation people. Further, it would compromise the Break O'Day Council community reputation- both nationally and internationally.

**Proposed Stormwater Specific Area Plan (SAP):**
A considerable amount of urban stormwater flows to waterbodies. The overall aim of a stormwater area Plan is to improve quality and reduce the amount of urban stormwater entering waterbodies through management systems. Given the East Coast of Tasmania is underpinned by a fragile ecosystem, more is needed to thoroughly ensure ecological impacts are avoided. The quality of the waterbodies to which the stormwater flows to are critical to aquatic ecology. Therefore, a priority should be the management of stormwater to reduce overland flow and to increase water quality at source and where this is impractical then as part of a local treatment process incorporated into the council stormwater infrastructure. Stormwater water needs to be calmed and purified in a way that reduces flood and nutrient impacts through areas that contain indigenous aquatic species.

**Change Zoning from Rural to Landscape Conservation Zoning where the key land use is environmental protection and lifestyle:**
There are considerable amounts of private Land now zoned as rural, this includes areas between the Nicholas Range and the bottom of Elephant pass. Large areas surrounding St Marys also fall under this zoning. This results in industries with intensive uses not needing planning permits. Given most people have chosen properties in these areas to experience an environmental lifestyle, the majority of these properties should be zoned Landscape Conservation Zone.

**Split zoning of Agricultural zoned land:**
I'm in full support of split zoning of Agricultural zoned land where there are important landscape conservation and or scenic values with non farming areas zoned Landscape Conservation Zone.

**Zoning Future Potential Production Forests (FPPF) land as Environmental Management Zone:**
I'm in full support of zoning FPPF Land as Environmental Management Zones- in recognition of the FPPF areas of significant high conservation values and in some cases important scenic values

**Summary of the above representations:**
The East Coast of Tasmania's biggest asset is maintaining its natural values, and this is critical for long term economic and environmental sustainability. Therefore, state of the art planning and building codes need to be rigorously established.

An integral part of this process would be education and provisions for clever, state of the art subdivisional development that fosters connection with the landscape instead of removing of native flora- establishing home lots that are restricted to cleared land. For instance, land that previously supported paddocks, or similar. Established within this land should be community spaces and bike paths that potentially join reserves and townships directly. They should also have spaces that are revegetated.

Furthermore, the renovating of current properties need to reflect good design, too. Subsequently, building design guidelines, be it renovation or new development, need to reflect high-quality, attractive homes that will meet high standards of environmental performance. This should be supported with references regarding material palettes that are considered low embodied and so forth.

All the representations and related feedback I've outlined, if implemented, would go towards fostering a culture that measures performance by good design rather than size of dwellings and bling- raising the bar for all.

I would ask the Break O'day Council to seriously look at and discuss the masterplan for a subdivision called Mullum Creek in Victoria for reference. This development has attracted international attention and become an extremely desirable sustainable living environment that reflects and expresses the local landscape. The East Coast could be put on the map for similar reasons. I have attached a link for Mullum Creek for the Council's perusal.
https://mullumcreek.com.au/app/uploads/161004-V8.2-MCDG.pdf

I hope my representations and related feedback are useful to the Break O'day Council and help with the LPS process, in turn contributing to long term economic and financial and sustainability that showcases the Break O'day community.

Kindest Regards,

Paul Thomas, 0419 291330
254 St Helens Point Road

# Representation No 54

| | |
|---|---|
| **From:** | Kylie Walker |
| **To:** | Break O Day Office Admin |
| **Subject:** | Representation To BOD Council |
| **Date:** | Monday, 13 December 2021 4:17:27 PM |
| **Attachments:** | Representation to BODC draft LPS - Lottah.pdf |

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Dear Mr Brown. Please find attached my suggestions for the township of Lottah under the Tasmanian Planning Scheme

Regards

Kylie Walker

Sent from Yahoo Mail on Android

Dear Mr Brown

I am writing to comment on the future zoning in Break O'Day with respect to the draft LPS and proposed zoning.

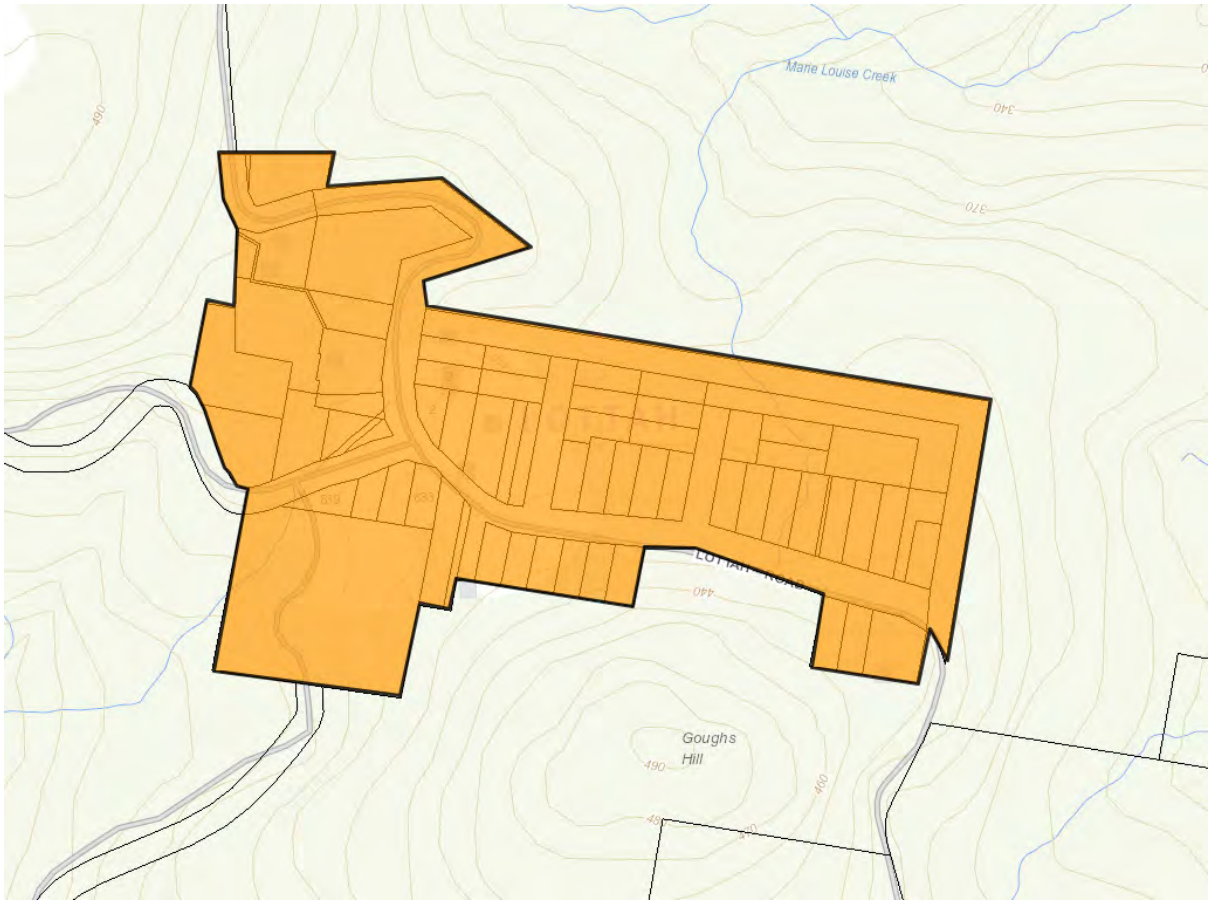
I think the township of Lottah should be reconsidered for a more suitable zone.

We know that Lottah was once a thriving mining town with around 150 men working the mine, many as residents and with local shops and services.

