



# **Planning Scheme Amendment**

## **Supporting Report**

**Harveys Farm Road, Bicheno**

**Rezoning of land from Light Industrial Zone to Rural Living Zone and application of Biodiversity Protection Area**

## Contents

1.0 Summary .....	3
2.0 Background .....	5
2.1 Site & Surrounds .....	5
2.2 Zone Comparison .....	6
3.0 Description of Proposed Amendment .....	12
4.0 Justification for the amendment .....	13
4.1 Southern Tasmanian Regional Land Use Strategy (STRLUS) .....	13
4.2 Bicheno Structure Plan.....	15
4.4 State Policies .....	15
4.5 Infrastructure & Access.....	16
4.5.1 Water & Sewer .....	16
4.5.2. Stormwater .....	16
4.5.3 Traffic .....	17
4.6 Potential Land Use Conflict .....	17
4.7 Natural and Cultural Values .....	17
4.7.1 Terrestrial Flora & Fauna .....	17
4.7.2 Aboriginal Cultural Heritage.....	17
4.7.3 Historic Cultural Heritage.....	17
5.0 Land Use Planning and Approvals Act 1993.....	18
5.1 Part 1 and Part 2 objectives .....	18
5.2 Other sections .....	20
Attachment 1 – Draft Amendment .....	22

## 1.0 Summary

Council at its January 2019 meeting resolved to consider a report on zoning issues at 11, 17, 17A, 19 & 23 Harveys Farm Road, Bicheno, following consultation with affected land owners.

These properties are within the Light Industrial Zone of the Glamorgan Spring Bay Interim Planning Scheme 2015 (GSBC IPS). Residential use is established on 11, 17A and 19 Harveys Farm Road whilst aquaculture uses are established on 17 and 23 Harveys Farm Road. 23 Harvey's Farm Road is developed as a relatively large scale abalone farm with significant infrastructure on site and in leases on the crown foreshore for pumping large-scale pumping infrastructure.

The Light Industrial Zone borders a future urban zone to the north, Rural Living Zone to the south and west and Open Space Zone / Environmental Management Zone to the foreshore, as shown in Figure 1. This Light Industrial Zone is within 750m of a larger area of Light Industrial Zone that includes the waste transfer station.

