

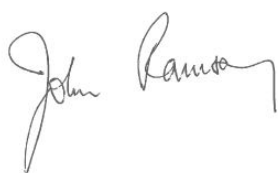
# TASMANIAN PLANNING COMMISSION

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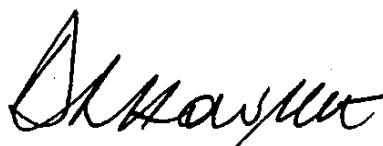
## DECISION

**Local Provisions Schedule**                      Meander Valley  
**Date of decision**                                24 February 2020

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



John Ramsay  
**Delegate (Chair)**



Roger Howlett  
**Delegate**

### Disclosure statement

John Ramsay, a Commission delegate considering the Meander Valley draft LPS disclosed at a hearing held on 22 May 2019 and 3 June 2019, when a representor raised matters concerning the forest practices system, his position as Chairperson of the Forest Practices Authority. There were no objections to John Ramsay continuing to consider and determine any matter relevant to the draft LPS.

# REASONS FOR DECISION

## Background

The Meander Valley Planning Authority (the planning authority) exhibited the Meander Valley draft Local Provisions Schedule (the draft LPS), under section 35D of *Land Use Planning and Approvals Act 1993* (the Act), from 20 October 2018 until 21 December 2018.

On 10 April 2019 the planning authority provided the Commission with a report under section 35F(1) into 41 representations received on the draft LPS. A list of representations is at Attachment 1.

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

## Date and place of hearing

A directions hearing was held at the Meander Valley Council offices, 26 Lyall Street, Westbury on 2 May 2019.

A hearing was held at the Meander Valley Council offices, 26 Lyall Street, Westbury on:

- 22, 23, 24, 29, 30, and 31 May 2019;
- 3, 4, and 7 June 2019;
- 5 November 2019; and
- 2 December 2019.

## Consideration of the draft LPS

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

- (g) as far as practicable, is consistent with and co-ordinated with any LPSs that apply to municipal areas that are adjacent to the municipal area to which the relevant planning instrument relates; and
  - (h) has regard to the safety requirements set out in the standards prescribed under the *Gas Pipelines Act 2000*.
4. The relevant regional land use strategy is the Northern Tasmania Regional Land Use Strategy 2016 (regional strategy).
  5. In addition to the LPS criteria, the Commission has considered Guideline No. 1 – Local Provisions Schedule (LPS): zone and code application (Guideline No. 1) issued under section 8A of the Act.
  6. The requirements for making modifications to the draft LPS are set out under section 35K of the Act. The modifications can be broadly categorised as modifications [section 35K(1)(a) and (b)] or substantial modifications [section 35K(1)(c)(ii)].
  7. The Commission may also reject the draft LPS and request that the planning authority prepare a substitute [section 35K(c)(i)].
  8. When considering the requirements of section 35J and whether modifications ought to be made, the Commission must determine firstly, whether the modification has merit, and secondly, if it is a substantial modification.
  9. Where the Commission has determined modifications ought to be made, and these are substantial, these have been set out in a notice under 35K(1)(c) of the Act (see Attachment 2).

### **Issues raised in the representations**

#### **General Residential Zone - Entally Lodge**

10. Representations: Woolcott Surveys for Entally Lodge Pty Ltd (27), and Meander Valley Council (8).
11. The representors requested a revision to the zone for parts of 3 properties at Rutherglen Road, Hadspen from the Rural Zone and Local Business Zone to the General Residential Zone. The reasons include:
  - to provide for infill development as an extension to the existing development;
  - to prevent the Local Business Zone from providing ‘out of centre’ development, in the context of the Hadspen settlement; and
  - to align the zoning with the regional strategy policies for the regional settlement network, its contained urban growth areas and regional activity centre network.
12. In the section 35F report, the planning authority recommended the zoning be revised to the General Residential Zone in accordance with the representations.
13. At the hearing, the planning authority submitted:
  - the application of the General Residential Zone is consistent with the regional strategy, as the land is identified as being in a growth corridor;

- application of the Local Business Zone is not consistent with the regional strategy activity centre network, as 'it does not consolidate and reinforce the spatial hierarchy of existing centres...including the consolidate provision...of business facilities, such as, the proposed centre at Hadspen'.
14. At the hearing, a representor submitted that adjoining properties would not be impacted by the proposal, as a right of way, extending from Rutherglen Road provides access to the relevant properties.
  15. Following the hearing the representors provided a submission that the zone change:
    - in addition to being consistent with the urban growth corridor, is strategically justified by and consistent with regional strategy policies and actions:
      - RSN-A3 to apply zoning that provides for the ability to restructure under-utilised land;
      - RSN-A5 as livable housing supports 'ageing in home' housing options; and
      - RSN-A6 to encourage urban residential expansion in and around the...activity centre network;
    - had suitable road access, demonstrated by a 2015 traffic impact assessment by Pitt and Sherry (previously prepared for a market on the adjoining site), that identifies sight distances are in excess of AUSTRROADS requirements and at an estimated 140 peak hour vehicle movements or 900 daily vehicle movements it was expected to have minimal impact on the safety and operation of the surrounding road network;
    - is capable of being serviced with sewer and is already serviced with water; and
    - is not subject to constraints, noting where the Meander Valley Road is subject to a scenic road corridor, the associated SAP proposes the retention of a landscape buffer.
  16. The Department of State Growth submitted that the traffic impact statement was out of date and applicable for a different use. The Department further submitted that the appropriateness of the proposed zoning and the potential impact on Meander Valley Road and integration with public transport (bus) services, should be further considered in the context of the proposed zone change.

### **Commission consideration**

17. The Commission notes the extensive application of the Local Business Zone at Rutherglen is not, as far as practicable, consistent with the regional strategy. Rutherglen is included in the regional strategy as part of the Hadspen satellite centre in the activity centre hierarchy, and the Hadspen Growth Area Master Plan sets out an extended town centre (not including Rutherglen) containing the retail, business and community services and facilities required to meet the needs of the local population.
18. The Commission accepts the representors and planning authority submissions that the proposed zone change is, as far as practicable, consistent with the regional strategy policies and actions related to the retail centre hierarchy and urban growth areas. However, the Commission also considers that there is a public interest in the proposed zone change as:
  - the Department of State Growth's submission identifies that potential impacts on the road network and integration with public transport should be further considered; and
  - due to a right of carriage way over the land, there may be an impact upon the adjoining landowners or occupants.
19. The Commission notes that the scenic road corridor overlay should only be mapped where the Scenic Protection Code applies, as listed in clause C8.2.1 of the SPPs, and that the Scenic Protection Code does not apply to development in the General Residential Zone.

20. The Commission further notes that the Minister's declaration under Schedule 8, clause 8D requires the scenic road corridor to transition, excluding zones where the overlay does not apply, such as, the General Residential Zone.
21. The Commission considers removing the scenic road corridor overlay from areas modified to the General Residential Zone is consistent with that declaration.