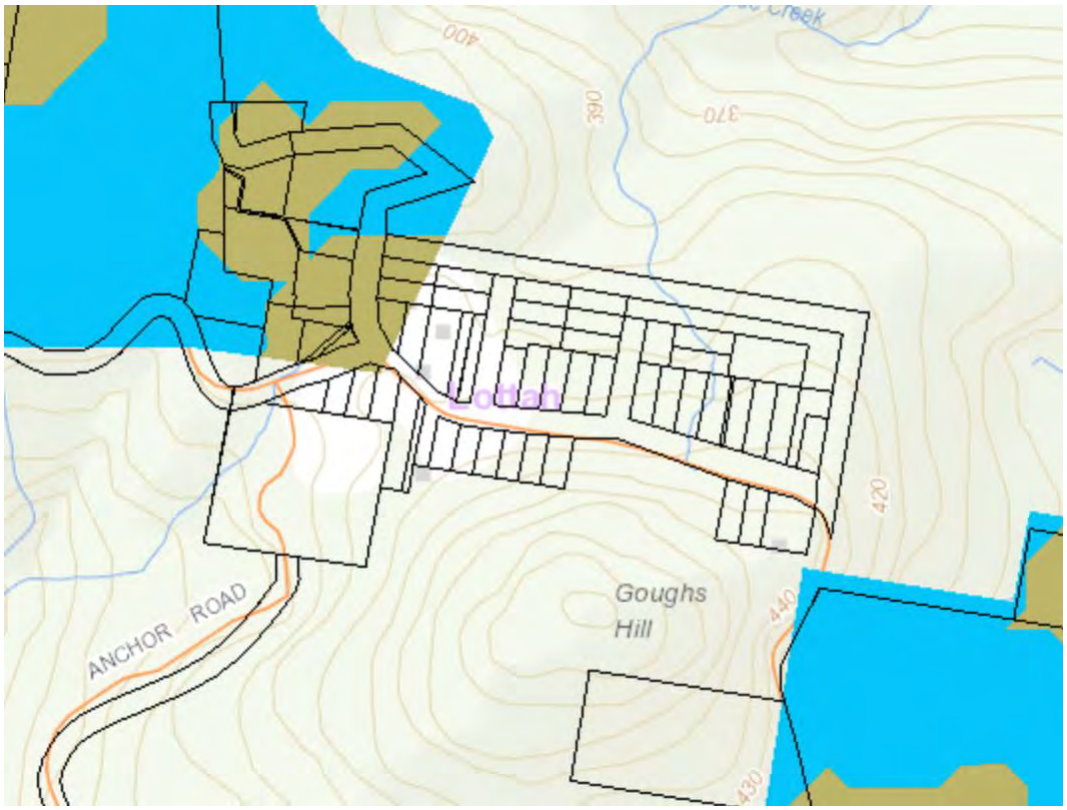
The town has all but disappeared, as is the way of things when industry changes and moves on. Yet it is known as a gateway to the Blue Tier, to walking tracks and to areas of cultural heritage. It's a place that people like to visit, and I understand that it is a place that State Government has identified as a place that could be developed for tourism, but there is nowhere for visitors to stay in Lottah.

Under the current and proposed zone (Rural Resource to Rural), which blankets the whole area, it is very difficult to develop the land. A zone that allows incremental, careful and sustainable development would allow small scale development to encourage visitor accommodation and other services for the residents there and for visitors. This could encourage more economic development opportunities.

The character of Lottah should be retained and protected, along with the heritage aspects (mining remnants for example). Development does not need to be intensive, but the lack of reticulated services assures this. The Village Zone may be an appropriate Zone for the township of Lottah to allow appropriate scale development.



As is shown by this image, the township of Lottah is a contained village with small lots of between 700m$^2$ to 5000m$^2$. The land is zoned Rural Resource, and proposed to be zoned Rural. The land is not suited to agriculture according to the Land Capability mapping on the LISTMap, the land has low agricultural value in the area surrounding Lottah, and the township is not assessed.




I would like to suggest that a zone more appropriate to small scale development be considered, such as the Village Zone. This has been applied to other small towns that have found incremental growth due to tourism, such as Derby.

Given the township of Lottah has been earmarked for tourism development, a zone that helps to facilitate this and allow suitable development seems reasonable.

# Representation No 55

**From:** James Stewart
**To:** Break O Day Office Admin
**Cc:** Brett Woolcott; Michelle Schleiger
**Subject:** Break O"Day LPS Representation - Lots 1-4 Vince Lane, Binalong Bay
**Date:** Monday, 13 December 2021 4:30:25 PM
**Attachments:** image001.jpg
image002.jpg
Units 1-4, Vince Lane - Binalong Bay - LPS Representation.pdf

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Good Afternoon

Please find attached representation to the Break O'Day Council Draft Local Provisions Schedule (LPS).

The representation relates to land at 1-4 Vince Lane, Binalong Bay. The representation is made on behalf of the lot owners.

If you have any questions or require further information, please don't hesitate to let me know.

Kind regards

James Stewart
Senior Town Planner | Accredited Bushfire Practitioner
P 03 6332 3760
M 0467 676 721
E james@woolcottsurveys.com.au
W www.woolcottsurveys.com.au
A 10 Goodman Court, Invermay TAS (PO BOX 593, Mowbray Heights TAS 7248)

WARNING: The number of frauds relating to the transfer of money is increasing rapidly. Accordingly, it is essential that you only act on emails and letters that come from '@woolcottsurveys.com.au' email accounts. If you are unsure, please check by contacting our office prior to transferring funds. We do not accept any responsibility for any loss or damage arising from any electronic transfers or deposits made by you that are not received into our bank account.

WOOLCOTT SURVEYS

EAST COAST SURVEYING

13/12/2021

Planning Department
Break O'Day Council

Via Email: admin@bodc.tas.gov.au

**RE: BREAK O'DAY LOCAL PROVISON SCHEDULE – REPRESENTATION – UNITS 1-4, VINCE LANE, BINALONG BAY.**

To The General Manager

We wish to provide this submission in relation to the Break O'Day Local Provision Schedule (LPS), which is currently on public exhibition until the 13th December 20201.

This representation is made in relation to Units 1-4 at Vince Lane, Binalong Bay. The subject site consists of four strata lots, each of which were created under a staged strata development scheme, approved by Council in 2015. This submission is undertaken on behalf of the strata lot owners.

Details of the lots is provided below:

| **Address** | **Size of Strata Lot** | **Current Development** | **Approved Development Permit DA052-2015** |
|---|---|---|---|
| Unit 1/1, Vince Lane | 2217m$^2$ | Visitor Accommodation | Visitor Accommodation |
| Unit 2/1, Vince Lane | 1500m$^2$ | Vacant | Visitor Accommodation |
| Unit 3/1, Vince Lane | 1653m$^2$ | Vacant | Visitor Accommodation |
| Unit 4/1, Vince Lane | 2142m$^2$ | Vacant | Visitor Accommodation |

As outlined above, Unit 1 of the strata has currently been developed with a visitor accommodation building. This development is as per Councils permit for four visitor accommodation units. Access to each of the four lots is via a common property access off Lyall Road.

As part of the staged strata, a number of works have already occurred on site. This includes:

- Construction of all common property areas, including gravel access off Lyall Road, internal drainage, along with landscaping and fencing of common areas.
- Fencing of each strata lot, including pedestrian access from each lot onto Lyall Road.
- Installation of privacy screens between each of the strata lots, in accordance with the approved plans.
- Connection of power to each of the strata lots.
- Provision of 10,000L firefighting water tanks with appropriate STORZ fittings.

- Provision of a gravel turning and manoeuvring hardstand area on each lot, along with clearance of vegetation within the approved building area.

Each of the four units is currently under separate ownership, with vacant lots in the process of preparing building applications as per the approved visitor accommodation plans from Council.

