

## **SORELL COUNCIL**

## **Sorell Local Provisions Schedule**

The following draft planning scheme amendment has been prepared pursuant to the Land Use Planning and Approvals Act 1993.

AM-SOR-5-2024-1-1 – Replace the existing Waterway and Coastal Protection Area with a new Waterway and Coastal Protection Area Overlay that applies across the whole of the Local Government Area of Sorell.

The relevant plans and documents can be inspected at the Council Offices at 47 Cole Street, Sorell during normal office hours or at <a href="https://www.sorell.tas.gov.au">www.sorell.tas.gov.au</a> until **Tuesday 14 May 2024**.

Any person may make representation relating to the application to the General Manager by letter or email to <a href="mailto:sorell.council@sorell.tas.gov.au">sorell.council@sorell.tas.gov.au</a>. Representations must be received on or before the date specified above.

**APPLICANT:** Sorell Council

**DATE: 11 April 2024** 

**APPLICATION NO: 5.2024.1.1** 

#### **5.2** PLANNING SCHEME AMENDMENT AM-SOR-5.2024.1.1

Applicant:	Sorell Council	
Proposal:	Planning Scheme Amendment - Waterway and Coastal	
	Protection Area Overlay	
Site Address:	Whole of municipal area	
Planning Scheme:	Tasmanian Planning Scheme Sorell (TPS-S)	
Relevant Legislation:	evant Legislation: Part 3B of the Land Use Planning and Approvals Act 199	
	(LUPAA)	
Reason for SPA meeting:	: No delegated authority for a planning scheme	
	amendment	

#### **RECOMMENDATION**

- a. That pursuant to Section 40D(a) of the Land Use Planning and Approvals Act 1993, the Planning Authority prepare Amendment AM-SOR—5/2024.1 to the Sorell Local Provisions Schedule to update the waterway and coastal protection area as shown in Attachment 1.
- b. That pursuant to Section 40 of the *Land Use Planning and Approvals Act 1993*, AM-SOR-5-2024.1.1 is certified as meeting the LPS criteria.
- c. That in accordance with Section 40G of the *Land Use Planning and Approvals Act* 1993, the Planning Authority places the amendment on public exhibition for a period of 28 days.

#### **Executive Summary**

The waterway and coastal protection area is triggered based on a table in the planning scheme that specifies buffer distances to various types of waterways. A mapped overlay is also used to visually assist. More specifically, the table overrides the map in instances of inconsistencies. The purpose of the amendment is to provide the best visual representation of where the waterway and coastal protection area (WCPA) applies. The amendment does so by applying the best available data and removing some existing anomalies.

The purpose of the report is to consider whether to prepare and certify the amendment. In considering the request and certification, a range of matters must be considered including the Schedule 1 objectives of the *Land Use Planning and Approvals Act 1993* (LUPPA). The Schedule 1 objectives require community consultation and yet, strangely, the certification must occur prior to any public consultation.

The draft amendment appears capable of being in accordance with the requirements of LUPAA and it is recommended that it be prepared and certified in order to allow a full assessment based on community consultation.

The social, economic and environmental benefits of the proposal are:

- Increased certainty for the community and applicants regarding where the overlay applies;
- Improved efficiencies and effectiveness in the planning processes;
- Reduced risks of errors or omissions in the planning process; and
- Improved protection of the environmental values of waterways by mapping the current alignment of waterways, wetlands and high water mark.

Like other spatial information used in planning scheme overlays, the proposed WCPA is a point in time approximation of conditions on ground and is limited by the available data.

The report provides details of the amendment and outlines the strategic outcomes sought, having regard to matters of local, regional and then State importance. The report ends with a discussion of the degree of compliance with legislative requirements.

If prepared and certified, the following two outcomes must occur:

- The amendment is exhibited for 28 days, and
- The Tasmanian Planning Commission (the Commission) will decide whether to approve the amendment, approve the amendment with modifications or reject the amendment.

Any representations to the exhibited amendment will be considered at a future Planning Authority meeting, where modifications can be recommended in response to the representations and for the consideration of the Commission.

The Commission will assess and decide on the amendment, based on the issues raised in the representations and the outcomes of any hearings it may hold.

#### PROPOSED PLANNING SCHEME AMENDMENT

The amendment seeks to update the Waterway and Coastal Protection Area (WCPA) overlay under C7.0 Natural Assets Code.

The current WCPA is based on a guidance map provided by the State Planning Office (SPO) (formally the Planning Policy Unit) originally prepared for the interim planning schemes. Since the guidance map was prepared, the alignment of high water mark, watercourses and wetlands in numerous areas of the LGA have been revised. It is understood that the SPO has no intent to update the various state-wide guidance maps used.

Most mapped overlays are the 'trigger' for the relevant planning scheme rules. However, the Natural Assets Code includes an overriding clause whereby, in the event of an inconsistency between a mapped watercourse and the actual position on ground, the actual position on ground overrides and triggers the relevant planning scheme rules with Table C7.3 specifying the spatial extent of the WCPA. Table C7.3 is complex and in reality all parties in the planning process are dependent on the mapped overlay.

#### The proposed WCPA is based on:

- 1. A new coastline (high water mark) data set
- 2. General revisions to the alignment of waterways
- 3. Updated wetland data
- 4. Extending the coastal protection area to a 40m distance to *both* sides of mean high water rather than to the shore side only to enable consideration of works in the tidal zone and to manage changes in mean high water mark over time.

#### Issues with the existing waterway and coastal protection area overlay

#### Misalignment with the coastline

Figures 1 and 2 show instances where the current WCPA does not align with the coastline. This is likely due to errors in the original guidance mapping that were not identified and rectified during the preparation of the interim or current planning scheme.



Figure 1. Extract of existing WCPA at Midway Point



Figure 2. Extract of existing WCPA at Penna

## Misalignment with waterways

Figure 3 shows an instance where the mapped WCPA (shown in green) has an alignment that is not consistnet with the hydrographic line (blue) data on LISTmap.