### **Commission decision**

22. Modification:
  - Revise the zoning of parts of folios of the Register 127277/1, 111014/2, and 20627/2 outlined as 'Specific Area Plan' in Figure MEA-S20.1 of Annexure A, and the adjoining portions of Rutherglen Road (to the road centreline), to the General Residential Zone; and
  - Revise the transitioning scenic road corridor overlay by deleting the overlay from the General Residential Zone.
23. Reason:
  - To be as far as practicable consistent with the regional strategy.
  - To be consistent with provisions of the State Planning Provisions, in the application of the scenic road corridor.
  - The Commission considers that the modifications are a substantial modification as there may be a public interest in the modifications.

### **Low Density Residential Zone - 1 Meander Valley Road, Westbury**

24. Representation: G and S Sackley (25).
25. The representors requested that the portion of the property containing the Westbury Inn, in the Rural Zone, be revised to the Village Zone or Low Density Residential Zone. The reasons included:
  - the remainder of the lot is zoned Village;
  - the adjoining lot is zoned Low Density Residential;
  - the rural zoned portion of the lot is approximately 1ha and has no viable rural use;
  - this part of the lot is high and dry with frontage to Emu Plains Road; and
  - this part of the lot has access to water services and may be serviceable with sewer.
26. In the section 35F report, the planning authority recommended that the zoning is revised to the Low Density Residential Zone, and that the adjacent road reserve be revised to the Utilities Zone.
27. The planning authority noted that the part of the property provided opportunity for infill development while maintaining provision for setback from the adjacent railway and that the adjoining Crown reserved road should be zoned Utilities consistent with the adjoining state rail network.

28. At the hearing, the planning authority submitted the site was not serviced and that application of the Low Density Residential Zone was preferable to the Village Zone, as it provided for a level of development at an intensity more consistent with the lack of services and constraints from the adjacent railway.

#### **Commission consideration**

29. The Commission notes that this site is within the area identified in Map E.1 Northern Tasmania – Regional Settlement and Activity Centre Network where Westbury is identified as a Rural Town and as having a Neighbourhood/Town Centre in the Activity Centre classification.
30. The Commission considers the recommended change to the Low Density Residential Zone is as far as practicable, consistent with regional strategy policies and actions RSN-P2, RSN-A4 and RSN-A6 as it encourages urban residential expansion in and around the region’s activity centre network, while matching the existing infrastructure capacity delivered by TasWater; and consequently provides for the existing settlement to support the local economy to concentrate investment in the improvements of services and infrastructure.
31. The Commission notes that a portion of land, in unknown ownership, is on the western extent boundary of this lot (on the same alignment as Webster Street). As the ownership of this land is in question, the Commission considers that any modification to the zoning of this land has the potential to impact on landowner property rights.
32. The Commission considers that the land, to the eastern side of the portion of the lot should be zoned Low Density Residential to reflect the proposed and modified zonings of the adjoining land.
33. While the planning authority has recommended the adjoining unformed reserved road be zoned Utilities, the Commission considers that there is no identified planning reason for the application of the Utilities Zone and that the adjoining unformed road and portion of Emu Plains Road should be zoned Low Density Residential to the road centreline and centre of the reserved road for consistency with Practice Note 7 – Draft LPS mapping: technical advice.

#### **Commission decision**

34. Modification:
- Revise the zoning of the part of folio of the Register 42629/1 in the Rural Zone, to the Low Density Residential Zone and revise the zoning of portions of adjoining roads and properties in accordance with the area outlined in black in the notice under section 35K(1)(c).
35. Reason:
- To be as far as practicable, consistent with the regional strategy and to apply zones at boundaries consistent with Practice Note 7 - Draft LPS mapping: technical advice.
  - The Commission considers that the modification is a substantial modification as there may be a public interest in the modification.

#### **Deloraine Specific Area Plan**

36. Representation: Meander Valley Council (8).
37. The representor requested the Deloraine Specific Area Plan (Deloraine SAP) be revised to provide an Acceptable Solution for 1500m<sup>2</sup> lot sizes. The reasons included:
- the standard lot dimensions were in line with the Low Density Residential Zone, where lots can be serviced with wastewater disposal; and
  - there are forthcoming works to extend the service mains along east Goderich Street, providing capacity to connect some areas to reticulated services in the future.

38. In the section 35F report, the planning authority recommended that MEA-S8.8.1 Lot design A1 be revised to provide an alternative Acceptable Solution consistent with clause 10.6.1 A1(a) of the Low Density Residential Zone, with the additional requirement that each lot can connect to reticulated water supply, sewer and stormwater services.
39. At the hearing, issues including the drafting of the proposed revisions, how they meet section 32(4) of the Act, or alternatively whether the serviceable areas should be excluded from the Deloraine SAP were heard and further submissions requested from the planning authority.
40. Following the hearing, the planning authority submitted:
  - a plan showing the potential future sewer gravity main;
  - that future connection to a sewer main was dependent upon capacity of the sewerage treatment plant and will require approval of TasWater;
  - that subject to future capacity, construction of additional sewer lines and pumping stations, and the like, servicing could be extended to additional parts of the Deloraine SAP;
  - an absolute minimum lot size be included in the Deloraine SAP where a lot is capable of connection to a reticulated water supply, sewer and stormwater services; and
  - the proposed revisions bring the Deloraine SAP provisions into greater conformity with the provisions of the Low Density Residential Zone.

#### **Commission consideration**

41. The Commission notes local area objective MEA-S8.3.1.1 and objective MEA-S8.8.1 are focused on the constraints of the land to accommodate drainage and wastewater disposal without adversely impacting on adjoining land.
42. The Commission accepts the planning authority submissions, that if the land is serviced with sewer and stormwater services, it will mitigate the potential for adverse impacts on adjoining land caused by on-site wastewater treatment and stormwater management.
43. The Commission considers that modifications are required to MEA-S8.8.1 Lot design to provide for consideration of available services.
44. The Commission further considers that the inclusion of an absolute minimum lot size, consistent with the provisions of the SPPs, should be included to implement the purpose of the Low Density Residential Zone.

#### **Commission decision**

45. Modification:
  - Revise the MEA-S8.0 Deloraine Specific Area Plan to provide for subdivision at increased densities where sites can connect to reticulated water supply, sewer and stormwater services or adequately manage disposal, as set out in Annexure A.

46. Reason:

- To achieve the effect intended by the purpose and objectives of the specific area plan.
- The modifications warrant public exposure and the opportunity for further public scrutiny, as the Deloraine SAP will change substantially as a consequence of all the combined modifications.

### **Kimberley Specific Area Plan**

47. Representation: D Masters (33).

48. The representor requested the Kimberley Specific Area Plan (Kimberley SAP) be removed from folio of the Register 112311/100 and the Rural Living Zone B lot size area apply to provide for subdivision.

49. In the section 35F report, the planning authority recommended that:

- MEA-S14.0 Kimberley SAP be deleted; and
- Rural Living Zone B be applied to the extent of the Rural Living Zone east of Railton Road.