The site sits within a residential cluster at the end of a Council maintained road. The land is opposite established single dwellings on the northern and north eastern sides. The approved and existing development on site is in keeping with the existing character and feel of the area.

Photos of the site are provided below:

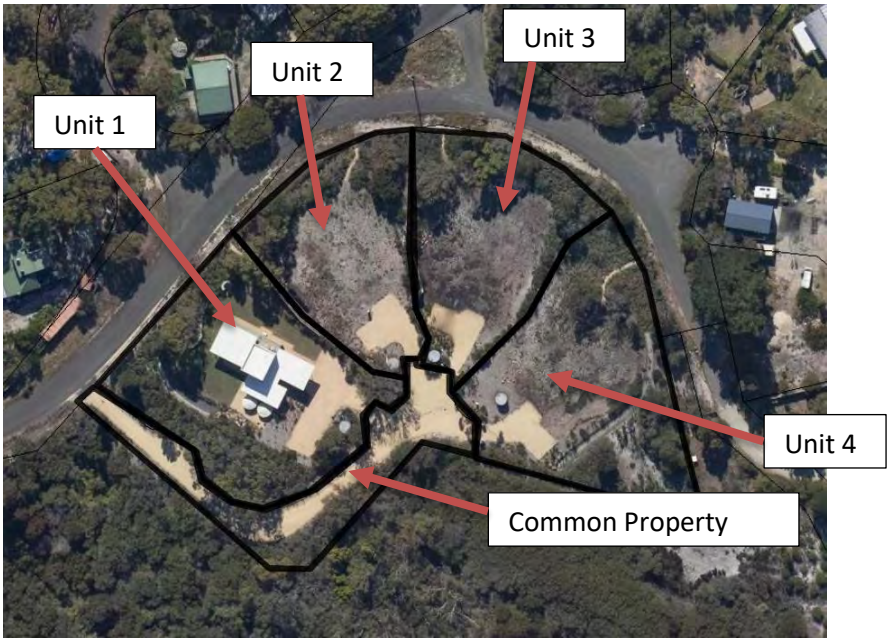



*Figure 1 - Aerial view of subject site.*

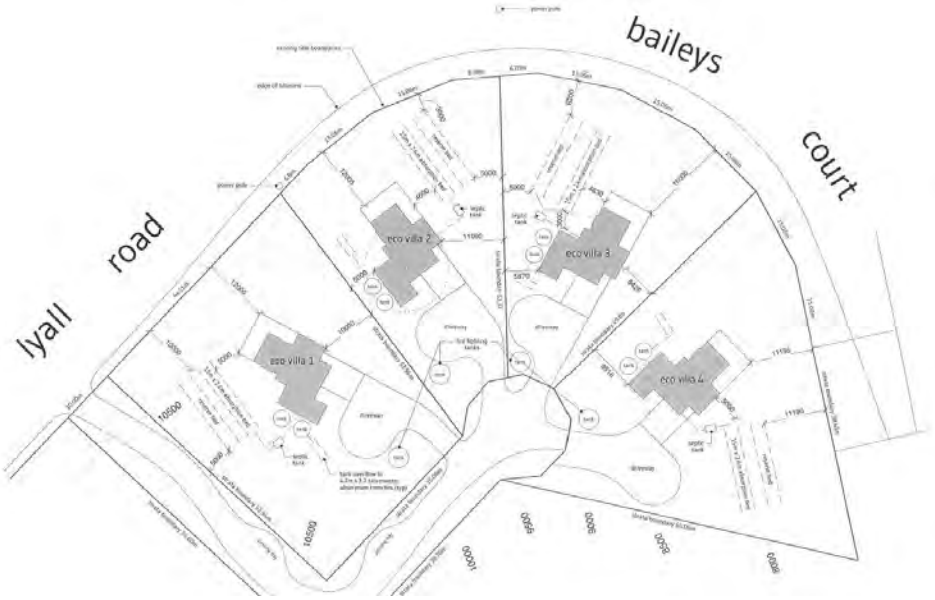



*Figure 2 - Extract of approved site plan for visitor accommodation development.*



*Figure 3 – View over strata 3.*



*Figure 4 - Vacant strata lot 2, with hardstand, power, landscaping etc complete. Dwelling On Lyall road visible in background.*



*Figure 5 - Existing visitor accommodation development on strata lot 1.*

Under the draft LPS, Council has proposed to apply the Landscape Conservation zone (LCZ) to the four strata lots and common area.

In relation to the LCZ, the 8A guidelines provide the following statements to provide direction for Council in appropriately applying the zone:

***LCZ 1*** *The Landscape Conservation Zone should be applied to land with landscape values that are identified for protection and conservation, such as bushland areas, large areas of native vegetation, or areas of important scenic values, where some small-scale use or development may be appropriate.*

***LCZ 2*** *The Landscape Conservation Zone may be applied to:*

a) *large areas of bushland or large areas of native vegetation which are not otherwise reserved, but contains threatened native vegetation communities, threatened species or other areas of locally or regionally important native vegetation;*

b) *land that has significant constraints on development through the application of the Natural Assets Code or Scenic Protection Code; or*

c) *land within an interim planning scheme Environmental Living Zone and the primary intention is for the protection and conservation of landscape values.*

***LCZ 3*** *The Landscape Conservation Zone may be applied to a group of titles with landscape values that are less than the allowable minimum lot size for the zone.*

***LCZ 4*** *The Landscape Conservation Zone should not be applied to:*

a) *land where the priority is for residential use and development (see Rural Living Zone); or*
b) *State-reserved land (see Environmental Management Zone).*

In examining the guidelines, the following is noted:

- Strata lots 1-4, which are all under separate ownership, do not contain landscape values that have been identified for protection. The lots are generally clear of native vegetation, and are approved for visitor accommodation development. The permit has been substantially commenced allowing development of these lots to occur at any stage. Once each lot is developed, the site will consist of the main building along with a landscaped yard. It is not the intent of these lots that they be identified for protection or conservation. They do not contain bushland or a large area of native vegetation.

- While it is acknowledged that the Natural Assets overlay applies to this site (and all nearby residential lots), on a practical level the lots are cleared and ready for development.

  Once developed, and provided with a Bushfire Hazard Management Area, there will be little native vegetation left on site, but rather a landscaped yard.

- While the use is acknowledged as visitor accommodation, the site is within a residential area, where the approved and existing development algins in appearance to nearby residential uses. The use appears no different, and such should be treated with the same intent in relation to LCZ4. On this basis, we maintain that the four strata lots and common area, are not appropriate for the LCZ.

The 8A guidelines further state:

> ***The Landscape Conservation Zone is not a replacement zone for the Environmental Living Zone in interim planning schemes. There are key policy differences between the two zones. The Landscape Conservation Zone is not a large lot residential zone, in areas characterised by native vegetation cover and other landscape values. Instead, the Landscape Conservation Zone provides a clear priority for the protection of landscape values and for complementary use or development, with residential use largely being discretionary.***

**Suggested Zoning**
This submission feels that the zoning of strata lots 1-4 should align with the zoning of other residential properties within Lyall Road, Baileys Court, and Burgess Court.

Our view however is that **BRE-P2.0 Coastal Settlement PPZ,** is not required for this part of Binalong Bay. Instead, the provisions of the Low-Density Residential zone (LDRZ) could be adequately applied to the area.

The zone purpose for the LDRZ, is as follows:

- To provide for residential use and development in residential areas where there are infrastructure or environmental constraints that limit the density, location or form of development.

- To provide for non-residential use that does not cause an unreasonable loss of amenity, through scale, intensity, noise, traffic generation and movement, or other off-site impacts.

- To provide for Visitor Accommodation that is compatible with residential character.