Figure 3. Existing WCPA (hatched) versus LISTmap hydrographic lines data

Non-compliance with the class 4 watercourses classification in prescribed zones

Table C7.3 lists four different types of watercourses; class 1, 2, 3 and 4. Class 1 is the major watercourse and is defined as being a named creek or river. Class 4 is the minor classification. Class 2 and 3 are intermediate and are defined by the size of the catchment. The width of the WCPA to both sides of a watercourse is 40m for class 1, 30m for class 2, 20m for class 3 and 10m for class 4. The classification of watercourses was taken from the forest practices systems.

Table C7.3 specifies that within 13 different zones, such as the General Residential Zone or Low Density Residential Zone, all watercourses are classified as class 4 and have a 10m wide WCPA. This classification is irrespective of whether the watercourse is a larger class 1, 2 or 3 stream. The current WCPA does not show the restriction to a class 4 stream in these specified zones. Figure 4 shows one such instances for Sorell Rivulet in which the WCPA is mapped as a class 2 watercourse (60m width in total) whereas Table C7.3 defines the watercourse as a class 4.

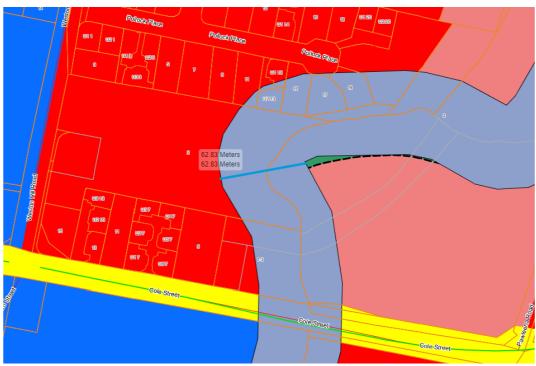


Figure 4. A class 4 watercourse (due to being within the General Residential Zone and Low Density Residential Zone) is mapped as a larger class 2 watercourse.

## Mapped wetlands that do not exist



Figure 5. Current WCPA showing a wetland.



Figure 6. Existing conditions as at November 2023 showing recent forestry clearing and no signs of a wetland.

#### Updated coastline

The WCPA applies from the mean high water mark. This is a moving feature and often updated.



Figure 7. Latest coastline data (blue) versus current WCPA (green)

## General presentation issues

Figure 8 is one example, of many, of gaps in the current WCPA that are artefacts of the Geographic Information System processing.

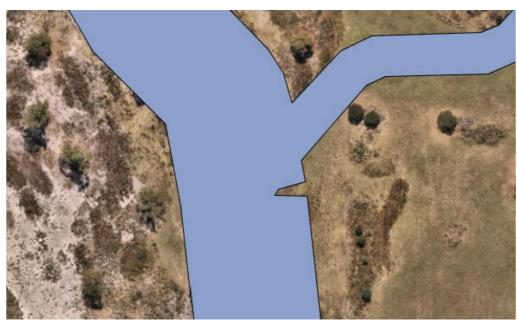


Figure 8. Gap in the current WCPA.

#### Class 1 (named watercourses) mapped as lower class streams

Table C7.3 requires all named watercourses on the 1:100,000 topographic map sheets produced by the Tasmanian Government to be mapped as class 1 watercourses. There are various instances where named watercourses are mapped as lower class.



Figure 9. Little Boomer Creek not mapped as a class 1 watercourse.

#### Data and Method in the proposed WCPA

#### Inputs

- LISTmap Hydline Layer
- LISTmap Hydarea
- LISTmap CFEV river section catchments
- LISTmap *CFEV Saltmarsh*
- LISTmap CFEV Wetlands
- LISTmap Coastline (MHWM)

#### Processing of mean high water mark

- Remove islands, tidal, inland features
- Apply 40m buffer in 10 segments in QGIS

#### Processing of wetland

- Select wetlands and flats from Hydrographic area layer in LISTmap
- Apply 40m buffer in 10 segments in QGIS

#### *Processing of streams*

- Select named features, combine segments, code Class 1 and buffer 40m in 10 segments in QGIS. Verify named segments match 1:100,000 topo sheet (scanned map in LISTmap)
- Code remaining Class 4
- Classify class 2 and 3 based on catchment size using CFEV river segments for catchment size (join attributes by location (one to

many, intersect, overlap, contain, within, touches) to catchment size)

Verify by comparison to existing waterway overlay

#### Application of class 4 streams due to zoning

- Split layer by relevant zones and reclassify.
- Streams: Change all within Table C7.3 (b) zones to class 4
- Tidal Cut at the zone boundary

#### Final revisions

- Remove artificial watercourses
- Apply symmetrical difference and manually review
- Remove small gaps and other processing artifacts
- Manually add Marchweil Marsh and wetlands at Carlton and Primrose Sands from old WCPA as features not otherwise mapped

#### **Draft Amendment**

The draft amendment documents are included in **Attachment 1** – Amendment Documents.

An explanatory document which provides some more background information about the amendment, the current policy position and outlines the controls and why they have been included is in **Attachment 2** – Explanatory Document. This document provides a more 'accessible' overview of the PAC SAP beyond the statutory requirements that must be met under LUPAA.

#### The Natural Assets Code

The Natural Assets Code addresses native vegetation, coastal refugia and waterway and coastal protection.

The provisions related to a WCPA address impacts both in stream and to the adjacent land such as siltation, native vegetation and instream habitat. The Code includes a definition of waterway values being "the values of watercourses and wetlands derived from their aquatic habitat and riparian vegetation, physical elements, landscape function, recreational function and economic function." The term waterway values is not otherwise used in the Code but does summarise the scope.