50. The planning authority suggested that:

- as a consequence of the Commission issuing a notice under section 35(5) of the Act prior to exhibition to delete the proposed Kimberley Settlement Specific Area Plan from the draft LPS, subdivision and densification of the Low Density Residential Zone at Kimberley would occur; and
- removal of the prohibition on subdivision would result in a perverse outcome where the adjoining Rural Living Zone at Kimberley is penalised, and cannot enjoy the same entitlement for densification due to the prohibition on subdivision contained in MEA-S14.0 Kimberley Specific Area Plan.

51. The planning authority further suggested the Rural Living Zone at Kimberley is more suitable to densification than the Low Density Residential Zone, and if the Kimberley Settlement is suitable to allow densification, the approach should be taken to the settlement as a whole, otherwise the Resource Management and Planning System objectives for fair and orderly development are contradicted.

52. The planning authority noted the removal of the Kimberley SAP and application of the Rural Living Zone B meets the regional strategy criteria for densification of a rural residential area as:

- it is located less than 15 minutes drive from Railton and 8 minutes drive from Elizabeth Town for basic services;
- the land is mainly cleared and can provide for development areas that are free of flood and bushfire hazard;
- it is served by through roads in the event of bushfire and access is maintained in the event of a flood; and
- it can provide for appropriate buffering to adjoining resource development activities.



53. The planning authority further noted:
- the eastern side of the settlement is suitable for application of the Rural Living Zone B with a minimum lot size of 2 hectares due to the occurrence of numerous smaller lots in this area, the ability to access public roads and the natural boundaries of the area including the Low Density Residential Zone, railway corridor and State reserve; and
  - the western side of the settlement is suitable for the Rural Living Zone D, providing for the creation of larger lots as a transition to adjoining agricultural land.
54. At the hearing, the planning authority:
- stated, as the Kimberley Settlement Specific Area Plan was excluded from the exhibited draft LPS, the same justification applies to the adjoining Rural Living Zone;
  - noted the Rural Living Zone on the eastern side of Railton Road, could provide for 4 or 5 additional lots if the Rural Living Zone B was applied; and
  - noted the Rural Living Zone on the western side of Railton Road could provide for 9 additional lots.
55. The Commission noted the regional strategy required consideration of the application of the Low Density Residential Zone and Rural Living Zone against different policies and actions, and questioned why the justification for inclusion of the Kimberley SAP under section 32(4) detailed in the supporting report was no longer applicable.
56. The planning authority advised it had reconsidered its position and did not consider the justification remained applicable.
57. Following the hearing, the planning authority submitted:
- the Commission notice to remove the Kimberley SAP proposed over the Low Density Residential Zone at Kimberley, changes the strategic approach for development of the Rural Living Zone at the periphery of the Kimberley settlement;
  - it was not appropriate that one part (the Low Density Residential Zone) of a settlement is provided development opportunity while the other part (the Rural Living Zone) is not, as it does not represent fair, orderly and sustainable use and development in accordance the objectives of the Act;
  - while the planning authority had previously considered that consolidation and growth of rural residential areas at Kimberley did not meet regional strategy action RSN-A26 due to the proximity to services, the planning authority now considered that an approximate 14 minute drive time to Sheffield is reasonable proximity to existing settlements containing social services; and
  - the rationale for the zone allocation is set out in the section 35F report.

### **Commission consideration**

58. The Commission does not agree with the planning authority contention that not including a SAP over the Low Density Residential Zone at Kimberly requires development potential to be provided to the adjoining Rural Living Zones.
59. The Commission notes, in its notice under section 35(5)(b) and Schedule 6, clauses 8C(5)(a) and 8D(9)(a) of 6 September 2019, it set out:

The Commission is not satisfied that the following provisions meet the LPS Criteria under section 34(2) of the Act as the provisions do not meet the requirements of section 32(4) and the Meander Valley draft LPS is to be modified by deleting the following and renumbering the remaining draft LPS provisions:

(a) MEA-S10.0 Kimberley Settlement Specific Area Plan

Reason: There are no particular qualities that require unique provisions as the existing pattern of subdivision provides for the land to be developed at higher densities than

the proposed provisions and will not achieve the particular qualities of spatial separation between dwellings.

60. The Commission notes that the LPS criteria in section 34 of the Act, including section 32(4), are the relevant considerations for determining the provisions of the LPS.
61. The Commission does not consider that there is insufficient evidence submitted to determine that not including a SAP over the Low Density Residential Zone means the inclusion of the Kimberley Specific Area Plan does not meet the Part 1 objective of the Resource Management and Planning System of Tasmania to provide for the fair, orderly and sustainable use and development of air land and water under Schedule 1 of the Act.
62. The Commission notes that relevant strategies, such as, the regional strategy, express policies and actions for furthering the objectives set out in Schedule 1 of the Act.
63. The Commission considers that regional strategy action RSN-A26 is particularly relevant in considering the consolidation and growth opportunities in the rural residential area (Rural Living Zone) at Kimberley.
64. The Commission accepts the planning authority submissions that:
  - Kimberley is located in proximity to the existing settlement of Sheffield that contains social services;
  - the site has access to road infrastructure;
  - the proposed change considers natural hazard management; and
  - impact on agricultural land are minimised.
65. The Commission considers that the removal of the Kimberley SAP and proposed zone change has a public interest as there may be impact on the property rights of landowners or occupiers of land subject to the Kimberley SAP or the proposed zone change to Rural Living Zone B.

#### **Commission decision**

66. Modification:
  - Modify the draft LPS to delete MEA-S14.0 Kimberley Specific Area Plan; and
  - Revise the Rural Living Zone D at Kimberley, located to the east of Railton Road, to the Rural Living Zone B.
67. Reason:
  - To be as far as practicable, consistent with the regional strategy.
  - The Commission considers that the modifications are a substantial modification as there may be a public interest in the modifications.

#### **Upper Golden Valley Specific Area Plan**

68. Representation: PDA Surveyors for D Steer (37)
69. The representor supported the application of the Rural Living Zone D.

70. The representor requested MEA-S15.0 Upper Golden Valley Specific Area Plan (Upper Golden Valley SAP) be removed from the property. The reasons included:
- the creation of additional lots is prohibited;
  - the land has access from Tiers View Road and not the Lake Highway (Highland Lakes Road);
  - vegetation removal was not required to provide a house site; and
  - the site could be subdivided into 2 lots, under Rural Living Zone D.
71. The representor provided a plan of subdivision.
72. In the section 35F report, the planning authority recommended that the Upper Golden Valley SAP be retained on the land, and that the plan purpose and development standards for subdivision be modified to only prohibit subdivision where it required direct access to the Highland Lakes Road.