The 8A guidelines further state under LDZR 1 (b), *The LDRZ should be applied to residential areas where one of the following conditions exist……small residential settlements without the full range of infrastructure services, or constrained by the capacity of existing or planned infrastructure services*"

The subject site is essentially of the same character and appearance with adjoining lots in this part of Binalong Bay. Application of the LDRZ to these areas would not allow further subdivision, and would provide a set of provisions which adequately capture the character and nature of the area.

Should Council and the Commission continue with the proposed PPZ, our position would be that strata lots 1-4 be included within the SAP, as these areas do not align with the intent of the LCZ as outlined under the 8A Guidelines.

If you have any questions regarding the contents of this submission, please don't hesitate to contact us on the numbers provided.

Kind regards
Woolcott Surveys



James Stewart
Senior Town Planner

Kind regards
Woolcott Surveys



Brett Woolcott
Managing Director & Registered Land Surveyor

# Representation No 56

| | |
|---|---|
| **From:** | James Stewart |
| **To:** | Break O Day Office Admin |
| **Cc:** | Michelle Schleiger; Brett Woolcott |
| **Subject:** | Break O"Day LPS Representation - 36 Franks Street, Falmouth. |
| **Date:** | Monday, 13 December 2021 4:33:00 PM |
| **Attachments:** | image001.jpg<br>image002.jpg<br>200108 - 36 Franks Street, Falmouth - BODC LPS Representation V1.pdf |

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Good Afternoon

Please find attached representation to the Break O'Day Council Draft Local Provisions Schedule (LPS).

The representation relates to land at 36 Franks Street, Falmouth, CT25329/3. The submission is made on behalf of Bruce Hogarth and Rita Tobler.

If you have any questions or require further information, please don't hesitate to let me know.

Kind regards

James Stewart
Senior Town Planner | Accredited Bushfire Practitioner
P 03 6332 3760
M 0467 676 721
E james@woolcottsurveys.com.au
W www.woolcottsurveys.com.au
A 10 Goodman Court, Invermay TAS (PO BOX 593, Mowbray Heights TAS 7248)

WARNING: The number of frauds relating to the transfer of money is increasing rapidly. Accordingly, it is essential that you only act on emails and letters that come from '@woolcottsurveys.com.au' email accounts. If you are unsure, please check by contacting our office prior to transferring funds. We do not accept any responsibility for any loss or damage arising from any electronic transfers or deposits made by you that are not received into our bank account.

WOOLCOTT SURVEYS

EAST COAST SURVEYING

Date 29/11/2021

Planning Department
Break O'Day Council

Via Email: admin@bodc.tas.gov.au

**RE: 36 FRANKS STREET, FALMOUTH – BREAK O'DAY LPS ZONING**

To The General Manager

We wish to provide this submission in relation to the property at 36 Franks Street, Falmouth, CT25329/3, PID7513837.

The subject site is located at the eastern end of Franks Street, which is an unsealed Council maintained road. The lot has an area of 10.5ha, and contains the 'Saltwater Sunrise' Visitor Accommodation development. The accommodation consists of 4 luxury self-contained villas, as well as an existing single dwelling and outbuilding.

In addition to the above, Council has approved DA043-19, dated 25/11/2019, which allowed the development of 15 new accommodation units, and changed the use on two of the existing buildings so they could be used as accommodation. A copy of the permit for that development is attached as Annexure 1.

The land is clear of native vegetation, with the majority of the site maintained as grassland. There are very small pockets of vegetation throughout, however as indicated on TasVeg 4.0, the dominant vegetation identified is that of Agricultural Modified Land (FAG).

The land is currently within the Environmental Living (ELZ) zone, under the current Interim Planning Scheme. Council has proposed to zone the site as Landscape Conservation Zone (LCZ) under the draft Local Provision Schedule (LPS). The purpose of this submission is to advocate against the LCZ being applied to the site, and rather seek to apply the Low-Density Residential Zone provisions.

The LPS Supporting report for BODC indicates that coastal areas where the existing ELZ apply, should be transitioned into the LCZ (page 66 of supporting report). The report states that this has been done in order to ensure the existing natural and landscape values are retained.

In accordance with section 8a of the *Land Use Planning and Approvals Act 1993* (the Act), The Minister has released guidelines which are to assist a Planning Authority in the preparation of a draft LPS. These guidelines have been examined and responded to below.

| | |
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| ***LCZ 1** - The Landscape Conservation Zone should be applied to land with landscape values that are identified for protection and conservation, such as bushland areas, large areas of native vegetation, or areas of important scenic values, where some small scale use or development may be appropriate.* | **Response:**<br><br>The site does not have any landscape values that have been identified for protection. The land is not subject to a Scenic Protection Area overlay or Scenic Road corridor overlay as identified on a planning scheme map. In my opinion, the sites' coastal location, does not automatically warrant inclusion within the LCZ.<br><br>The topography is such that the site cannot be viewed from any highway or scenic corridor.<br><br>The site must have something worth protecting from a landscape perspective, and that thing worth protecting must be identified by the Planning Authority.<br><br>There are no areas on the site which have been identified for conservation. The land is clear of all native vegetation, with only a few pockets of domestic plantings occurring on site.<br><br>The land is not subject to the Priority Vegetation Area overlay, nor the Future Coastal Refugia overlay. Only a narrow strip, which runs parallel to the eastern boundary, is subject to the Waterway and Coastal Protection overlay.<br><br>The land has a permit in place for development of 15 visitor accommodation units across the site. Once complete, the site will operate as one of the largest accommodation and tourism sites on the East Coast of Tasmania.<br><br>The LCZ considers small scale use or development appropriate. The existing and approved use and development of the site is not considered small scale, nor is it considered appropriate for the LCZ. |
| ***LCZ 2** - The Landscape Conservation Zone may be applied to:*<br><br>**a)** *large areas of bushland or large areas of native vegetation which are not otherwise reserved, but* | **Response:**<br><br>a) The land is clear of all native vegetation. The land has been maintained in this manner for many years. The land contains no identified threatened native vegetation communities or species. |

| | |
|---|---|
| *contains threatened native vegetation communities, threatened species or other areas of locally or regionally important native vegetation;*<br><br>**b)** *land that has significant constraints on development through the application of the Natural Assets Code or Scenic Protection Code; or*<br><br>**c)** *land within an interim planning scheme Environmental Living Zone and the primary intention is for the protection and conservation of landscape values.* | b) The site contains minimal constraints, noting that the natural assets code only applies to a narrow strip of land on the eastern property boundary. The Scenic Protection code does not apply to this site.<br><br>c) The site is currently within an ELZ of an interim planning scheme, however given the lack of natural values and landscape qualities, the intent to protect the land by applying the LCZ zone is questionable.<br><br>The site operates as a successful visitor accommodation destination, and will see significant growth following development of the additional 15 units. |
| ***LCZ 4 -*** *The Landscape Conservation Zone should not be applied to: (a) land where the priority is for residential use and development (see Rural Living Zone); or (b) State-reserved land (see Environmental Management Zone).* | **Response:**<br><br>The site contains a single dwelling, and the intent of the land is to grow for the purposes of Visitor Accommodation. While not a residential use, the accommodation development is not so dissimilar to the form and appearance of a residential use. On this basis, the LCZ is not considered a compatible zone for 36 Franks Street, Falmouth. |

In relation to application of the LCZ, the guidelines state:

> ***The Landscape Conservation Zone is not a replacement zone for the Environmental Living Zone in interim planning schemes. There are key policy differences between the two zones. The Landscape Conservation Zone is not a large lot residential zone, in areas characterised by native vegetation cover and other landscape values. Instead, the Landscape Conservation Zone provides a clear priority for the protection of landscape values and for complementary use or development, with residential use largely being discretionary.***

It is clear in the wording of the zone criteria, and within the zone purpose for the LCZ, that the intent of the zone is to prioritize the protection of native and landscape values. As previously stated, this site does not contain those values.