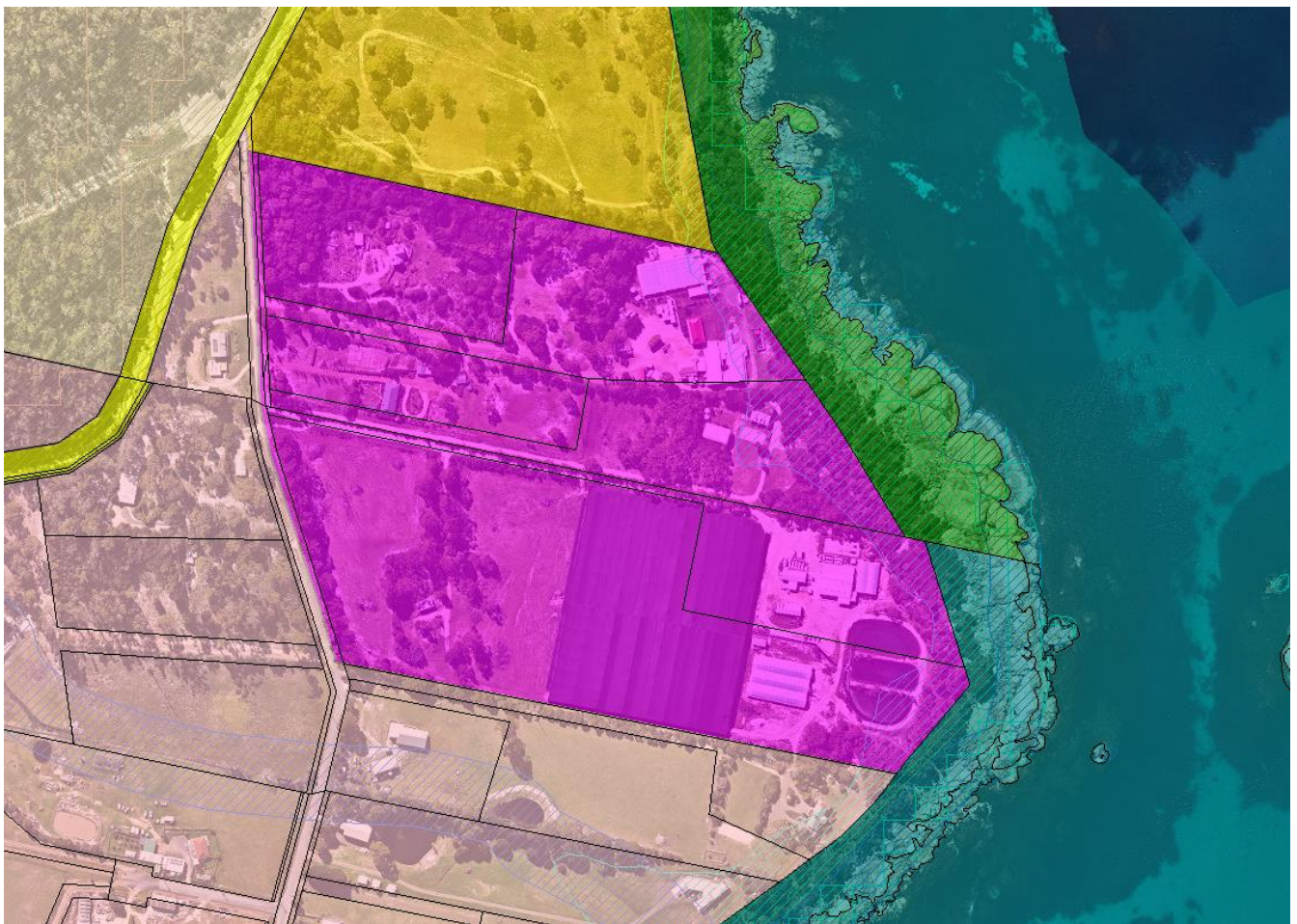
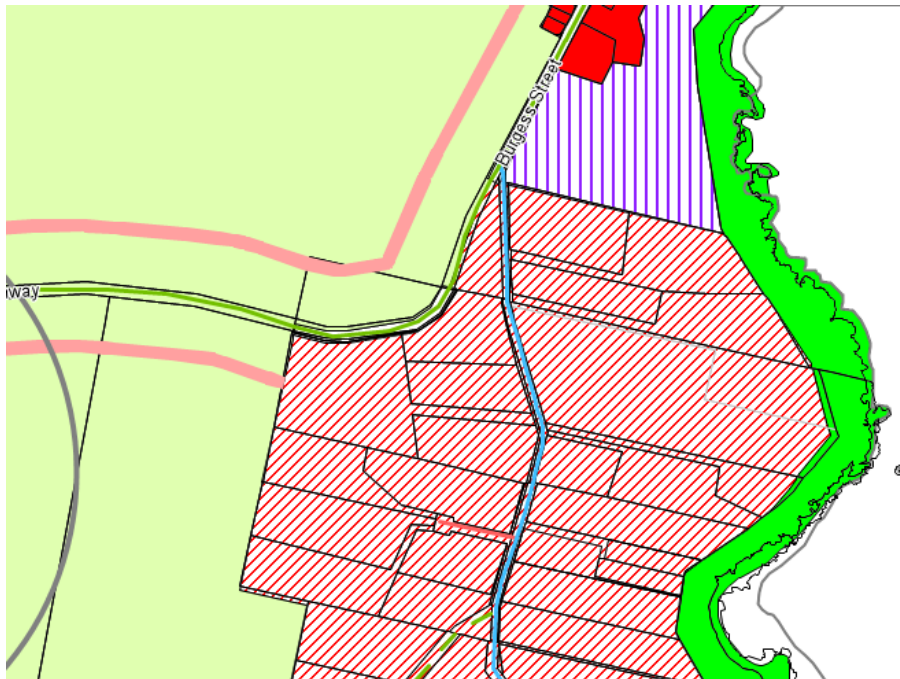


Figure 1. Current Zoning. Light Industrial is Purple.

Under the Glamorgan Spring Bay Planning Scheme 1994 all these properties were within the Rural Residential Zone, as shown in Figure 2.



**Figure 2. Former Zoning. Rural Residential is red hatching.**

Thus, when the GSBC IPS was prepared a significant strategic change occurred. The reason for this change is not documented.

The strategic change has had a significant consequent for the current owners of these properties. Within the current Light Industrial Zone, a single dwelling use and Resource Development (ie Aquaculture) are both prohibited uses. All uses that actual occur in the area are therefore prohibited. Under the 1994 planning scheme, a single dwelling use was permitted and Aquaculture prohibited. The aquaculture operations pre-date the first planning scheme for the locality.

## **2.0 Background**

### **2.1 Site & Surrounds**

Harveys Farm Road is located south of the Bicheno township and is a developed rural residential area. Generally, lots in the area retain some native vegetation particularly along the road edge and foreshore boundaries. However, there is limited native vegetation within the Light Industrial Zone area. The topography through the area is relatively flat land with a slight easterly aspect.