The reasons included:

- Upper Golden Valley is an area of rural residential land use, developed as a strip along the Highland Lakes Road;
  - that the Department of State Growth has historically expressed concern over the densification and creation of additional access along this part of the Highland Lakes Road; and
  - as the part of the Rural Living Zone at Golden Valley outside the Upper Golden Valley SAP, gains access to the Highland Lakes Road from side roads with reasonable junctions to the Highland Lakes Road, that can be densified, densification should be provided for in the Upper Golden Valley SAP where direct access to Highland Lakes Road is not required.
73. At the hearing, the Commission questioned why the justification for inclusion of the Upper Golden Valley SAP under section 32(4) detailed in the supporting report was no longer applicable and sought submissions on:
- why the subdivision provisions were no longer relevant; and
  - why the proposed provisions are now appropriate and how the proposed provisions meet section 32(4) of the Act, and as far as practicable, are consistent with the regional strategy.
74. At the hearing and in further submissions, the planning authority submitted that the recommended modifications were appropriate for reasons including:
- the limitations on subdivision for Upper Golden Valley were based on an arbitrary threshold of approximately 10 minutes driving time to services and the potential demand for access to the Highland Lakes Road, a State Road;
  - the planning authority considered the amendments to the Act that amended the LPS criteria in section 34(2)(e) from 'consistent with the regional strategy...' to 'as far as practicable, is consistent with the regional strategy..' created a lesser test, and that providing for some subdivision was, as far as practicable, consistent with the regional strategy;
  - the planning authority view of the sustainability criteria in regional strategy action RSN-A26 has changed;
  - that the planning authority consider the previous arbitrary 10 minute cut off for drive time to services as now being an inconsequential difference to the areas approximately 16 minutes driving time to Deloraine, and it is as far as practicable, consistent with reasonable proximity to existing settlements containing social services;

- the area is serviced by through roads along the Highland Lakes Road or Bogan/Gulf Road through the Liffey Valley in the event of bushfire evacuation;
- the potential lot yield of 13 lots is a small increase in the potential 155 lot yield through the various Meander Valley zones and negligible in the context of the broader regional distribution of the zone, effectively being an augmentation of an existing developed zone that will not result in an oversupply of land;
- the Lake Highway (Highland Lakes Road) has particular spatial qualities as a winding, higher speed road already subject to access fragmentation, warranting a restriction on the creation of new accesses;
- the Lake Highway has economic qualities, in that the protection of State road Category 5 from diminished function is important to the integrity of the State's road and freight network;
- the one factor that is important for the management of future densification is the potential fragmentation of the Highland Lakes Road by additional access points; and
- despite the Department of State Growth retaining the power to refuse new accesses irrespective of a planning scheme provision, the concerns of the department that a planning scheme fosters an expectation of a new access are valid.

### **Commission consideration**

75. The Commission notes that the planning authority submits that Highland Lakes Road has:
- particular spatial qualities as a winding, higher speed road already subject to access fragmentation, that warrants a restriction on the creation of new accesses;
  - that the protection of State Category 5 roads from diminished function is important to the integrity of the State's road and freight network which contribute significant economic benefit to the region and the State; and
  - the one factor that is important for the management of future densification is the potential fragmentation by additional access points.
76. The Commission accepts the planning authority submissions that the particular spatial qualities of the access onto Highland Lakes Road require unique provisions and that the proposal is as far as practicable, consistent with the component of regional strategy action RSN-A26, in terms of proximity to existing settlements that contain social services.
77. While the Commission accepts the planning authority submissions it considers that the particular spatial qualities and economic qualities of the Highland Lakes Road may be potentially impacted by increased use of existing accesses.
78. The Commission notes that regional strategy action RSN-A26 requires consolidation and growth of rural residential areas to align with a range of matters (where relevant) including access to road infrastructure with capacity, and that advice on the capacity of the Tiers View Road junction with Highland Lakes Road, has not been provided.

79. The Commission considers that the modifications to the Upper Golden Valley SAP has a public interest as there may be impact on the property rights of landowners or occupiers of land subject to the Upper Golden Valley SAP or to the capacity of the Tiers View Road junction and Highland Lakes Road.

#### **Commission decision**

80. Modification:
- Revise the plan purpose and MEA-S15.8.1 to provide for subdivision where it does not require access to Highland Lakes Road, as set out in Annexure A.
81. Reason:
- To implement particular spatial qualities of the specific area in the plan purpose and in the relevant provisions.
  - The Commission considers that the modifications are a substantial modification as there may be a public interest in the modifications.

#### **Travellers Rest Specific Area Plan – provisions**

82. Representations: TasNetworks (2) and Veris Australia for M Schrepfer (39).
83. Veris requested the Travellers Rest Specific Area Plan (Travellers Rest SAP) be modified to:
- provide for boundary adjustment, other than a minor boundary adjustment; and
  - reflect the interim planning scheme provisions of site coverage of 30%, setback of 6m from a frontage and 5m for side boundaries, and building height of 8.5m.
84. In the section 35F report, the planning authority recommended that the Travellers Rest Specific Area Plan be modified and proposed revised standards for site coverage, setback, building height, landscape protection and subdivision. The planning authority considers the modifications appropriately reflect the unique and historical pattern of development at Travellers Rest, without unnecessarily triggering discretions for development.
85. Following the directions hearing, the representor submitted they agreed with the modifications proposed by the planning authority.
86. At the hearing, the Commission identified discrepancies in the language and terminology used between the purpose of the Travellers Rest SAP, objectives and modified standards, and sought a submission that provided modified standards that removed these discrepancies.
87. The Commission questioned if the operation of the proposed standard MEA-S18.7.1 Landscape protection in the Travellers Rest SAP, the provisions of the Scenic Protection Code, and exemptions for vegetation removal in accordance with other Acts in clause 4.4.1, provided for the intended outcomes and sought a further submission on the proposed provisions.
88. In a submission following the hearing, the planning authority provided revised standards, including additional plan purpose statements and local area objectives.
89. At the hearing, TasNetworks submitted the provisions of the Landscape Conservation Zone and Travellers Rest Specific Area Plan would apply to the electricity transmission corridor and had the effect of applying provisions inconsistent with the intent of the Electricity Transmission Infrastructure Protection Code, such as the building height Acceptable Solution of 6m.

90. TasNetworks submitted that the Landscape Conservation Zone was not an appropriate zone for transmission corridors as, the SPP exemptions and need to maintain vegetation within the electricity transmission corridor would in most cases be inconsistent with the purpose of the zone to provide for the protection, conservation and management of landscape values.
91. Following the hearing, TasNetworks submitted:
  - advice on the extent of use or development and works for electricity infrastructure that would not be exempt from requiring assessment under the Meander Valley draft LPS, Landscape Conservation Zone and Travellers Rest Specific Area Plan; and
  - a draft provision to be included in the Travellers Rest SAP to provide for development and works within electricity transmission corridors.
92. The planning authority submitted minor revisions to the TasNetworks proposed provision.