Application of the LCZ would see the land change from an existing 'Residential' zone, to a 'Non-Residential' zone. The residential use class would change from a 'permitted' use, to one which can be refused at the discretion of Council subject to meeting performance criteria. The LCZ has been established with a key policy difference, as stated in the guidelines.

The LCZ currently lists Visitor Accommodation as a discretionary use within the zone, as opposed to the LDRZ which allows Visitor Accommodation as a permitted use. This site contains an established use which has operated for many years. We believe that allowing a zoning which recognises the character and historic use of the site is appropriate.

As per the above, It is our opinion that the land have the Low-Density Residential Zone applied, which aligns with the remainder of the Falmouth Settlement. We note that all of the land on the southern side of Franks Street has been proposed for Low Density Zoning under this process. That land is currently within the Environmental Living Zone. Should those changes be approved, this would be the only lot within the Falmouth settlement which is proposed for the LCZ. Rezoning the subject site to Low Density Residential would provide a contiguous zoning along the southern side of Franks Street, and be a natural extension of the existing residential zoning.

It is further considered that the site meets the requirements of LDRZ1 b) which are outlined below

*LDRZ 1a) - Small, residential settlements without the full range of infrastructure services, or constrained by the capacity of existing or planned infrastructure services.*

The site is within the Falmouth Settlement, has frontage to an existing Council maintained road, and has very limited constraints present on the site. The land has not been identified for higher density green field development (i.e. General Residential Zone).

When examined against the sustainability criteria of section *D2.2.2 Rural Residential Areas* under the Northern Tasmanian Regional Land Use Strategy, the subject site rates positively.

- Zoning of the site will not have a detrimental impact on agricultural or environmental values of the land. The site is not currently zoned for rural purposes, and there are no environmental values present on the site.

- The site is in close proximity to the St Helens (30 min drive) and St Mary's (10 min drive) settlements, both of which are classified as a Satellite Settlement and Rural Town respectively.

- The site has the capacity to provide for minimal expansion for the existing Falmouth settlement, which is currently constrained on all other sides.

- The lot has good access to road infrastructure. A TIA was provided as part of the visitor accommodation development, confirming that the road network could easily accommodate a significant increase in traffic.

- The site can accommodate onsite wastewater. The visitor accommodation development provided an onsite wastewater report demonstrating that each of the accommodation units could provide their own independent onsite wastewater system.

- The site does not contain natural values. It is not mapped under the Natural Assets code and has not had any threatened flora and fauna located onsite. The site is clear of vegetation.

- The site is not subject to natural hazards. Only a small strip of land in the south east is subject to a high coastal erosion hazard band. The balance area of the site is entirely free of natural hazards. Bushfire can be managed without reliance on any external property, noting the surrounding vegetation would be classified as grassland.

- There is very minimal land available for subdivision within Falmouth. The subject site provides a logical expansion of the residential settlement to the south. The land will not be required for urban (i.e. General Residential) purposes in the long term.

- Given the above factors, especially noting the lack of constraints present on the land, it is put that the rezoning will not result in any detriment environmental outcome.

In addition to the planning matters raised above, application of the LCZ does raise a number of additional concerns. The changing of the site from a residential zone, to a zone which has a primary zone purpose of *"providing for the protection, conservation and management of landscape values",* will undoubtedly have a detrimental impact on property valuations.

It follows that the ability for land owners to obtain loan approval will be impacted. In much the same way as banks won't loan in Rural Resource zoned areas, the application of a non-residential zone would have similar consequences.

To assist in Council and the TPC's understanding of the site, the below images are provided for reference.



*Figure 1 - Looking over the site at the main driveway*



*Figure 2 - view to the east, over existing accommodation building*



*Figure 3 - view to the north east, over existing accommodation buildings and open areas.*



*Figure 4 - The balance of the lot is clear of vegetation and maintained in this way.*

**LAUNCESTON**
10 Goodman Crt, Invermay
PO Box 593, Mowbray TAS 7248
P 03 6332 3760

**ST HELENS**
48 Cecilia St, St Helens
PO Box 430, St Helens TAS 7216
P 03 6376 1972

**HOBART**
Rear Studio, 132 Davey St,
Hobart TAS 7000
P 03 6227 7968

**DEVONPORT**
2 Piping Lane,
East Devonport TAS 7310
P 03 6332 3760

**ABN 63 159 760 479**




*Figure 5 - Aerial view of subject site and surrounding area.*

If you have any questions regarding the contents of this letter, please don't hesitate to contact me on the numbers provided.

Kind regards
Woolcott Surveys

James Stewart
Senior Town Planner

**Annexure 1** – DA043119: Planning Permit – 15 x New Visitor Accommodation Units & Change of Use 2 x Existing Buildings to Visitor Accommodation.

Georges Bay Esplanade | St Helens
St Helens Tasmania 7216
T: 03 6376 7900 | ABN 96 017 131 248

Break O'Day COUNCIL

| Planning Permit DA 043-19 | |
|---|---|
| Location | 36 Franks Street, Falmouth |
| Title Reference | 25329/3 |
| Proposed Development | 15 x New Visitor Accommodation Units & Change of Use 2 x Existing Buildings to Visitor Accommodation |
| Use Class | Visitor Accommodation |
| Zone | Environmental Living |

After due consideration of the representations received pursuant to Section 57 of the *Land Use Planning & Approvals Act 1993* and the *Break O'Day Council Interim Planning Scheme 2013* that the application for **15 New Visitor Accommodation Units & Change of Use 2 x Existing Buildings to Visitor Accommodation** on land situated at **36 Franks Street, Falmouth** described in Certificate of Title CT 25329/3 be **APPROVED** subject to the following conditions:

1. Development must generally accord with the Development Application DA 043-2019 received by Council 5 August 2019, together with all submitted documentation received and forming part of the development application, except as varied by conditions of this Planning Permit.

2. Prior to commencement of works, a detailed landscape development plan, shall be prepared and submitted for the approval of Council. The plan shall identify:
   (i) plant species;
   (ii) landscaping of bushfire hazard management areas to contain species of low flammability;
   (iii) boundary and internal fencing details (if applicable).

   The Plan shall specify that seeds or rootstocks for plantings are derived from provenance taken within the boundaries of the site or local area.

   *Landscaping must be undertaken in accordance with the plan approved by Council in accordance with Condition 2 prior to any occupancy certificate for the proposed development.*

3. All runoff from the proposed buildings must be disposed of within the confines of the property by means that will not result in soil erosion or other stormwater nuisance. Soakage drains must be of sufficient size to absorb stormwater runoff and not create any new point sources of discharge into the defined watercourse.

4. The areas shown to be set aside for vehicle access and car parking must be:
   a. Completed prior to the use of the development commencing;
   b. Designed and laid out in accordance with provisions of E6.0 of the *Break O'Day Interim Planning Scheme 2013*;

c. Provided with space for access turning and manoeuvring of vehicles on-site to enable them to enter and leave the site in a forward direction;
d. Constructed with a pervious dust free surface and drained in a manner that will not cause either a dust or stormwater nuisance to occupants of adjoining properties;
e. Due to the width of the access at the entrance gates a Give Way sign must be erected within the property boundary directing outgoing traffic to give way to incoming traffic.

5. Effluent disposal is subject to a technical assessment and issue of a Plumbing Permit by Council's *Plumbing Permit Authority*.

6. Native vegetation must not be removed outside that necessitated by the proposed development (this includes the clearing of vegetation to retain or expand views or vistas) unless consented to by Council.

7. A *Soil and Water Management Plan* must be submitted to Council for approval prior to a Building Permit being issued, prepared in accordance with *Guidelines for Soil and Water Management*, published by Hobart City Council and available on Council's website (http://www.bodc.tas.gov.au/webdata/resources/files/Guidelines for Soil and Water Management.pdf). All works associated with the development must be conducted in accordance with the approved *Soil and Water Management Plan*. All worked areas not covered by structures must be promptly and progressively stabilised (e.g. revegetated) so that they will not erode and/or act as a source of sediment transfer.