Harveys Farm Road is a sealed Council maintained road. Reticulated water services run to part of Harveys Farm Road including the area within the Light Industrial Zone. Sewerage is managed on site.

## 2.2 Zone Comparison

Several potential zone options have been identified. The following table provides a comparison of these potential zone options.

Table 1. Comparison of potential zones from current interim planning scheme.

	Rural Living (Interim Scheme)	Rural Resource (Interim Scheme)	Light Industrial (Interim Scheme)
Zone Purpose	<p>To provide for residential use or development on large lots in a rural setting where services are limited.</p> <p>To provide for compatible use and development that does not adversely impact on residential amenity.</p> <p>To provide for agricultural uses that do not adversely impact on residential amenity.</p> <p>To facilitate passive recreational uses that enhance pedestrian, cycling and horse trail linkages.</p> <p>To avoid land use conflict with adjacent Rural Resource or Significant Agriculture zoned land by providing for adequate buffer areas.</p>	<p>To provide for the sustainable use or development of resources for agriculture, aquaculture, forestry, mining and other primary industries, including opportunities for resource processing.</p> <p>To provide for other use or development that does not constrain or conflict with resource development uses.</p> <p>To provide for non-agricultural use or development, such as recreation, conservation, tourism and retailing, where it supports existing agriculture, aquaculture, forestry, mining and other primary industries.</p> <p>To allow for residential and other uses not necessary to support agriculture, aquaculture and other primary industries provided that such uses do not:</p>	<p>To provide for manufacturing, processing, repair, storage and distribution of goods and materials where off-site impacts are minimal or can be managed to minimise conflict or impact on the amenity of any other uses.</p> <p>To promote efficient use of existing industrial land stock.</p> <p>To minimise land use conflict in order to protect industrial viability and the safety and amenity of sensitive land uses in adjacent zones.</p> <p>To provide industrial activity with good access to strategic transport networks.</p>

		(a) fetter existing or potential rural resource use and development on other land; (b) add to the need to provide services or infrastructure or to upgrade existing infrastructure; (c) contribute to the incremental loss of productive rural resources.  To provide for protection of rural land so future resource development opportunities are no lost.	
Single dwelling use	No Permit Required	Discretionary	Prohibited
Aquaculture use (Resource Development Use Class)	Discretionary	Permitted	Prohibited
Aquaculture (Resource Processing Use Class)	Discretionary	Discretionary	Discretionary
Relevant Use Standard	Hours of operation, noise limits, external lighting, commercial traffic, sensitive use sited 100m from Rural Resource Zone	Sensitive use (i.e., house) must not fetter rural uses on adjoining land or impact rural land	Hours of operation, noise limits, external lighting, commercial traffic, outdoor work areas
Site Coverage Acceptable Solution	375m <sup>2</sup>	N/A	N/A
Height Acceptable Solution	8.5m	8.5m	9m
Front Setback Acceptable Solution	20m	20m	10m
Side and Rear Boundary Setback Acceptable Solution	20m	50m	10m

Subdivision Minimum Lot	1ha	80ha	1000m <sup>2</sup>
Attenuation Code	Not applicable	Not applicable	Not applicable

The above shows that the Rural Living Zone would provide for all existing residential and aquaculture uses. The Rural Living Zone purpose statements and use standards place a priority of protecting residential amenity when considering non-residential uses. The Rural Resource Zone also allows all existing residential and aquaculture uses. The emphasis on this zone is prioritising agricultural and rural activities above residential amenity.

The above also shows that the adoption of the Light Industrial Zone in the current scheme was not necessary as a continuation of the Rural Living Zone would have avoided the current issues of prohibited uses.

It is also appropriate to have regard to the future Tasmanian Planning Scheme which may take effect from 2020 onwards. The Tasmanian Planning Scheme incorporates the State Planning Provisions (SPPs) which provide a suite of zones and codes which Council then applies spatially through what is known as the Local Provisions Schedule.

Table 2 provides a summary of the Rural Living Zone, Rural Zone and Light Industrial Zone in their SPPs format.



Table 2. Comparison of potential zones from future SPPs.