### **Commission consideration**

93. The Commission considers that the Landscape Conservation Zone is appropriately applied in accordance with Guideline No. 1.
94. The Commission accepts the evidence of the representors and planning authority that the proposed provisions are consistent with and better implement the landscape and scenic qualities of Travellers Rest, while providing for the effective ongoing operation of electricity transmission infrastructure.
95. The Commission considers that, for the purpose of section 32(4)(b) of the Act, the proposed modifications in the Travellers Rest SAP relate to the particular environmental and scenic qualities of the area that require the unique provisions.
96. The Commission considers that the proposed modifications meet the remaining LPS criteria under section 34(2).
97. The Commission notes:
  - there are a range of drafting revisions required to align with Practice Note 5 – Tasmanian Planning Scheme drafting conventions and Practice Note 8 - Draft LPS written document: technical advice; and
  - the proposed standard MEA-S18.7.3 P1.2 is uncertain in its application and requires revision to clarify the location of ‘no other suitable building areas’.

### **Commission decision**

98. Modification:
  - Revise the provisions of MEA-S18.0 Travellers Rest Specific Area Plan to include additional plan purpose statements, Use Standards, Development Standards for Building and Works and Development Standards for subdivision, as set out in Annexure A.
99. Reason:
  - To implement particular environmental and scenic qualities of the area into the plan purpose and in the relevant provisions.
  - The modifications sought by the representors and supported by the planning authority, warrant public exposure and the opportunity for further public scrutiny. The scope of the SAP in the draft LPS will change substantially, when modified as proposed.

### **Westbury Specific Area Plan**

100. Representations: D Pyke (10), A Harris for Blackhills Developments Pty Ltd (16), J Carins (17), PDA Surveyors (18), B Murray (19), S Hartam (20), M Cresswell (21), D Smink and M Cresswell (22), J Donaldson (23), and M Burns (24).

101. Some representors requested the Westbury Specific Area Plan (Westbury SAP) be modified to:
  - increase the Acceptable Solution minimum lot size to 1ha or larger;
  - prohibit double story dwellings;
  - maintain distances between neighbours;
  - protect hawthorn hedges from being cleared;
  - ensure the unformed and/or unsealed roads are retained, and not sealed;
  - limit the land at the south of the township to rural pursuits, such as, hobby farms, horse riding and dog walking; and
  - provide for equestrian interests.
102. These representors submitted that the reasons for requesting these modifications was to preserve the character, heritage and scenic values of this part of Westbury.
103. Other representors supported the exhibited lot sizes and associated subdivision provisions as it retained the provisions applicable under the existing interim planning scheme and there was a clear need and demand for lots of 5000m<sup>2</sup>.
104. In the section 35F report, in addition to modifications proposed for multiple dwellings in SAPs, the planning authority recommended that the Westbury SAP be modified to:
  - insert provisions for Building and Works for setback and for managing clearing of hawthorn hedges on boundaries; and
  - revise MEA-S11.8.1 Lot design to set a minimum Acceptable Solution lot size of 1ha and a minimum of 8000m<sup>2</sup> in the Performance Criterion.
105. The section 35F report included draft standards for the above recommendations.
106. The planning authority in recommending the modifications, noted:
  - the existing lot pattern is variable, but predominately 5000m<sup>2</sup>, 1ha and 2ha;
  - review of the trends in residential land take-up showed rapid take-up and demand for 5000m<sup>2</sup> to 1ha lots at the same rate with some demand for 2ha lots, with comparatively slower take-up;
  - the low density character of the area, based on representations, is in part due to the lot size and in part due to the retention of hawthorn hedges;
  - the hawthorn hedges do not have any current regulatory protection; and
  - it considers that a balance between the growth strategy and achieving the intended low density character can be achieved through modification to provisions in the Westbury SAP.
107. At the hearing:
  - there was consensus from all representors that the hawthorn hedges are pivotal to character of the area and should be protected, broadly agreeing that providing for removal of hawthorn hedges only for access is appropriate;
  - the Commission advised that exemption provisions of the SPPs provide for clearing on a boundary with no qualification and the recommended modification as drafted would not be effective, as the SPPs do not provide for the LPS to override SPP exemptions;
  - representors noted that there are flooding issues in parts of Westbury;
  - representors reinforced that they did not want the gravel or unformed roads sealed, with the Commission and representors noting no proposed Westbury SAP standards considered road development;

- some representors suggested that infill/subdivision should be taken up closer to the town centre, or that areas south of Colonisation Row and Allotment Parade should not have a minimum lot size of 5000m<sup>2</sup>;
- some representors considered the absolute minimum lot size of 8000m<sup>2</sup>, in the recommended modifications by the planning authority to be unnecessarily restrictive and suggested that 5000m<sup>2</sup> or an area that allowed the average 2ha lot to be subdivided into 3 lots would be more appropriate, where the subdivision did not adversely impact on the character and values of the area; and
- the planning authority clarified the council position was not to further develop and maintain additional roads, there were provisions under the Low Density Residential Zone for development of roads and that any decision of council as a road authority to take over a road, fell outside of the Act.

108. The planning authority further submitted:

- a revised plan purpose, local area objectives and standard for lot design, in response to the issues raised by representors;
- that standard MEA-S11.8.2 hawthorn hedgerows proposed in the section 35F report not be included, due to the operation of SPP exemptions;
- that no parts of the Westbury SAP area display physical features, characteristics or patterns of development that warrant retaining the 5000m<sup>2</sup> Acceptable Solution lot size, as proposed in the exhibited draft LPS;
- the particular social qualities of the land are not altered by the proposed subdivision provisions as they still provide for residential amenity on large lots; and
- the Westbury SAP and provisions are consistent with regional strategy policies and actions RSN-P1 and P2, RSN-A1, A3, A5 and A6 as Westbury is a Rural Town with a settlement strategy to consolidate existing land use patterns and identify infill opportunities that complement and support the regional activity centre network.

### **Commission consideration**

109. The Commission accepts the evidence of the representors and planning authority on the distinct qualities of the settlement pattern in the area and considers that the proposed modifications to provisions:

- are for the purpose of maintaining the particular spatial qualities of the historic lot layout and pattern providing a progression from the village centre to the adjoining rural areas; and
- are as far as practicable, consistent with the regional strategy.

110. The Commission confirmed the provisions proposed by the planning authority in the section 35F report for the protection of hawthorn hedgerows, could not be included as drafted, as the SPPs do not provide for the LPS to override SPP exemptions.

111. The Commission considers the proposed revisions to lot design standards, that have regard to screening and vegetation retention when assessing Discretionary lot design, do not override the SPP exemptions.

112. The Commission considers that issues of maintaining unsealed roads, limiting further road sealing, providing for dog walking and equestrian interests, and prohibiting two story buildings, do not relate to the particular spatial qualities of the land, as evidenced by the issues raised at hearing, and as such, the Westbury SAP does not require unique provisions to address these issues.

### **Commission decision**

113. Modification:



- Revise the MEA-S11.0 Westbury Specific Area Plan to provide for setback and lot design provisions consistent with the character of this part of Westbury, as set out in Annexure A.