#### ASSESSMENT AND STRATEGIC OUTCOMES

#### Legislation

To be approved, a draft amendment must comply with the LPS criteria that are set out in LUPAA as follows:

- (2) The LPS criteria to be met by a relevant planning instrument are that the instrument
  - (a) contains all the provisions that the SPPs specify must be contained in an LPS; and
  - (b) is in accordance with section 32; and
  - (c) furthers the objectives set out in Schedule 1; and
  - (d) is consistent with each State policy; and
  - (da) satisfies the relevant criteria in relation to the TPPs; and
  - (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; and
  - (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; and
  - (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 Safety Act 2019.

Attachment 2 provides a detailed assessment against each relevant criteria.

LUPAA provides a two-step process for planning scheme amendments. The first step under section 40D outlines how and when a planning authority is to prepare a draft amendment. Section 40F is step 2 and provides that once a planning authority has determined to prepare a draft amendment it must either certify that as meeting the LPS criteria or modify the draft amendment until it meets the LPA criteria and then certify.

#### Regional Strategy and Policy

For the amendment to be approved, compliance with the *Southern Tasmania Regional Land Use Strategy 2010-2035* (STRLUS) must be demonstrated. **Appendix 1** provides a detailed assessment of the amendment against the relevant STRLUS policies.

#### State Strategy and Policy

**Appendix 1** provides a detailed assessment of the amendment against the relevant State policies.

#### CONCLUSIONS ON THE AMENDMENT

For the above reasons, the amendment is consistent with the objectives and other requirements of the *Land Use Planning and Approvals Act 1993*.

#### Attachments:

Attachment 1- Draft Amendment Attachment 2 – Detailed LPS Criteria Assessment

#### TASMANIAN PLANNING SCHEME - SORELL

#### PLANNING SCHEME AMENDMENT - SORELL LOCAL PROVISIONS SCHEDULE

#### AM-SOR-5-2024.1.1

Pursuant to the Land Use Planning and Approvals Act 1993

#### Location

Whole of Local Government Area

## Description

Replace with waterway and coastal protection area as shown on overlay maps WCPA 11k (pages 1 to 16) and WCPA 55k (pages 1 to 6)

#### Attachment 2 Statutory

Assessment – Response to criteria requirements for Local Provisions Schedule under LUPAA

Section 34(2) of LUPAA requires a relevant planning instrument to meet all of the following criteria.

#### (a) contains all the provisions that the SPPs specify must be contained in an LPS

The proposal complies with the SPP requirements for an LPS as set out in clause LP1.0 and Appendix A of the SPPs.

#### (b) is in accordance with section 32

This section identifies the technical aspects of a LPS such as inclusion of zone maps and overlays, and what additional local provisions can be included if permitted to do so under the SPPs, to add to, modify or override the SPPs. This amendment is consistent with this section.

#### (c) furthers the objectives set out in Schedule 1 of LUPAA

Assessment of the amendment against the Schedule 1 objectives is provided in the following table.

	Part 1 Objectives	Comment
(a)	to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity	The amendment furthers this objective through an updated overlay that best reflects the spatial extent of the waterway and coastal protection area.
(b)	to provide for the fair, orderly and sustainable use and development of air, land and water	The updated overlay will assist in achieving fair, orderly and sustainable use through assisting in when and how the associated code is applied to individual applications.
(c)	to encourage public involvement in resource management and planning	If certified, the draft amendment will be subject to public exhibition.

(d)	to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c)	The updated overlay will assist in achieving fair, orderly and sustainable use through assisting in when and how the associated code is applied to individual applications.
<b>(e)</b> t	o promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State	This procedural objective has no bearing on the matter at hand.
	Part 2 Objectives	
(a)	to require sound strategic planning and co- ordinated action by State and local government	This procedural objective has no bearing on the matter at hand.
(b)	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	This procedural objective has no bearing on the matter at hand.
(c)	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	The updated overlay will assist in when and how the associated code is applied to individual applications.
(d)	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	This procedural objective has no bearing on the matter at hand.

(e)	to provide for the consolidation of approvals for land use or development and related matters, and to co- ordinate planning approvals with related approvals	This procedural objective has no bearing on the matter at hand.
(f)	to promote the health and wellbeing of all Tasmanians and visitors to Tasmania by ensuring a pleasant, efficient and safe environment for working, living and recreation	Waterways are important to public health and wellbeing and, as such, the planning system recognizes waterways and seeks to regulate use and development. The updated overlay will assist in when and how the associated code is applied to individual applications.
(g)	to conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value	· · · · · · · · · · · · · · · · · · ·
(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)	to provide a planning framework which fully considers land capability.	This procedural objective has no bearing on the matter at hand.

#### (d) is consistent with each State policy;

Assessment of the amendment against the current State policies is provided in the following table.

State Policy	Comment
State Policy on the Protection of Agricultural Land 2000 (PAL)	The waterway and coastal protection area applies to the Agriculture Zone. There are no exemptions for agriculture use or development within the WCPA. Therefore, clearing of vegetation for pasture or crops or construction of a building for an agriculture use would be subject to the code.
State Policy on Water Quality Management 1997 (SPWQM)	The associated Natural Values Code does consider point source discharge to waterways and in doing so supports application of this policy.
State Coastal Policy 1996 (SCP).	The WCPA applies to the coastal zone and supports application of this policy.

#### National Environmental Protection Measures

National Environment Protection Measures (NEPM) are automatically adopted as State Policies under section 12A of the *State Policies and Projects Act 1993* and are administered by the Environment Protection Authority.

#### The NEPMs relate to:

- ambient air quality
- ambient marine, estuarine and fresh water quality
- the protection of amenity in relation to noise (but only if differences in markets for goods and services)
- general guidelines for the assessment of site contamination
- environmental impacts associated with hazardous wastes
- the re-use and recycling of used materials.

Principle 5 of the NEPMs states that planning authorities 'that consent to developments, or changes in land use, should ensure a site that is being considered for development or a change in land use, and that the authorities ought reasonably know if it has a history of use that is indicative of potential contamination, is suitable for its intended use.

The WCPA and Natural Values Code support water quality.

### (da) satisfies the relevant criteria in relation to the TPPs;

The Tasmanian Planning Polices have not been implemented.