	Rural Living	Rural	Light Industrial
Zone Purpose	<p>To provide for residential use and development in a rural setting where services are limited and natural and landscape values are retained</p> <p>To provide for compatible agricultural use and development that does not adversely impact on residential amenity</p> <p>To provide for other use and development that does not cause an unreasonable loss of amenity ...</p>	<p>To provide for a range of use or development in a rural location:</p> <p>(a) where agricultural use is limited or marginal due to topographical, environmental or other site or regional characteristics</p> <p>(b) that requires a rural location for operational reasons</p> <p>(c) is compatible with agricultural use if occurring on agricultural land</p> <p>(d) minimises adverse impacts on surrounding uses</p> <p>To minimise conversion of agriculture land for non-agricultural use</p> <p>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</p>	<p>To provide for manufacturing, processing, repair, storage and distribution of goods and materials where off site impacts are minimal or can be managed to minimise conflict with, or unreasonable loss of amenity to, any other uses.</p> <p>To provide for use or development that supports and does not adversely impact on industrial activity</p>
Single dwelling use	No Permit Required	Discretionary	Prohibited
Aquaculture (Resource Development)	Discretionary	No Permit Required	Prohibited
Aquaculture (Resource Processing)	Discretionary	Permitted	Discretionary

Relevant Use Standard	Hours of operation, commercial vehicle movements, external lighting	A use listed as Discretionary must not confine or restrain existing use on adjoining properties, having regard to: (a) the location of the proposed use; (b) the nature, scale and intensity of the use; (c) the likelihood and nature of any adverse impacts on adjoining uses; (d) whether the proposed use is required to support a use for security or operational reasons; and (e) any off site impacts from adjoining uses.	Hours of operation, commercial vehicle movements, external lighting
Site Coverage Acceptable Solution	400m2	N/A	N/A
Height Acceptable Solution	8.5m	12m	8.5m
Front Setback Acceptable Solution	20m	5m	5.5m
Side and Rear Boundary Setback Acceptable Solution	10m	5m	4m
Subdivision Minimum Lot	1ha	40ha	1000m2
Attenuation Code	100m buffer around land based aquaculture	100m buffer around land based aquaculture	100m buffer around land based aquaculture
	250m buffer holding dams	250m buffer holding dams	250m buffer holding dams

As can be seen, all three zones are very different in their purpose and in the status of the relevant uses. Of the zones Rural Living again appears a better candidate as the status of the uses classes and the purpose statement more closely align to the values of the site.

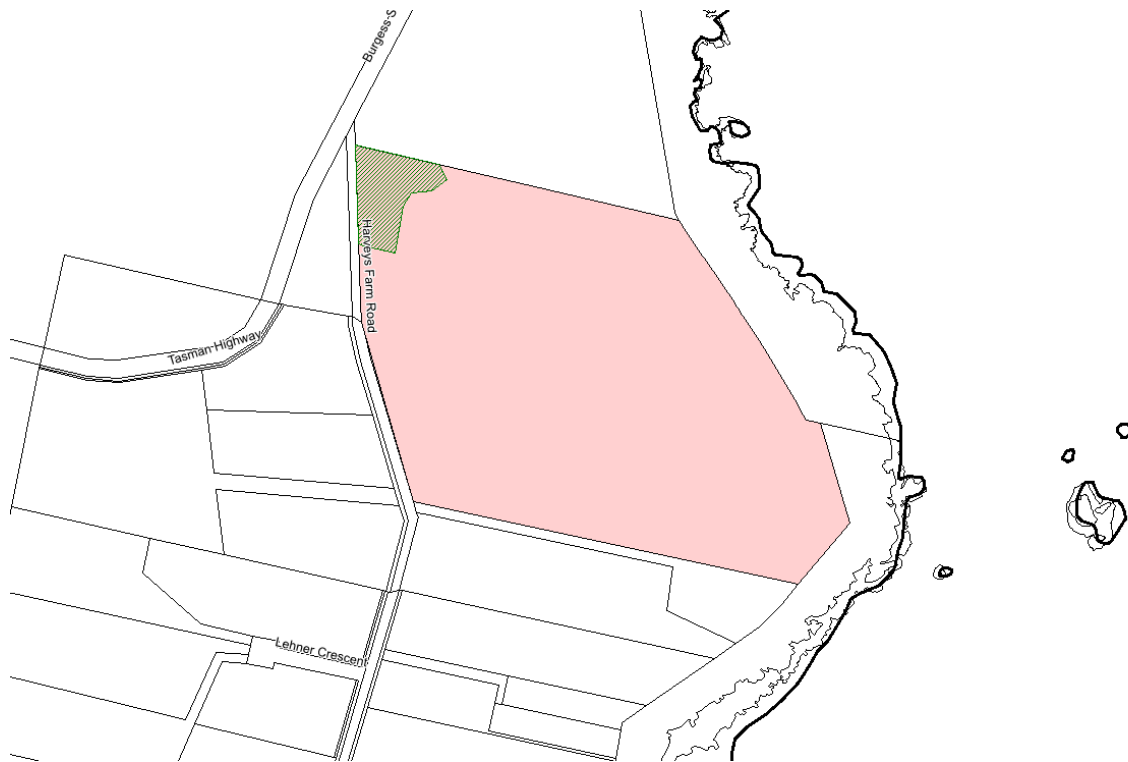
In the SPPs framework the Attenuation Code will apply. This is not the case in the current Interim Planning Scheme. Under the SPPs any expansion of land base aquaculture within 100m of an adjoining house *or* any residential use within 100m of an aquaculture use will be discretionary and any application will focus on the extent of any potential conflict between the two uses. Thus, under the SPPs framework there will be additional consideration of amenity between the established residential and aquaculture uses.