114. Reason:

- To achieve the plan purpose and provide for the effective operation of the provisions.
- The modifications sought by the representors and supported by the planning authority warrant public exposure and the opportunity for further public scrutiny. The scope of the SAP in the draft LPS will change substantially if modified as proposed.

#### **Specific area plans – various - prohibition of multiple dwellings in the Low Density Residential Zone**

115. Representations: D Pyke (10), B Murray (19), and J Donaldson (23).

116. The representors requested that multiple dwellings be prohibited in the Westbury Specific Area Plan (Westbury SAP). The reasons included that multiple dwellings were eroding the character of distance between dwellings on large lots and the locality's unique features and values.

117. In the section 35F report, the planning authority recommended that the Chudleigh, Davis Road, Deloraine, Elizabeth Town, Meander, Westbury and Pumicestone Ridge Specific Area Plans (Chudleigh, Davis Road, Deloraine, Elizabeth Town, Meander, Westbury and Pumicestone Ridge SAPs) be modified to prohibit multiple dwellings.

118. The planning authority proposed to insert a Use Table in substitution for the Low Density Residential Zone – Clause 10.2 Use Table of the SPPs and add an additional qualification to the No Permit Required and Permitted Residential Use Class of 'If not for multiple dwellings'. The status and qualification of all other Use Classes in the Low Density Residential Zone was to remain unchanged.

119. The reasons included:

- There is no evidence there was a market for multiple dwellings in the Low Density Residential Zone, in comparison to urban zones; and
- Clause 10.4.1 of the SPPs undermine the character of these areas and the intent of the SAP subdivision provision to control substantial separation between building areas. Clause 10.4.1 of the SPPs provides for the ability to achieve 1 dwelling per 2500m<sup>2</sup>, which is considerably higher than the subdivision provisions in the SAPs.

120. At the hearing, the planning authority submitted that prohibiting multiple dwellings closed a loophole in the intended outcome for applying the SAPs, which was in part to preserve the character of the areas.

121. Following the hearing, the planning authority submitted further justification including:

- prohibiting multiple dwellings in the Use Table was the simplest approach;
- the existing lot arrangements in these settlements provides for subdivision at the preferred density, in a clear and uncomplicated manner;
- there is likely to be little demand for multiple dwellings; and
- the proposed modifications was consistent with the particular spatial qualities of large lots and visual character of separation between dwellings and multiple dwellings would be inconsistent with the purpose of the Chudleigh, Davis Road, Deloraine, Elizabeth Town, Meander, Westbury and Pumicestone Ridge SAPs.

#### **Commission consideration**

122. The Commission accepts the representors' view that particular social benefits of the current use of the land, including the community expectation to maintain the existing residential amenity created by large separation between dwellings, could be eroded by providing for multiple dwellings.

123. The Commission considers that prohibiting multiple dwellings in the Use Table will achieve the effect intended by the plan purpose and maintain a significant social benefit for those parts of the municipal area that are excluded from the potential for higher density living in multiple dwellings.
124. However, the Commission considers further drafting revisions are required to align with the drafting advice provided in Practice Note 8 - Draft LPS written document: technical advice.
125. The Commission considers that prohibiting multiple dwellings may impact on the development potential of existing lots, which do not have lot arrangements suitable for subdivision.

#### **Commission decision**

##### 126. Modification:

- Revise the Use Tables of the following specific area plans to prohibit multiple dwellings, as set out in Annexure A:
  - MEA-S6.0 Chudleigh;
  - MEA-S7.0 Davis Road;
  - MEA-S8.0 Deloraine;
  - MEA-S9.0 Elizabeth Town;
  - MEA-S10.0 Meander;
  - MEA-S11.0 Westbury; and
  - MEA-S12.0 Pumicestone Ridge.

##### 127. Reason:

- To remove inconsistencies with the plan purpose and provide for the effective operation of the provisions.
- The Commission considers that the modifications are a substantial modification as there may be a public interest in the modifications.

#### **Specific Area Plan – proposed for Entally Lodge**

128. Representations: Woolcott Surveys for Entally Lodge Pty Ltd (27) and Meander Valley Council (8).
129. The representors requested a new Entally Lodge Specific Area Plan (Entally Lodge SAP) apply to parts of 3 properties at Rutherglen. The reasons included to provide for livable housing at a density higher than the density in the proposed General Residential rezoning of the site.
130. Woolcott Surveys provided a proposed Entally Lodge SAP, including definition of livable housing, Use Table, Use Standards, Development Standards for Building and Works and Development Standards for Subdivision.
131. In the section 35F report, the planning authority recommended the Entally Lodge SAP, submitted by Woolcott Surveys, be included in the Meander Valley LPS. The reasons included that:
  - the land is not agricultural land and the Entally Lodge SAP is not inconsistent with the *State Policy for the Protection of Agricultural Land 2009*; and
  - the Rutherglen/Entally Lodge site has particular spatial and social qualities that are a product of its location and the nature of the original 'retirement village' and tourism purposes of the community.
132. At the hearing, the planning authority submitted residential use at this location should not be limited to livable housing, but would preferentially provide for a mix of livable and normal single and multiple dwelling options.
133. Following the hearing, Woolcott Surveys and the planning authority provided further submissions on why the provisions of the SPP General Residential Zone were not sufficient to provide for the intended use and development, how the proposed Entally Lodge SAP meets the requirements of Section 32(4) of the Act, and the drafting of the Entally Lodge SAP.

134. Woolcott Surveys submitted:

- that the SPP General Residential Zone does not specifically mention attracting social housing in its purpose and the No Permit Required for Single Dwellings does not achieve the social outcomes intended by the Entally Lodge SAP, further noting that the provisions of the zone can be worked within, if the Commission and planning authority agree the Entally Lodge SAP is unnecessary to achieve the social outcomes;
- that the use and development relates to Hadspen as a part of the municipal area and use and development for livable housing provides a significant social benefit as it provides for a greater range of housing choice that is specifically aimed at retirees, persons with a disability or those wanting to reside in the one location though various life stages; and
- a range of proposed revisions to the Entally Lodge SAP, that provide linkage between the purpose of the SAP to provide livable housing and the development standards.

135. The planning authority submitted the proposed Entally Lodge SAP:

- meets section 32(4) of the Act, as the proposal has a significant social benefit as it will contribute to delivering policy and actions for housing diversity and social inclusion;
- is consistent with the objectives of the Act and as far as practicable, consistent with the regional strategy, particularly policies and actions for the regional settlement network and the regional activity centre network;
- had a suitable access to road infrastructure;
- would require contribution to services for sewer and water supply, as excess capacity did not exist;
- had regard to the Meander Valley Council Community Strategic Plan 2014 – 2024, particularly future direction (1) – A sustainable natural and built environment; and
- required further revisions to standards to clearly articulate the definition of livable housing and include standards for developer contribution to services.

136. The planning authority clarified the developer contributions were only required for servicing where the use or development required connection to services.