(a) 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;

The following considers the key elements of the Southern Tasmanian Regional Land Use Strategy 2010-2035 (STRLUS).

Relevant STRLUS strategies	Comment
Water Resources  WR 1.3: Include setback requirements in planning schemes to protect riparian areas relevant to their classification under the Forest Practices System.	As noted earlier, the WCPA applies the Forest Practices System of watercourse classification. The amendment therefore directly supports this regional policy.
The Coast  C 1.1 Ensure use and development avoids clearance of coastal native vegetation.	Consistent with the Natural Assets Code, the updated overlay applies to 40m of the mean high water mark and 100m of the Orielton — Pittwater Lagoon RAMSAR site. Removal of native vegetation within this area is regulated by the Natural Assets Code.

# (e) 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

The current municipal strategic plan is the *Strategic Plan 2019-2029 (March 2023 update)*. The amendment is consistent with the following objectives:

The Strategic Plan has four key objectives with success measures and delivery actions. Those relevant to the proposal are as follows:

- Objective 1: To Facilitate Regional Growth
  - o Support the revision of the Southern Tasmania Regional Land Use Strategy.
- Objective 2: Responsible Stewardship and a Sustainable Organization
  - o Give consideration to the potential impacts of growth and developments.
  - O Support sustainable environmental performance through responsible corporate behaviour, appropriate and achievable climate change mitigation and adaptation practices and continuing to meet our statutory obligations.
- Objective 3: To Ensure a Liveable and Inclusive Community
  - o Support the development of appropriate public access to coastal assets and the natural environment
- Objective 4: Increased Community Confidence in Council
  - o Ensure decision making is consistent and based on relevant and complete information, and is in the best interest of sustainability and whole of community interest.
  - o Engage effectively with the community and other stakeholders, ensuring communication is timely, involving and consistent.

The updated WCPA is broadly consistent with Council's Strategic Plan in supporting decision-making around natural values.

(f) 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;

There are some inconsistencies in the WCPA at the boundary with Glamorgan Spring Bay associated with named watercourses that have not been classified as class 1 streams. It is not considered appropriate to match neighbouring planning schemes where the neighbouring planning scheme is not fully correct.

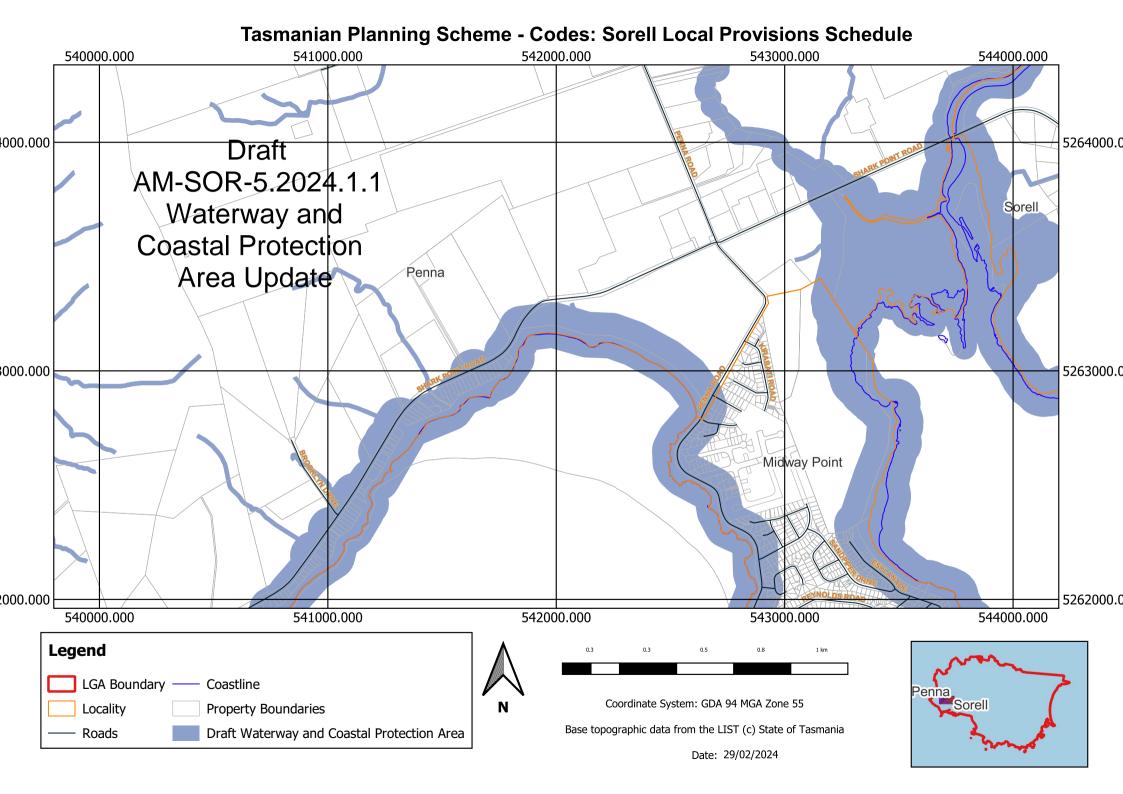
(g) has regard to the safety requirements set out in the standards prescribed under the.