### 3.0 Description of Proposed Amendment

The proposed amendment is to:

- (a) rezone 11, 17, 17A, 19 & 23 Harveys Farm Road, Bicheno from Light Industrial Zone to Rural Living Zone; and
- (b) apply the Biodiversity Protection Area to part of 11 Harveys Farm Road, Bicheno.

Parts (a) and (b) are shown in the following:



## 4.0 Justification for the amendment

### 4.1 Southern Tasmanian Regional Land Use Strategy (STRLUS)

The STRLUS provides a series of policies relevant to the matters at hand.

In terms of aquaculture the STRLUS provides:

*PR 4 Support the aquaculture industry.*

*PR 4.1 Ensure appropriately zoned land on the coast is provided in strategic locations, and in accordance with The Coast Regional Policies, for shore based aquaculture facilities necessary to support marine farming.*

*PR 4.2 Identify key marine farming areas within planning scheme to assist in reducing potential land use conflicts from an increasingly industrialised industry.*

In terms of rural living developments the STRLUS provides:

*SRD 1.3 Support the consolidation of existing settlements by restricting the application of rural living and environmental living zones to existing rural living and environmental living communities. Land not currently zoned for such use may only be zoned for such use where one or more of the following applies:*

*a. Recognition of existing rural living or environmental living communities, regardless of current zoning. Where not currently explicitly zoned for such use, existing communities may be rezoned to rural living or environmental living provided:*

*(i) the area of the community is either substantial in size or adjoins a settlement and will not be required for any other settlement purpose; and*

*(ii) only limited subdivision potential is created by rezoning.*

*b. Replacing land currently zoned for rural living purposes but undeveloped and better suited for alternative purposes (such as intensive agricultural) with other land better suited for rural living purposes, in accordance with the following:*

*(i) the total area rezoned for rural living use does not exceed that which is back-zoned to other use;*

*(ii) the land rezoned to rural living use is adjacent to an existing rural living community;*

*(iii) the land rezoned to rural living use is not designated as Significant Agriculture Land;*

*(iv) the land rezoned to rural living use is not adjacent to the Urban Growth Boundary for Greater Hobart or identified for future urban growth; and*

*(v) the management of risks and values on the land rezoned to rural living use is consistent with the policies in this Strategy.*

*c. Rezoning areas that provide for the infill or consolidation of existing rural living communities, in accordance with the following:*

*(i) the land must predominantly share common boundaries with:*

- *existing Rural Living zoned land; or*
- *rural living communities which comply with SRD 1.3(a);*

*(ii) the amount of land rezoned to rural living must not constitute a significant increase in the immediate locality;*

*(iii) development and use of the land for rural living purposes will not increase the potential for land use conflict with other uses;*

*(iv) such areas are able to be integrated with the adjacent existing rural living area by connections for pedestrian and vehicular movement. If any new roads are possible, a structure plan will be required to show how the new area will integrate with the established Rural Living zoned area;*

*(v) the land rezoned to rural living use is not designated as Significant Agricultural Land;*

*(vi) the land rezoned to rural living use is not adjacent to the Urban Growth Boundary for Greater Hobart or identified for future urban growth; and*

*(vii) the management of risks and values on the land rezoned to rural living use is consistent with the policies in this Strategy.*

The area subject to the amendment and the surrounding area have a well-established rural living character. The inclusion of additional rural living zone properties is fully consistent with the criteria set out in the STRLUS.

Within this established rural living character, there are however two established aquaculture operations. Both facilities have been established for a significant period of time and the southern-most site is a large scale production with significant infrastructure investment within the site and on the crown foreshore. It is considered that by virtue of their scale and longevity that the area is a strategic aquaculture area that ought to be protected within the planning framework.

This creates a need to manage the residential and aquaculture uses in a way in which their potential impacts to each other can be managed but each use has an opportunity for intensification and growth.