137. Woolcott Surveys and planning authority agreed minor revisions were required to the proposed Entally Lodge SAP to clarify:

- other uses in the Residential Use Class were Discretionary;
- the application of the infrastructure contribution standards;
- the parking requirements contained within the definition of livable housing, to operate within a standard; and
- the operation and intent of figure MEA-S22.1.

### **Commission consideration**

138. The Commission accepts the Woolcott Surveys submission and finds that the proposed Entally Lodge SAP has significant social benefit to part of the municipal area, as the use and development for livable housing provides for a greater range of housing choice that is specifically aimed at retirees, those with impaired mobility or other specific housing needs.
139. The Commission considers the proposed Entally Lodge SAP needs to be modified to meet technical requirements consistent with Commission Practice Note 5 – Tasmanian Planning Scheme drafting conventions and Practice Note 8 – Draft LPS written document: technical advice.

### **Commission decision**

140. Modification:

- Revise the draft LPS to include the Entally Lodge Specific Area Plan, as set out in Annexure A.
- Insert the Entally Lodge Specific Area Plan overlay on the draft LPS maps with the annotation MEA-S20.0 to the area consistent with Figure MEA-S20.1 in Annexure A.

141. Reason:

- The proposed Entally Lodge Specific Area Plan primarily relates to use and development of the land for livable housing that has a significant social benefit to part of the municipal area.
- To meet the LPS requirements of the SPPs and the technical requirements of Practice Note 7 – Draft LPS mapping: technical advice.
- The Commission considers that the modification is a substantial modification as there may be a public interest in the modification.

### Specific Area Plan – proposed for Reedy Marsh

142. Representations: The Environment Association Inc (14), A Woodward (30), and A Ricketts (32).
143. The representors requested that a Reedy Marsh Specific Area Plan (Reedy Marsh SAP) be applied to the Rural Living Zone at Reedy Marsh and should:
- limit subdivision to 15ha, as:
    - the interim planning scheme sets a minimum lot size of 15ha;
    - the proposed lot size under Rural Living Zone D, would cause a significant loss of amenity, and would lead to clearing of threatened vegetation communities and habitat for threatened species, such as, the swift parrot;
  - not provide for subdivision to 10ha or even 8ha, as it was too small;
  - require front setbacks of 50m, as the 20m setback in the zone is inadequate in terms of privacy and would see the clearance of vegetation to the front boundary;
  - provide for a site coverage of 600m<sup>2</sup> or 800m<sup>2</sup>, as this is more reasonable when the area of sheds and houses are considered in terms of the size of the lot;
  - prohibit forestry and plantation forestry, as there is no social licence for plantations and plantations degrade residential amenity;
  - make Visitor Accommodation a Discretionary Use Class, due to bushfire risk;
  - remove the standard requiring separation from the boundary of an Agricultural Zone or Rural Zone; and
  - that 3 additional properties should be included in the Rural Living Zone and Reedy Marsh SAP.
144. In the section 35F report, the planning authority recommended:
- no additional areas be included in the Rural Living Zone;
  - a Reedy Marsh SAP be included in the draft LPS;
  - the Reedy Marsh SAP apply provisions to setback from a frontage and retention of vegetation along the frontage; and
  - no changes to the Rural Living Zone provisions for use, site coverage, separation from the Agriculture Zone or Rural Zone, and lot size.
145. The reasons included:
- the representation did not identify the proposed additional Rural Living Zone properties;
  - it considered that the visual spatial qualities of the Rural Living Zone at Reedy Marsh, required unique provisions for setback from a frontage and retention of vegetation along a frontage to maintain the visual character of the area, consistent with section 32(4)(b) of the Act; and
  - it did not consider changes to the uses, site coverage, separation from other zones, or lot size, related to a purpose for including a Reedy Marsh SAP under section 32(4) of the Act.

146. At the hearing, the:

- representor identified that the 3 lots proposed to be included in the Rural Living Zone at Reedy Marsh, were folios of the Register 121785/1 and 121785/2, and set out that these properties were adjoining the Rural Living Zone and had similar lot sizes and characteristics;
- Commission noted the proposed additional properties did not contain a residence and clarified that there were 2 lots, with one bisected by a reserved road;
- planning authority proposed that the 35m setback from a frontage provides for fire protection areas while retaining a portion of the frontage to remain in an unmodified vegetated state;
- planning authority suggested the application of overlays, such as the bushfire-prone areas, waterways and coastal protection areas and priority vegetation areas, will limit the subdivision potential based on the characteristics on ground, and that these controls of lot size are more appropriate than a blunt Acceptable Solution setting lot size at 15ha;
- representor provided examples of where vegetation had been cleared to the frontage, or in their view inappropriately cleared and subdivided below 15ha;
- planning authority reiterated its view that lot size would be in many cases be greater than 10ha due to the operation of codes; and
- representor contended the presence of the priority vegetation area, waterway and coastal protection area and bushfire-prone area overlay had limited application to subdivision.

147. The planning authority also submitted the proposed Reedy Marsh SAP meets section 32(4) of the Act, for reasons including:

- the residents value the particular visual amenity of the area, where development has a low degree of visibility; and
- the area is characterised by large setbacks.

### **Commission consideration**

148. The Commission accepts:

- the representors' and planning authority submissions that the Rural Living Zone at Reedy Marsh has particular spatial characteristics requiring unique provisions; and
- the planning authority submission that the particular spatial characteristics of the area, do not relate to use, site coverage or separation of sensitive uses to the boundary of the Rural Zone or Agriculture zone.

149. The Commission notes:

- the Natural Assets Code and when land is within the waterway and coastal protection area or priority vegetation area in clauses C7.7.1 A1(e) and C7.7.2 A1(e) provide an Acceptable Solution for subdivision where it does not include any building area, bushfire hazard management areas or vehicle access within the overlays; and
- all of the land at Reedy Marsh is within a bushfire-prone area overlay and clause C16.3.1 A1 of the Bushfire-Prone Areas Code and future subdivision may require the identification of building areas and hazard management areas.

150. The Commission considers that, as submitted by the planning authority, achievable lot size may in some cases be greater than the Acceptable Solution 10ha, due to the operation of the Bushfire-Prone Areas Code and Natural Assets Code. However, the Commission notes alternatives to Acceptable Solutions or with the exercise of discretion under Performance Criteria provide for pathways for achieving 10ha (or smaller) lots.