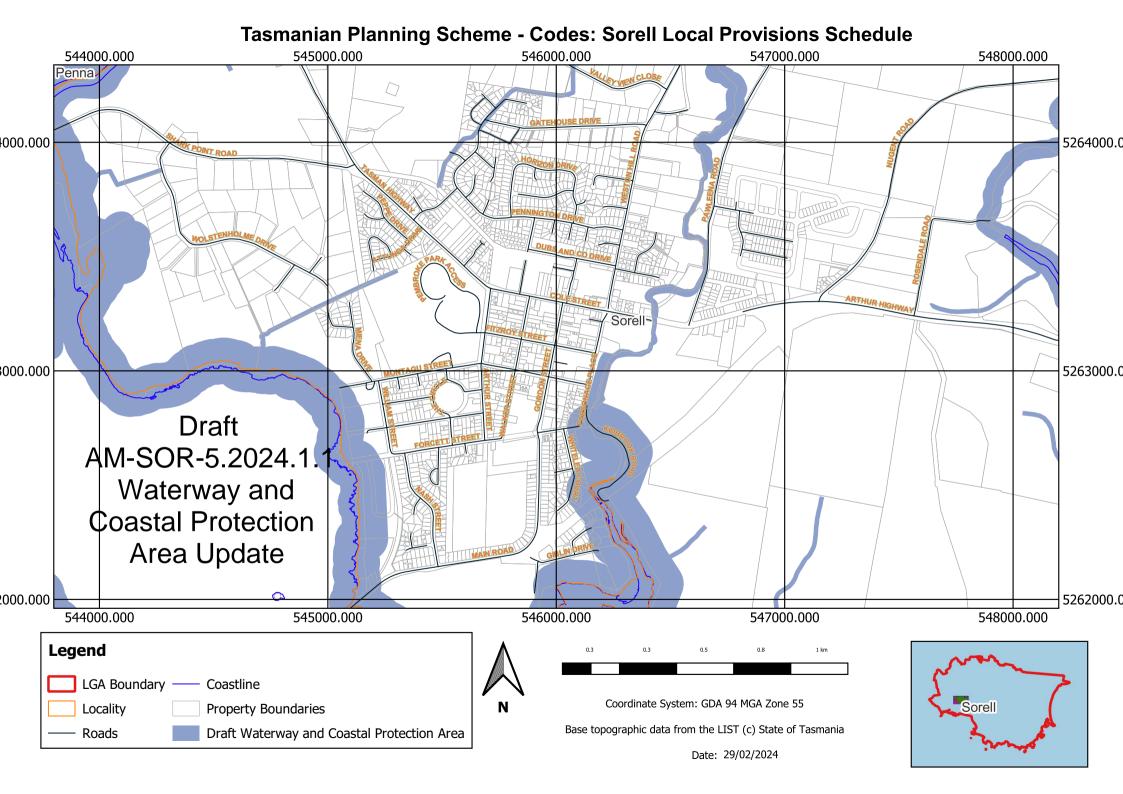
Not applicable.