In the longer term, the SPPs provide an appropriate framework to manage conflict as the Attenuation Code will include an attenuation buffer around land based aquaculture. This is not the case in the current planning scheme. Thus, any rezoning should also bring forward the SPPs framework. In doing so it is considered that the amendment furthers the STRLUS.

In terms of Industrial land use, the STRLUS requires that sufficient supply of suitably located land is provided to meet 5, 15 and 30 year timeframes. The STRLUS focuses on regionally important industrial land and leaves the supply of industrial land for local service industry and other local purposes to be determined by the Planning Authority. With the recent approval of 35 lots at an unconstrained area of Light Industrial Zone centred upon the Bicheno waste

transfer station, retention of Light Industrial Zone at the present location will serve no strategic purpose.

The Coast section of the STRLUS is relevant given the site is within 1km of the coast and subject to the *State Coastal Policy 1996*. The most relevant parts of The Coast section is C 1.2.

*C 1.2 Maximise growth within existing settlement boundaries through local area or structure planning for settlements in coastal areas.*

## 4.2 Bicheno Structure Plan

The Bicheno Structure Plan ([www.gsbc.tas.gov.au](http://www.gsbc.tas.gov.au)) provides little relevant recommendation for the area. The structure plan recognises the Harveys Farm Road area as a rural living area but made no recommendations to apply a Light Industrial Zone to the aquaculture operations. On this basis the amendment is consistent with the Structure Plan.

## 4.4 State Policies

The *State Coastal Policy 1996* (SCP) applies to the site as it is within 1 km of the high water mark.

The SCP three main guiding principles are:

- Natural and cultural values of the coast shall be protected.
- The coast shall be used and developed in a sustainable manner.
- Integrated management and protection of the coastal zone is a shared responsibility.

The SCP incorporates a number of themes, all of which have associated policy statements, including:

- Natural Resources & Ecosystems
- Cultural & Historic Resources
- Cultural Heritage
- Coastal Hazards
- Coastal Uses & Development
- Marine Farming
- Tourism
- Urban & Residential Development
- Transport
- Public Access & Safety
- Public Land
- Recreation

Many of these themes are addressed in equivalent terms in other strategic documents including the STRLUS. The marine farming policies are not based on shore-based aquaculture.

The following clause is considered relevant to the matter at hand.

2.4.2. Urban and residential development in the coastal zone will be based on existing	The site is contained within the existing
--	---

towns and townships. Compact and contained planned urban and residential development will be encouraged in order to avoid ribbon development and unrelated cluster developments along the coast.	<p>Bicheno settlement.</p> <p>This policy is consistent with C 1.2 of the STRLUS:</p> <p><i>C1.2 Maximise growth within existing settlement boundaries through local area or structure planning for settlements in coastal areas.</i></p>
--	---

The *State Policy on the Protection of Agricultural Land 2009* does not apply given the current zoning of the land.

The *State Policy on Water Quality Management 1997* applies. The policy is considered to be principally implemented by individual developments and furthered by way of design and permit conditions detailed later in the report. Policy WR 1.1 of the STRLUS also states the following which can be reflected in any permit granted for future use or development:

*Ensure use and development is undertaken in accordance with the State Policy on Water Quality Management.*

National Environmental Protection Measures have the effect of being a State Policy and include:

- National Environment Protection (Air Toxics) Measure
- National Environment Protection (Ambient Air Quality) Measure
- National Environment Protection (Assessment of Site Contamination) Measure
- National Environment Protection (Diesel Vehicle Emissions) Measure
- National Environment Protection (Movement of Controlled Waste between States and Territories) Measure
- National Environment Protection (National Pollutant Inventory) Measure
- National Environment Protection (Used Packaging Materials) Measure

The measures have been reviewed and are not considered directly relevant to amendment or permit. Air emissions or diesel emissions are not significant and there is no known site contamination.

## **4.5 Infrastructure & Access**

### **4.5.1 Water & Sewer**

The land is serviced by reticulated water. TasWater will be a referral body during public exhibition.

### **4.5.2. Stormwater**

Stormwater is managed on site.

The planning scheme includes E7.0 Stormwater Management Code which requires compliance with quantity and quality targets in the State Stormwater Strategy.



#### **4.5.3 Traffic**

Road access to both sections of the amendment are via sealed Council maintained road. The scale of the amendment is unlikely to generate any new demand on road or have any effect on traffic. Both are urban streets with a 50 km/hr speed limit.

The planning scheme includes Code E6.0 Parking and Access Code which regulates the provision of car parking and access to any future use and development applications. Code E5.0 Road and Rail Assets Code may also apply to future use and development.

#### **4.6 Potential Land Use Conflict**

No land use conflicts have been identified.