8. Where topsoil from within the site is unable to be re-used, gravel sourced from a certified Phytophthora free quarry shall be used as a substitute for imported and potentially contaminated topsoil.

9. Any necessary exterior building lighting must be located under eaves and limited to that essential to allow the safe and secure movement of pedestrians at night. Lighting must not be used as a means of displaying the presence of buildings to be visible from outside the site.

10. Lighting of car parking and access ways must not provide light spill outside the boundaries of the subject site.

11. Any damage that may occur to any Council infrastructure during the construction of the proposed development must be reinstated to the satisfaction of Council and at the cost of the developer.

**ADVICE**

- Plants listed in Appendix 3; Break O'Day Interim Planning Scheme 2013 must not be used in landscaping.

- All building wastes are to be removed to the appropriate waste disposal facility to prevent an environmental nuisance being caused outside of the works site.

- The introduction of non-native plant species and plant species not of local provenance should be avoided and environmental weeds regularly monitored and targeted for removal.

- All underground infrastructure including all forms of water, storm water, power, gas and telecommunication systems must be located prior to the commencement of any on-site excavation and / or construction works. Any works to be undertaken within two (2) metres of any Council owned infrastructure must be done in consultation with Council's Manager Works and Infrastructure.

- Use or development which may impact on Aboriginal cultural heritage is subject to the Aboriginal Relics Act 1975. If Aboriginal relics are uncovered or suspected during works, cease works immediately and contact Aboriginal Heritage Tasmania for advice on how to proceed. An Unanticipated Discovery Plan should be provided and must be on-hand and available to all contractors during ground disturbing works.

- Activities associated with construction works are not to be performed outside the permissible time frames listed:

  *Mon-Friday 7 am to 6 pm*
  *Saturday 9 am to 6 pm*
  *Sunday and public holidays 10 am to 6 pm*

**Advice to Applicant**

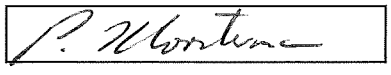
**Under Section 53(5) of the *Land Use Planning and Approvals Act 1993* this permit lapses if the use or development in respect of which this permit was granted, is not substantially commenced 2 years from the date of issue.**

**Under Section 53(5A) and 53(5B) the Planning Authority may grant a further two extensions of the permit upon application (fees apply). Under Section 53(5C) the request to extend a permit must be made no later than 6 months from the date on which the permit lapsed and if the extension is granted, the permit is to be taken as not lapsed.**

Should you wish to appeal against any of the conditions imposed by Council, a notice of appeal may be lodged by you to the Resource Management & Planning Appeal Tribunal, pursuant to Section 61(4) of the *Land Use Planning & Approvals Act 1993*. Any appeal should be lodged within fourteen (14) days of receipt of this notice and until the expiry of this period, or, should you lodge an appeal, then this approval will not take effect until the determination or abandonment of the appeal.

You are advised that the Resource Management & Planning Appeals Tribunal under its powers may grant a permit or refuse a permit. Should a permit be refused by the Tribunal, then you may not apply for the same development for a period of two years from the date of the Tribunal decision.

Further to the above, any other approvals which may be required from other authorities for the proposed use or development should be granted, and any fees paid, prior to this planning approval taking effect.

| | | | |
|---|---|---|---|
| **Council Delegate:** | **Paula Kloosterman** |  | **25/11/2019** |
| **Title:** | Planning Services Coordinator | **Permit No.** | **DA 043-19** |

# Representation No 57

**From:** Heather Sculthorpe
**To:** Break O Day Office Admin
**Subject:** Local Provisions Schedule
**Date:** Monday, 13 December 2021 4:42:34 PM

CAUTION: Do not click links or attachments unless you recognize the sender and know the content is safe

We are recent land owners (under white law) of property in your municipality at address 24752 Tasman Highway at 'Diana's Basin'. We have just now become aware of the proposed land use Schedule.

You will understand that we have not had time to study the full documents we now see were advertised publically – although impossible to access on your Council web site without direct enquiries.

Our simple submission is that waterfront land should not be available for commercial development.

All land not currently owned by individuals should be available for return to Aboriginal community ownership. You will appreciate that this leaves very little land for return to the original owners.

As well, it is inconsistent for private commercial land use to prevent public access to the foreshore and beaches.

We understand the need for local government to raise money for municipal services but this should not be at the expense of the conservation of the cultural and natural values of land most highly valued on the foreshores.

Every day Aboriginal heritage sites are destroyed by commercial developments. So much of our heritage is evident in coastal areas – not only there of course, but very evidently in those areas.

Our submission is that cultural values must be respected especially as there has been no return of land to our community for generations. Please respect the traditional owners and our need to preserve our culture ahead of the private interests that seek financial return to commercial enterprises.

Heather Sculthorpe
CEO
Tasmanian Aboriginal Centre

Please accept my email address in lieu of my signature.

**Representation No 58**

13 Dec 2021

PO Box 6064
Griffith ACT 2603

0419 276 231

john@jedav.net

John Brown
General Manager
Break O'Day Council

Dear Mr Brown

**Re: Break O'Day Council Draft Local Provisions Schedule (LPS)**

Thank you for the opportunity to make a representation on the Local Provisions Schedule.

I write in relation to the cluster of eight lots near the western end of O'Connors Beach, facing Georges Bay, which are zoned as Environmental Living Zone (ELZ) in the current Interim Scheme and which have been transitioned to Landscape Conservation Zone (LCZ) in the draft.

The most westerly of these lots is about 100 m distant from the General Residential Zone at Parkside.

These lots have been used for residential purposes for a very long time. Three of the current houses on the lots were built in the 1930s and 1940s, and the fourth was built a little under 20 years ago.

It appears that these lots would qualify under parts (a) and (b) of the *Guideline LDRZ 1* for the Low Density Residential Zone (LDRZ), on page 44 of the document *BODC LPS 2020 – Supporting Report*.

Regarding residential development, the LCZ Acceptable Solution of 20 m side clearance would be much too high for most of these lots, whereas the LDRZ figure of 5 m side clearance would be achievable.

The lots have been connected to the reticulated water supply for about the past 70 years.

Reticulated sewerage is available at Parkside (as mentioned, only about 100 m away at the western end of O'Connors Beach), and also available at the eastern end of the Beach, a little more distant. It should be possible, for relatively little expense, to make a connection to one or other of these – or even to both, which would close this gap, the only one of its kind (as far as I am aware) between St Helens town and Stieglitz.

LDRZ would allow, in the case of these lots, a somewhat higher residential density than is currently the case, without resulting in a significant impact on the landscape and conservation values.

Yours sincerely,

John Davies

# Representation No 59

**From:** Graeme Beech
**To:** Break O Day Office Admin
**Subject:** Representation on BODC Draft Local Provisions Schedule (LPS)
**Date:** Monday, 13 December 2021 9:32:41 PM

CAUTION: Do not click links or attachments unless you recognize the sender and know the content is safe

**Representation on BODC Draft Local Provisions Schedule (LPS)**

The BODC website promotes the following for the BODC area.