151. The Commission accepts the evidence from the representor that part of the particular spatial qualities of the land is attributable to the lot size, regardless whether it is achieved through the operation of the Rural Living Zone Acceptable Solutions or a combination of the operation of provisions in the zone or codes.
152. The Commission notes regional strategy actions RSN-A22 and RSN-A23 set out:
  - target growth to preferred areas based on local strategy and consolidation of existing land use patterns; and
  - planning scheme provisions must specifically enable subdivision opportunities in preferred areas by setting minimum lot sizes based on locality.
153. Further regional strategy action RSN-A26 sets out ‘consolidation and growth of rural residential areas is to be directed to areas identified in a local strategy, that align with the following...’. The Commission considers that being as far as practicable, consistent with RSN-A26 is necessary to determine if Reedy Marsh is a preferred area for consolidation and growth, compared to the current potential subdivision potential.
154. The Commission considers that no information before the Commission or local strategy provides evidence that the Rural Living Zone at Reedy Marsh is a preferred area for growth through intensification.
155. The Commission prefers the submission of the representor that a 15ha Acceptable Solution lot size, contributes to the particular spatial qualities of the area, requiring unique provisions.
156. The Commission prefers the submission of the planning authority that a 35m setback from a frontage provides for fire protection areas while retaining a portion of the frontage to remain in an unmodified vegetated state, contributes to the particular spatial qualities of the area, requiring unique provisions.
157. The Commission considers that there is also insufficient evidence to support the inclusion of additional lots in the Rural Living Zone at Reedy Marsh.
158. The Commission notes no land owners from the Rural Living Zone at Reedy Marsh have made a representation or attended hearings.

#### **Commission decision**

159. Modification:
  - Revise the draft LPS to include a Reedy Marsh Specific Area Plan set out in Annexure A; and
  - Insert the Reedy Marsh Specific Area Plan to all of the Rural Living Zone at Reedy Marsh on the draft LPS overlay maps with the annotation MEA-S14.0.
160. Reasons:
  - The land within the Rural Living Zone at Reedy Marsh has particular spatial qualities that require unique provisions.
  - To meet the LPS requirements of the SPPs and the technical requirements of Practice Note 7 – Draft LPS mapping: technical advice.
  - The Commission considers that the modifications are a substantial modification as there may be a public interest in the modifications.

#### **Specific Area Plans - Pumicestone Ridge and Upper Golden Valley Specific Area Plans - electricity infrastructure subdivision provisions**

161. Representation: TasNetworks (2).
162. The representor requested that Pumicestone Ridge and Upper Golden Valley Specific Area Plans (Pumicestone Ridge and Upper Golden Valley SAPs) should provide for subdivision for the

provision of Utilities as an Acceptable Solution to be consistent with the SPP consideration of subdivision for the provision of Utilities.

163. In the section 35F report, the planning authority recommended that:

- specific area plans (SAPs) that are not transitioning, should be revised to provide for subdivision for the provision of Utilities as an Acceptable Solution.

164. The planning authority submitted it was not intended for most SAPs to exclude subdivision for Utilities.

#### **Commission consideration**

165. The Commission notes the planning authority and TasNetworks agreement, excluding for Westbury Road SAP, that subdivision for the provision of Utilities, should be an Acceptable Solution and further notes the planning authority advice that the outcome of requiring a discretionary application was not an intended.

166. As such the Commission considers that these SAPs should also be modified to include these provisions.

#### **Commission decision**

167. Modification:

- Revise the MEA-S12.0 Pumicestone Ridge Specific Area Plan and MEA-S15.0 Upper Golden Valley Specific Area Plan, to include an Acceptable Solution for subdivision for Utilities, or where required for public use by the Crown, a council or State authority.

168. Reason:

- To achieve the effect intended by the purpose and objectives of the Pumicestone Ridge and Upper Golden Valley SAP.
- The modifications sought by the representors and supported by the planning authority, warrant public exposure and the opportunity for further public scrutiny. The scope of the Pumicestone Ridge and Upper Golden Valley SAP in the draft LPS will change substantially, when modified as proposed.

#### **Natural Assets Code – Reedy Marsh**

169. Representation: The Environment Association Inc (14).

170. The representor noted what it considered deficiencies in the application of the priority vegetation area overlay, including where threatened vegetation communities existed, but were not mapped.

171. In the section 35F report the planning authority considered that the issues raised related to the SPPs and considered the matters within their notice to the Commission under section 35G of the Act.

172. At the hearing:

- the representor clarified that there were several areas of the threatened vegetation community *Eucalyptus ovata* forest on sites at Reedy Marsh; and
- the planning authority submitted it would need evidence from a suitably qualified person to support any modification to the overlay, to meet the LPS requirements of the SPPs.

173. Following the hearing the representor submitted a report by Philip Cullen, a suitably qualified person, identifying *Eucalyptus ovata* forest on several properties at Wadleys Road, Reedy Marsh and one property at Brushy Rivulet, Kellys Road, Reedy Marsh.

174. The planning authority further submitted that it:



- noted the absence of site verification in the development of the priority vegetation area overlay, meaning it would reflect inaccuracies in base datasets required to be used to produce the overlay; and
- did not question the conclusions of Mr Cullen; however, it did not support the inclusion of these new areas due to concerns about the study not considering the condition of the vegetation community and that the full extent of the identified areas had not been informed by accessing the lots.

### **Commission consideration**

175. The Commission considers that Philip Cullen is a suitably qualified person for the purposes of identifying and mapping threatened vegetation communities.
176. The Commission, in the absence of a contending view of the extent of the *Eucalyptus ovata* forest from another suitably qualified person, considers the priority vegetation area and extent identified in the report by Philip Cullen is consistent with the LPS requirements of the SPPs.
177. The Commission notes the proposed changes warrant public exposure and opportunity for comment from affected landowners and occupiers.

### **Commission decision**

178. Modification:
- Revise the priority vegetation area overlay to include land within folios of the Register 137648/1, 122547/1 and 122546/1, and adjoining Crown land, as identified in the report by Philip Cullen dated 4 July 2019, in The Environment Association Inc submission dated 5 July 2019.
179. Reason:
- To implement the priority vegetation area overlay consistent with the LPS requirements of the SPPs.
  - The Commission considers that the modifications are a substantial modification as there may be a public interest in the modifications.

## Other matters

### Matters of a technical nature or relevant to implementation - substantially modified SAPs

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

- minor numbering and typographical errors in the draft LPS;
- instances where the draft LPS, or proposed modifications, do not apply the writing style and conventions set out in Practice Note 5: Tasmanian Planning Scheme drafting conventions or Practice Note 8: Draft LPS written document - technical advice;
- instances where the draft LPS zone and overlay maps or Geographic Information System (GIS) datasets contain overlaps, gaps and errors, or do not apply the technical advice or conventions set out in Practice Note 7 - Draft LPS mapping; technical advice; and
- instances where a modification to the draft LPS written document or draft LPS maps and overlays requires a consequent modification to the other.

### Commission consideration

181. The Commission considers that the draft LPS should minimise numbering and typographical errors and be consistent with the conventions set out in the Commission practice notes.

182. Modification:

- Revise the draft LPS to include the technical modifications identified in Annexure A of Attachment 2 to:
  - meet the LPS requirements of the SPPs;
  - correct references to relevant provisions;
  - provide for the effective operation of the provisions; and
  - reflect the terminology used in the SPPs; and
- Revise the draft LPS zone and overlay maps to:
  - reflect modifications consequential to modifications made to the draft LPS written document, such as deletion of local area objectives.

183. Reason:

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

The modifications warrant public exposure and the opportunity for further public scrutiny. The scope of the SAPs in the draft LPS will change substantially, when modified as proposed.