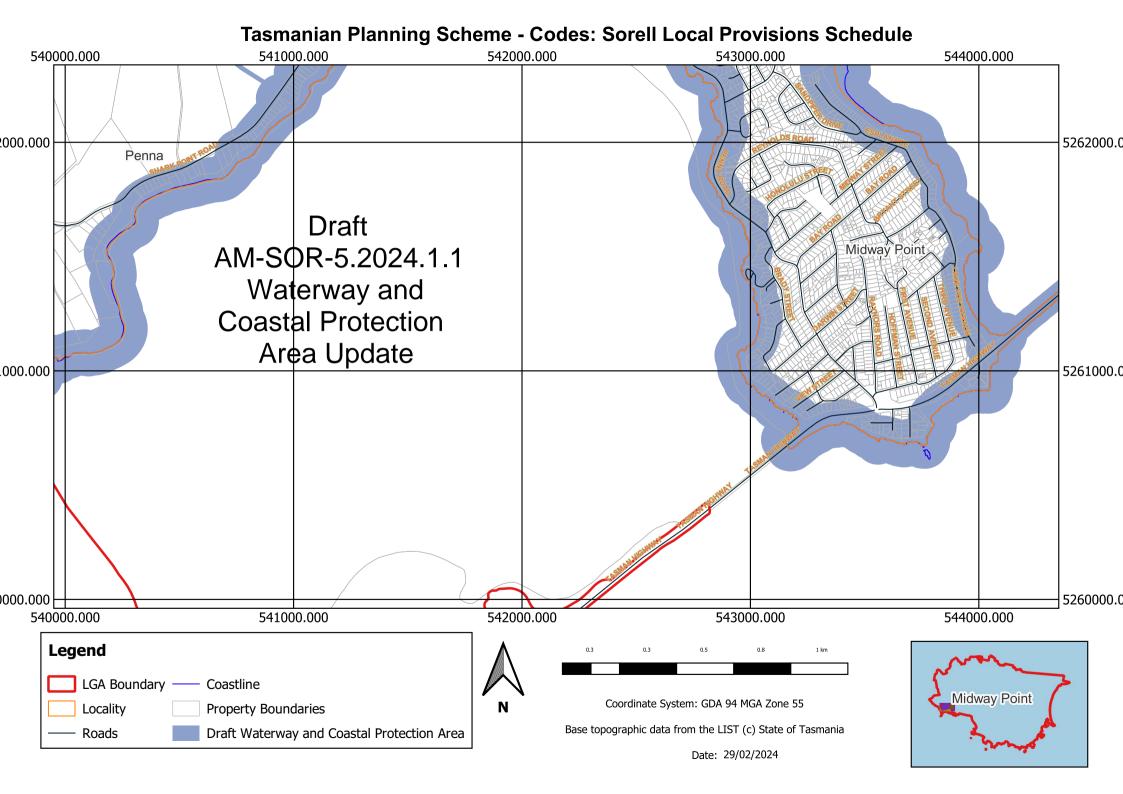


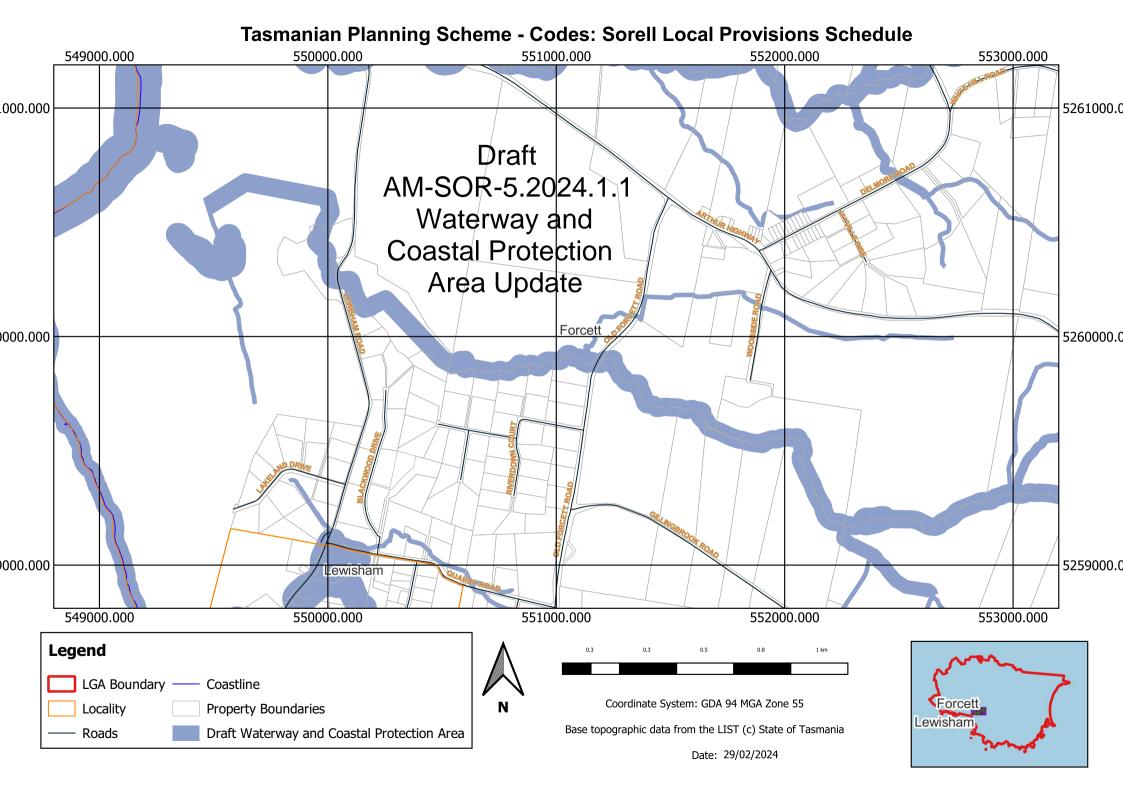
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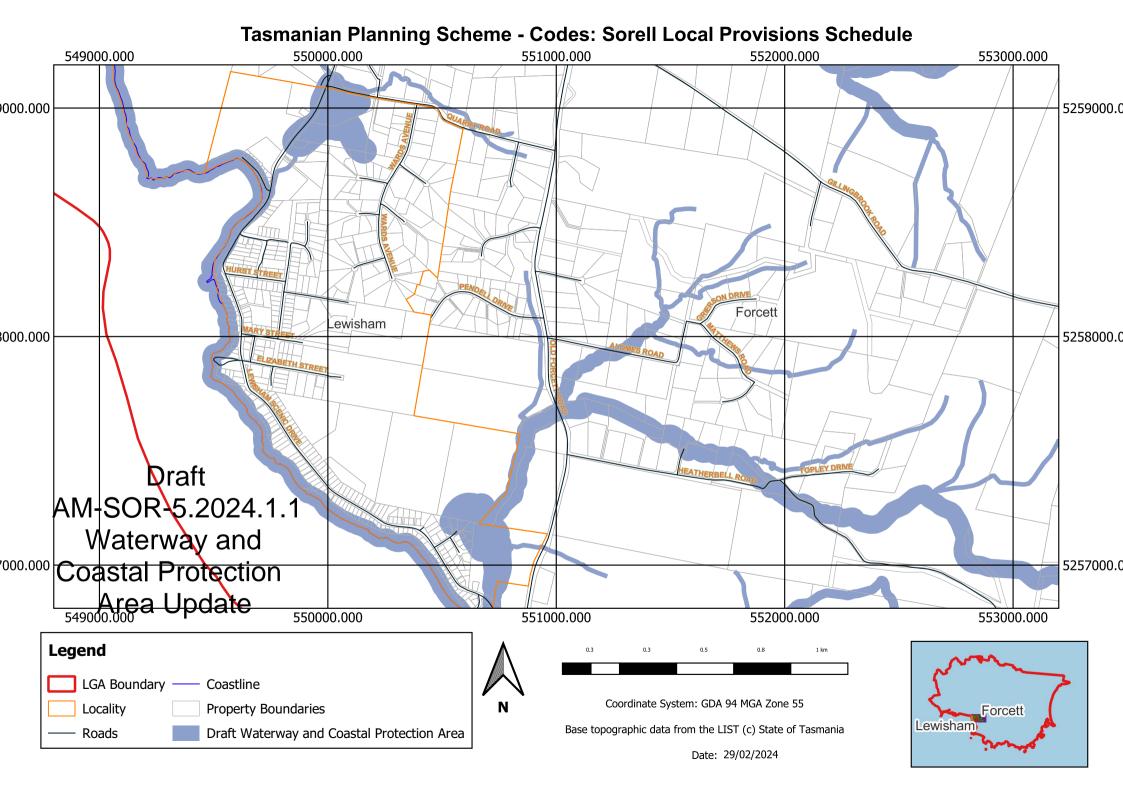
WCPA 11k; and WCPA 55k