*A natural and beautiful environment that speaks to the heart.*

Furthermore, the BODC provides the following environmental aspiration and goals:

*To balance our use of the natural environment to ensure that it is available for future generations to enjoy as we do.*

*We believe that this goal can only be achieved with the whole community on board… yes that includes you! The below outlines what we see to be Council's, and the Community's role, in achieving this goal.*

*Council will:*

- *be responsible in planning and management of the Break O'Day area.*
- *make good decisions about our environment and resources.*
- *balance competing needs and demands while keeping a sustainable future in mind.*

*The Community will:*

- *nurture and support a sense of community through our actions.*
- *respect and value our environment and act with the future in mind.*

In the October Council Newsletter BODC Mayor made the following statement:

*'At the end of the day we are all stewards for this beautiful area we call home and the more we know and understand about our natural values the better we can protect them'*

I believe most ratepayers would be very supportive of these aspirations and expect Council to deliver associated environmental safeguards in the planning scheme. The BODC area will come under intense development pressure in the future because of a growing population and increasing levels of tourism. If the BODC are serious about these aspirations and goals, then they will ensure that the BODC Local Provisions Schedule (LPS) is well-considered and as its highest priority and overarching principle provides processes that protect the considerable natural values of the municipality.

Critical requirements that BODC must include in the LPS to meet the environmental

aspiration advocated by Council and expected by ratepayers are detailed below.

- The prohibition of subdivision within 1km of the high-water mark along the coast outside developed areas has played a very significant role in avoiding urban sprawl and ribbon development. This prohibition must be included and strengthened within the LPS.
- Lessons are to be learnt from coastal overdevelopment on the mainland, where areas of natural vegetation have been destroyed along coastlines and hinterlands for residential subdivisions, tourism developments or industrial uses. In many cases removing the natural values that attracted people to the area. The LPS should ensure this sort of destructive development is not possible.
- To be sustainable and maintain our natural attributes and environmental advantages, developments should only be allowed in existing developed areas where services such as sewerage and water are already provided.
- Multiple dwellings and strata developments for tourism accommodation outside serviced areas, including in the Landscape Conservation Zone, should not be allowed. This is a loophole in the current planning regime that has been exploited and is contrary to the aspirations stated by Council and community expectations. It should be addressed in the LPS.
- The biodiversity overlay in the Natural Assets Code must be comprehensive and consider the importance of landscape connectivity/wildlife habitat corridors if we are to be serious about sustainability and passing on a healthy, resilient and diverse environment to future generations. The serious impacts of fragmenting natural areas are well understood.
- The LPS must include a Scenic Protection Code that protects landscape values across the municipality. Landscape values in the BODC are striking and diverse and should be preserved at the landscape scale rather than along narrow road corridors.
- There are significant areas designated as Future Potential Production Forests (FPPF) land in the BODC area. These areas should be zoned as Environmental Management given their high conservation values and, in many cases, important scenic values they provide to the BODC municipality. BODC needs to demonstrate commitment to protecting natural values as espoused by zoning accordingly.
- Wherever possible the LPS should identify the importance of retaining environmental flows into our creeks, rivers, estuaries, lakes, inlets and ocean. The LPS should ensure that these flows are not compromised by developments drawing on or polluting our precious water resources. Without environmental flows being protected, the wetland and coastal features prevalent in the BODC area will be degraded.
- Protecting our freshwater and marine assets will require the BODC to improve its proposed Stormwater Specific Area Plan (SAP). The quantity of stormwater runoff must be reduced with appropriate site based stormwater facilities. Additionally, the quality of urban stormwater flowing to waterbodies must be improved as part of a comprehensive stormwater management program. The SAP should identify important aquatic ecosystem values and apply a stormwater management system that avoids or minimises any potential ecological impacts. Through contemporary techniques such as

stormwater retention areas, overland flow should be minimised and where not possible, flows incorporated into stormwater infrastructure as part of the local treatment process.

- On some Agricultural zoned land there are areas with important landscape conservation and or scenic values that are not used for farming. These areas should be reviewed and be zoned Landscape Conservation Zone.
- Likewise large areas have been zoned Rural which are in fact environmental lifestyle areas and often have high scenic and conservation values. Industrial uses such as forestry are allowed in the Rural Zone without planning permits. Through a more thorough assessment process, the areas Council has zoned Rural that have important remaining natural attributes should also be reclassified into the more relevant and appropriate Landscape Conservation Zone. A broad-brush approach that sacrifices natural values in the future is unacceptable.

I cannot overstate the importance of the BODC taking this opportunity to strengthen the planning system so that the environmental aspirations are not merely baseless feel-good statements but actual principles and processes captured within the LPS that deliver sound environmental outcomes. The alternative is losing our environmental and landscape attributes to inappropriate development and general loss of amenity, associated social well being and social cohesion.

In the midst of a climate and biodiversity crisis, we no longer have the luxury of allowing nature to be further damaged and compromised in the name of economic growth. I expect Council to develop a contemporary and visionary LPS that achieves sustainable environmental ideals in the face of a challenging future.

Yours sincerely

Graeme Beech
Beaumaris
13 December 2021

# Representation No 60


**From:** abby@workingclassevents.com.au
**To:** Break O Day Office Admin

**Subject:** Representation re BODC Draft LPS
**Date:** Monday, 13 December 2021 2:31:16 PM

CAUTION: Do not click links or attachments unless you recognize the sender and know the content is safe

Dear General Manager,

I wish to make a representation regarding the BODC Draft LPS and the proposed new zoning of my property at 158 Germantown Road, St Marys.

Given that the  land contains a 50 acre Conservation Covenant, I wish to formally request my conservation property which contains two endangered species be rezoned as Landscape Conservation.

I am aware Conservation Landholders Tasmania has submitted a representation proposing this amendment, to which I agree.

Please feel free to contact me via email or on 0413004529 for further discussion.

Very Best Regards
Abby Gee


Principal Event Manager
**Working Class Events**
PO Box 1188
Collingwood, VIC 3066

# Representation No 61


**From:** abby@workingclassevents.com.au
**To:** Break O Day Office Admin
**Cc:** somethingmagicall@gmail.com

**Subject:** Representation re BODC Draft LPS Sharleen King
**Date:** Monday, 13 December 2021 11:57:11 PM


CAUTION: Do not click links or attachments unless you recognize the sender and know the content is safe


**Subject:**Representation re BODC Draft LPS

Dear General Manager,

I wish to make a representation regarding the BODC Draft LPS and the proposed potential new zoning of Ms King's property at 6408074 St Patricks Head Road, St Marys, Tas 7215

I wish to formally request her conservation property if being rezoned, be rezoned as Landscape Conservation over agricultural or rural zoning

I am writing on behalf of Sharlene King who was not aware of the changes to the LPS until this evening.

Please feel free to contact her via email above or on 0481 120 388 for further discussion or confirmation.

Very Best Regards
Abby Gee


Principal Event Manager
**Working Class Events**
PO Box 1188
Collingwood, VIC 3066

# Representation No 62

**From:** Aurora Beach Cottage
**To:** Break O Day Office Admin
**Subject:** Representation to the Break O'Day Council - Local Provisions Schedule
**Date:** Friday, 17 December 2021 12:48:19 PM
**Attachments:** Pines on Priority Vegetation layer.jpg
Pines on Priority Vegetation layer.pdf

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17 Dec 2021

Good afternoon

I was told by Council staff that the deadline was extended to close of business 17 Dec 2021.

Please receive our submission for

PID 2930500, 2904345 & 2904345 - 5 TEMPLESTOWE ST & CHAMP ST  SEYMOUR TAS 7215

We agree with the proposed zoning changes on our land and in the Seymour area, but think there should be a general overlay to the Landscape Conservation zone, protecting existing boundary setbacks for alterations (i.e. extensions) and additions (i.e. decks) to existing buildings. Many older buildings predate modern setback rules and therefore should be exempt from the new setback requirements for alterations and additions.

We think radiata and other non endemic pines should not be included in the Priority Vegetation Area layer at the above address.