#### **4.7 Natural and Cultural Values**

##### **4.7.1 Terrestrial Flora & Fauna**

The Biodiversity Protection Area does not apply to the site. This is because the Biodiversity Protection Area does not apply to Light Industrial zoned land. There are identified natural values in the north-west section of the site and the rezoning to Rural Living should be accompanied by an expansion of the Biodiversity Protection Area to include these values.

##### **4.7.2 Aboriginal Cultural Heritage**

There are no known values on the land. During the public exhibition process, the proposal will be referred to Aboriginal Heritage Tasmania. The *Aboriginal Relics Act 1975* will apply to the construction stage.

##### **4.7.3 Historic Cultural Heritage**

There are no historic cultural heritage values on the site or adjoining land.

## 5.0 Land Use Planning and Approvals Act 1993

### 5.1 Part 1 and Part 2 objectives

The objectives of the Resource Management and Planning System must be furthered by the rezoning request.

<i>Objectives – Part 1</i>	<i>Comment</i>
<i>(a) to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity;</i>	The area is substantially developed and the rezoning will have no effect on natural values and processes.
<i>(b) to provide for the fair, orderly and sustainable use and development of air, land and water; and</i>	The amendment will remove the prohibition on the established residential and aquaculture uses. This prohibition was not strategic and not supported by the structure plan or any other document. The amendment will provide fair, orderly and sustainable development.
<i>(c) to encourage public involvement in resource management and planning; and</i>	The public will be involved in the draft planning scheme amendment through opportunity to make representation and attend public hearings. The public have also had the opportunity to provide input into the Structure Plan.
<i>(d) to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c); and</i>	The draft amendment may facilitate economic development in the area through the removal of prohibitions on the existing uses.
<i>(e) to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State.</i>	The proposed amendment will require the approval of the Tasmanian Planning Commission following community consultation.
<i>Objectives – Part 2</i>	<i>Comment</i>

(a) <i>to require sound strategic planning and co-ordinated action by State and local government;</i>	The proposed amendment is consistent with the STRLUS and the Bicheno Structure Plan.
(b) <i>to establish a system of planning instruments to be the principal way of setting objectives, policies and controls for the use, development and protection of land.</i>	The proposal has been submitted in accordance with Section 34 of the Act and is consistent with all relevant legislation. The proposed amendment will form part of the Planning Scheme, which controls the use, development and protection of land.
(c) <i>to ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land; and</i>	No adverse social or economic effects have been identified and none are likely given the proposed rezoning applies to one previously developed site that is centrally located.
(d) <i>to require land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels; and</i>	The proposed amendment supports this objective and is consistent with State, regional and local planning policies and strategies.
(e) <i>to provide for the consolidation of approvals for land use or development and related matters, and to co-ordinate planning approvals with related approvals; and</i>	This objective is provided for by the legislative processes in place.
(f) <i>to secure a pleasant, efficient and safe working, living and recreational environment for all Tasmanians and</i>	No adverse effects have been identified. It is considered that this objective is furthered by the proposal.

<i>visitors to Tasmania; and</i>	
<i>(g) to conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value; and</i>	<p>The site is not known to contain any items or places of scientific, aesthetic, architectural or historic interest.</p> <p>If any Aboriginal heritage sites are discovered during potential future works then the <i>Aboriginal Relics Act 1975</i> will apply for reporting and management purposes.</p>
<i>(h) to protect public infrastructure and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community;</i>	All necessary public infrastructure is currently provided to the site.
<i>(i) to provide a planning framework which fully considers land capability.</i>	The land cannot support agricultural use to any significant extent.

## 5.2 Other sections

LUPPA requires the planning authority, for the purposes of planning scheme amendment requests, to consider section 32 as well as any representations received under section 30I on the interim planning scheme and Councils section 30J report on representations received on the interim planning scheme.

No representations received and no part of Councils 30J report relate to the amendment request.

Section 32, as provided below, requires that the planning authority be satisfied that the planning scheme amendment meets certain criteria:

*(1) A draft amendment of a planning scheme, and an amendment of a planning scheme, in the opinion of the relevant decision-maker within the meaning of section 20(2A):*

...

*(e) must, as far as practicable, avoid the potential for land use conflicts with use and development permissible under the planning scheme applying to the adjacent area; and*

*(ea) must not conflict with the requirements of section 30Q; and*

*(f) must have regard to the impact that the use and development permissible under the amendment will have on the use and development of the region as an entity in environmental, economic and social terms.*

*(2) The provisions of section 20(2), (3), (4), (5), (6), (7), (8) and (9) apply to the amendment of a planning scheme in the same manner as they apply to planning schemes.*

Section 30(O) requires an amendment to be consistent with the regional land use strategy and all mandatory provisions of the planning scheme. The extent of compliance with the STRLUS is discussed earlier and the rezoning is considered in compliance.