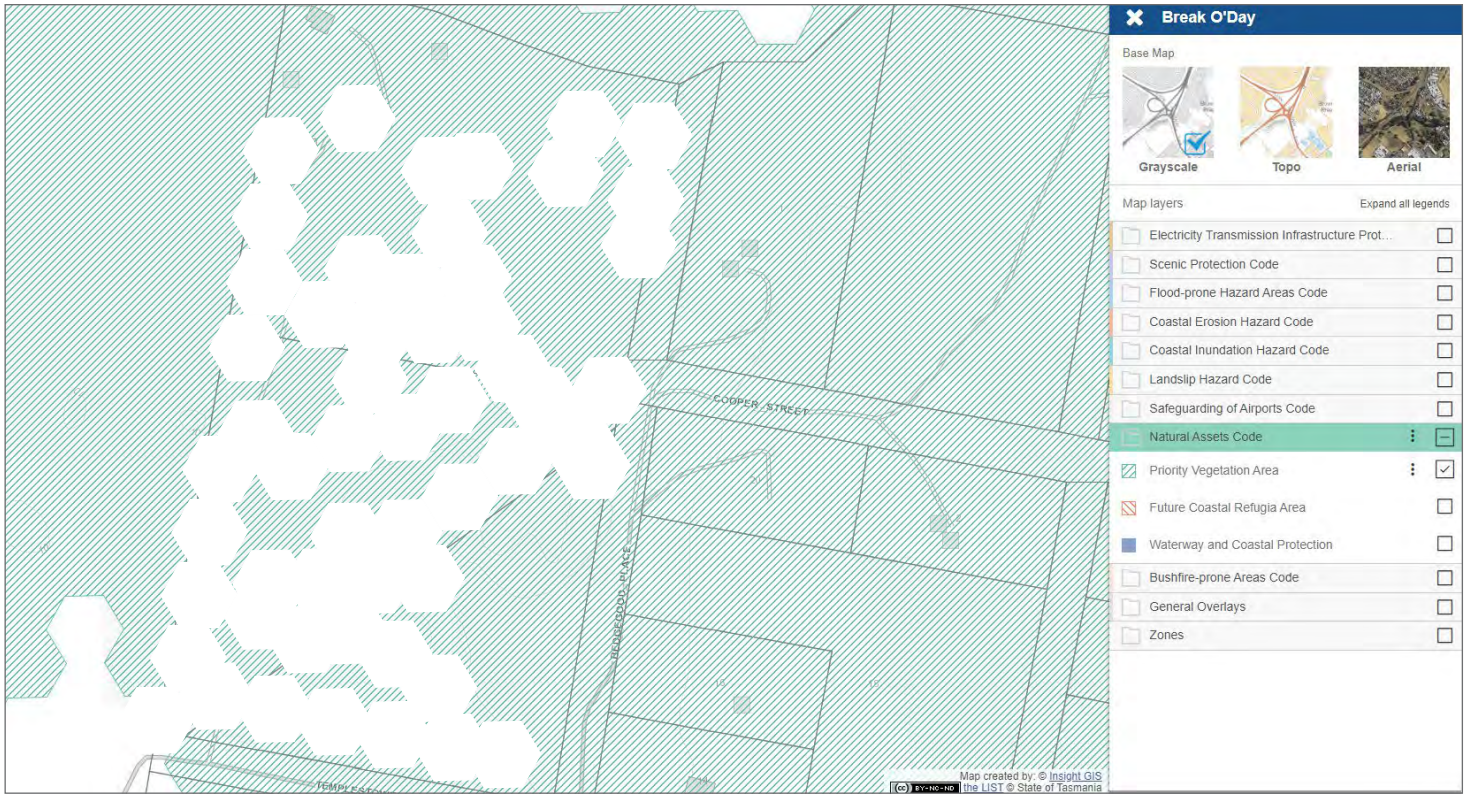
Thank you for your consideration

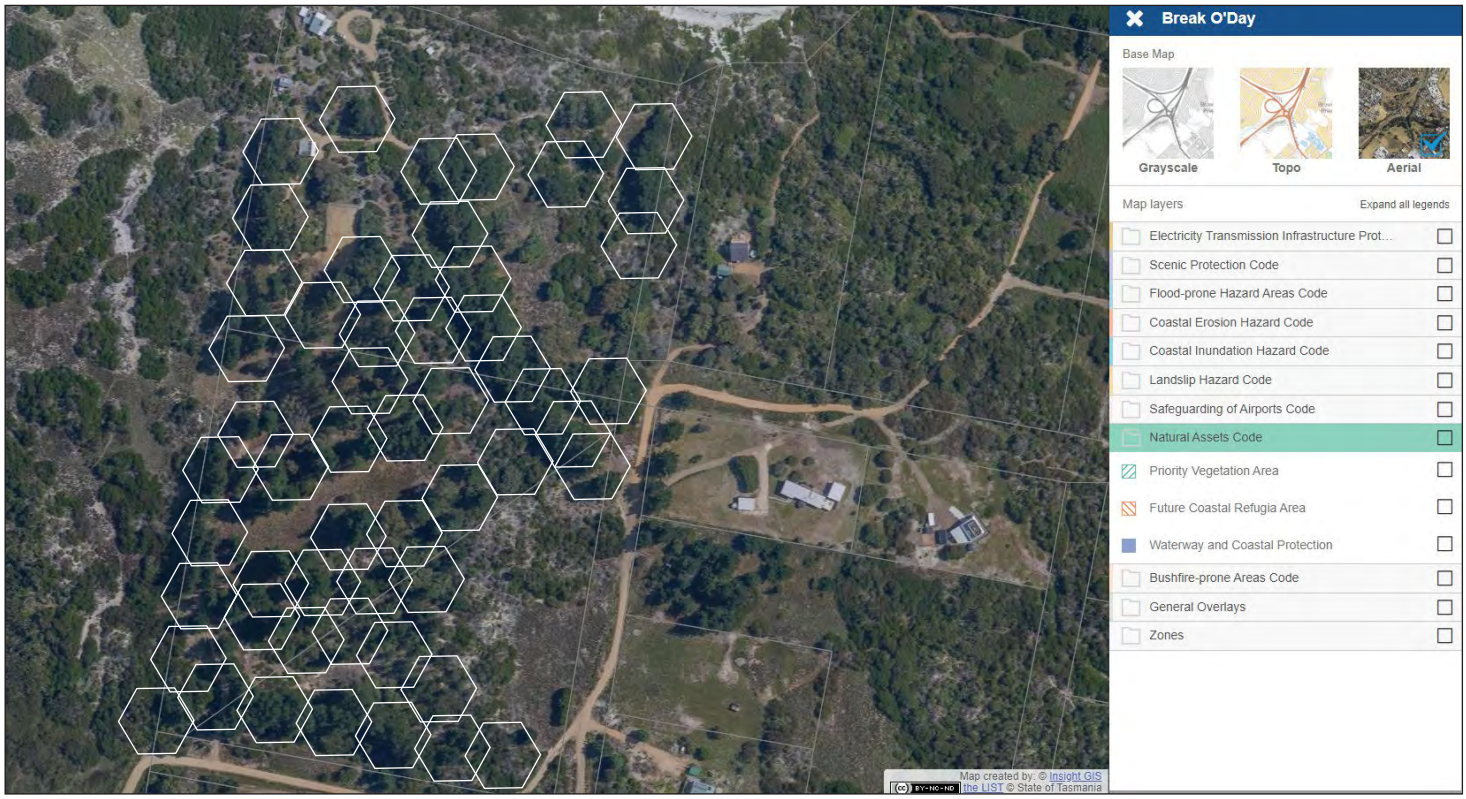
Kind regards

Melissa Manton & Daniel Steiner
5 Templestowe St, Seymour

Pines on Priority Vegetation layer.jpg

White hexagons showing predominantly Radiata Pines growth within the area covered by the Priority Vegetation Overlay




The predominantly Radiata Pine areas showing as hexagons should be excluded from the Natural Asset Code map layer.(see top image)

PID 2930500, 2904345 & 2904345 - 5 TEMPLESTOWE ST & CHAMP ST  SEYMOUR TAS 7215