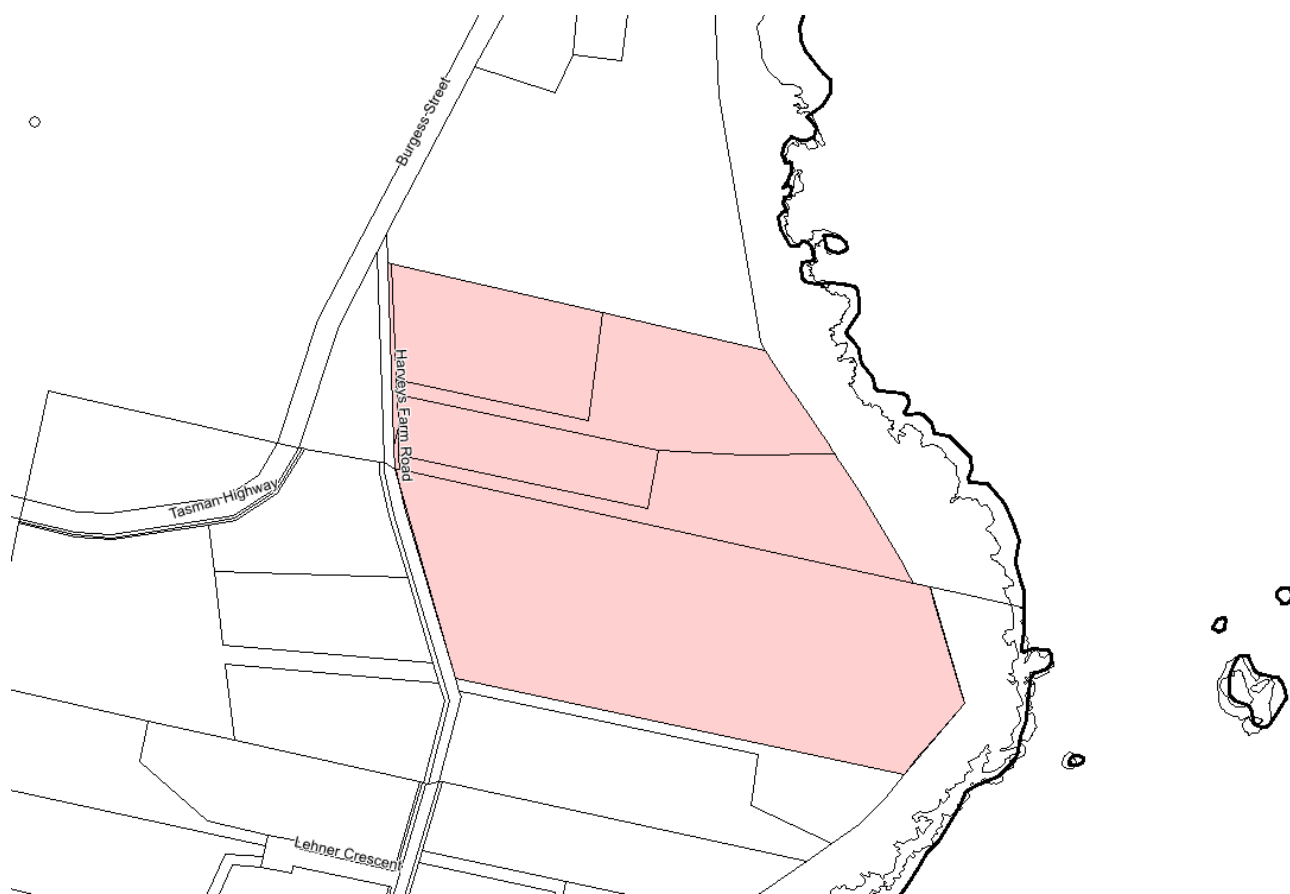
The potential for land use conflict with other existing or permissible uses is minimal. Adjacent land is foreshore which has limited development potential other than for passive recreation purposes.

In terms of the region, the amendment is considered to be of no consequence as it applies to a discrete part of the municipal area.

The Gas Pipelines Act 2000 is not applicable.

## Attachment 1 – Draft Amendment

- (a) rezone 11, 17, 17A, 19 & 23 Harveys Farm Road, Bicheno from Light Industrial Zone to Rural Living Zone.



- (b) apply the Biodiversity Protection Area to part of 11 Harveys Farm Road, Bicheno.