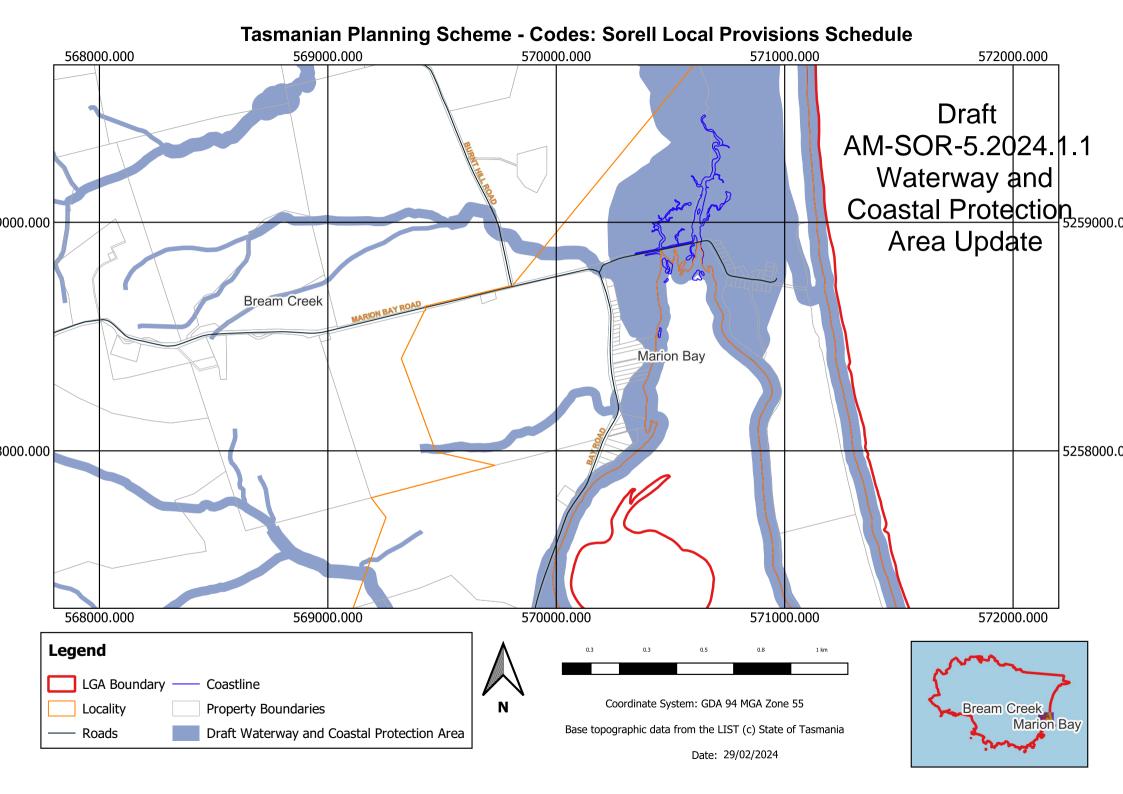


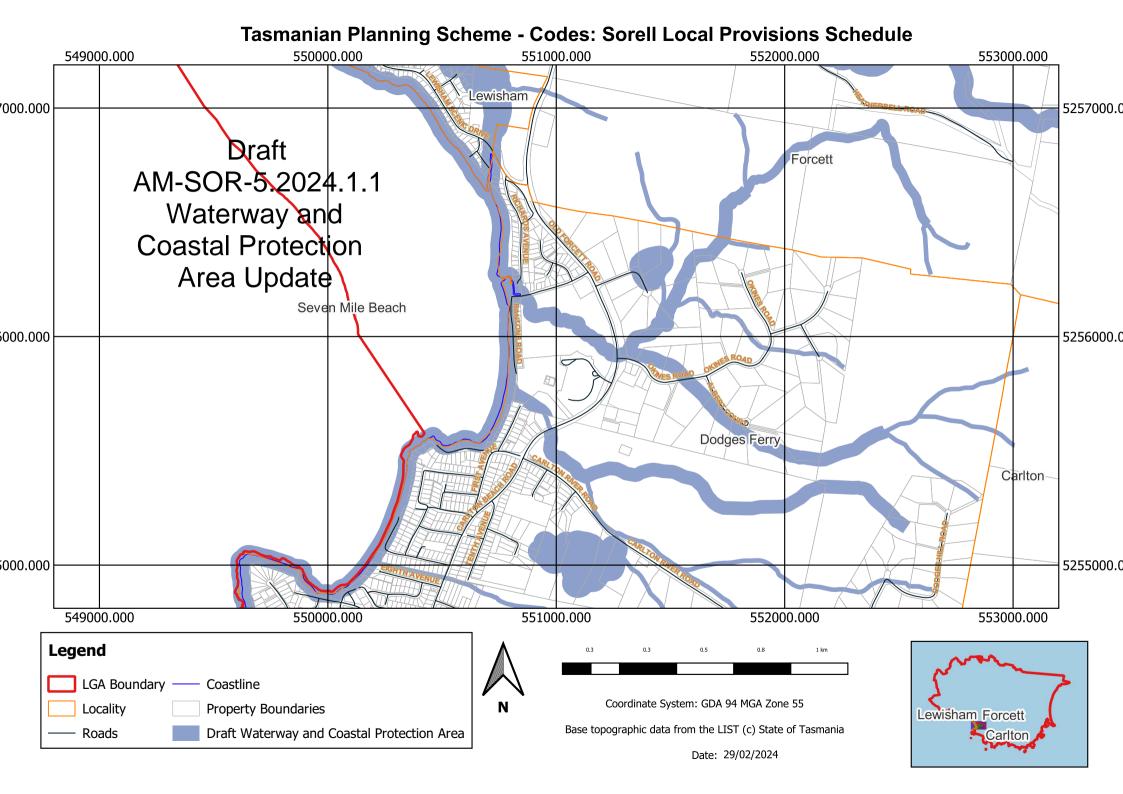


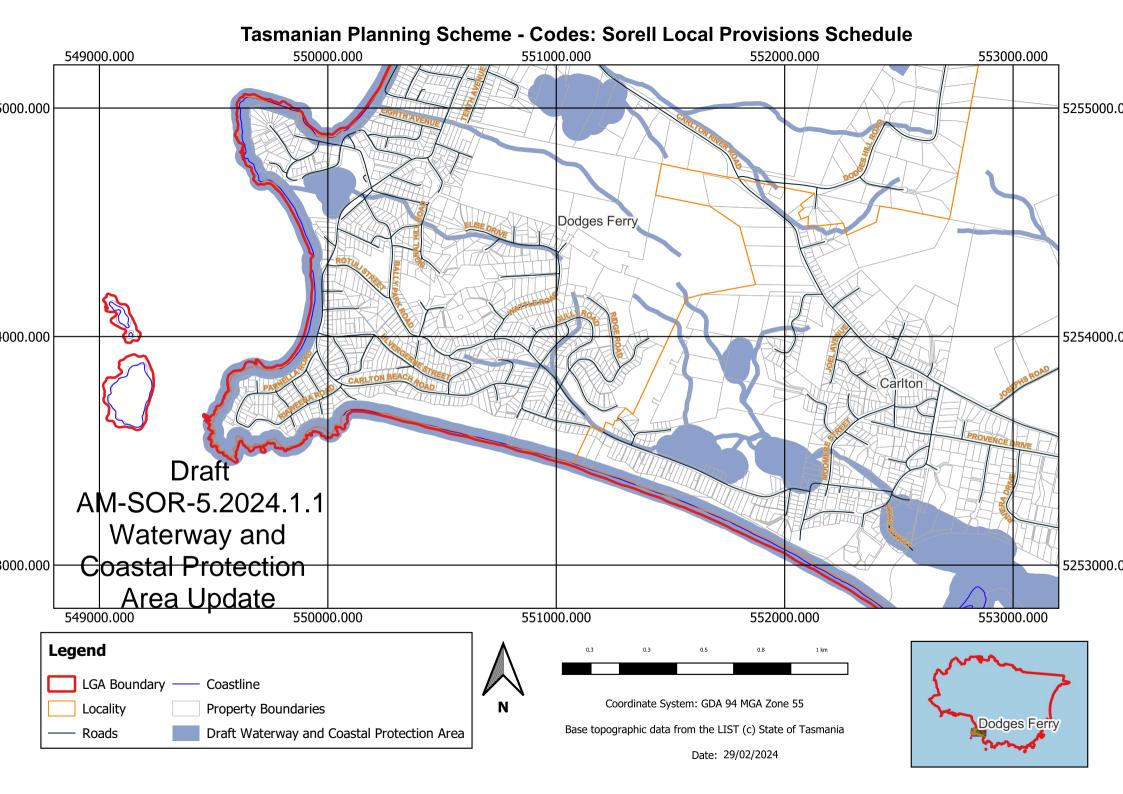


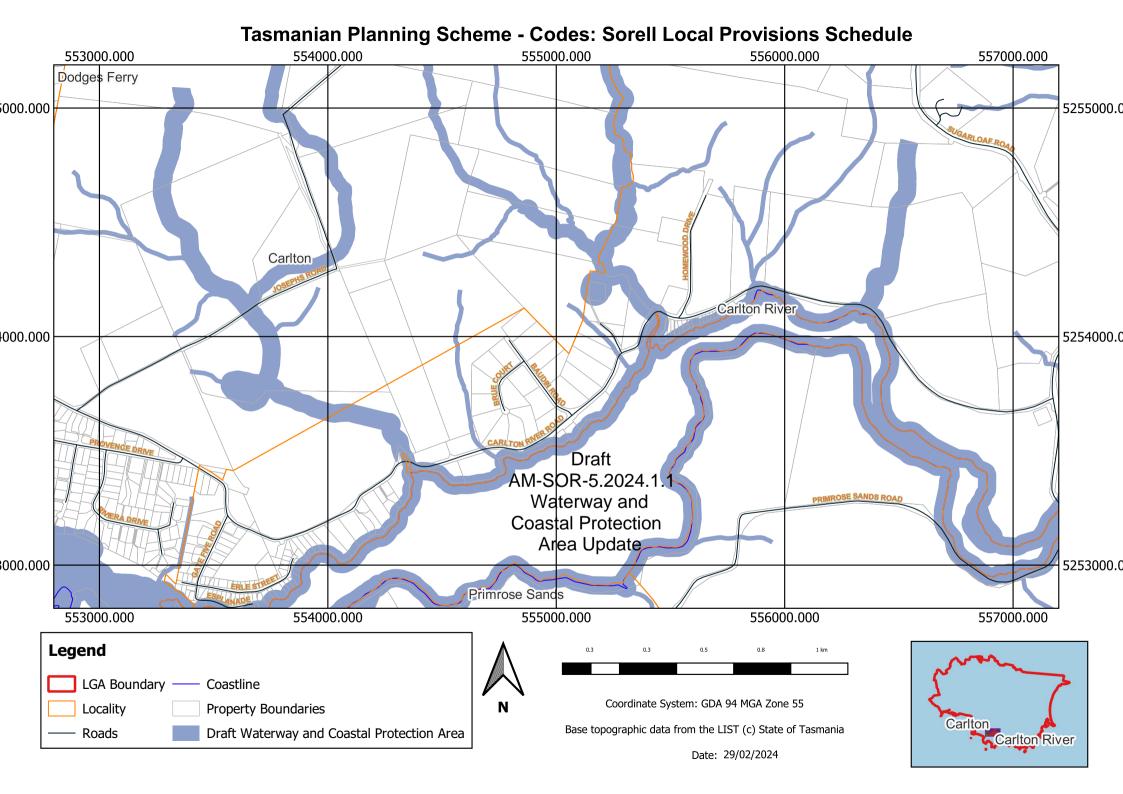
## Tasmanian Planning Scheme - Codes: Sorell Local Provisions Schedule 564000.000 565000.000 566000.000 567000.000 Kellevie 000.000 5260000.0 Copping Bream Creek 5259000.0 000.000 Draft AM-SOR-5.2024.1.1 Waterway and Coastal Protection 8000.000 5258000.0 Area Update 565000.000 567000.000 564000.000 566000.000 Legend LGA Boundary **Property Boundaries** Coordinate System: GDA 94 MGA Zone 55 Copping Locality Draft Waterway and Coastal Protection Area Base topographic data from the LIST (c) State of Tasmania Roads

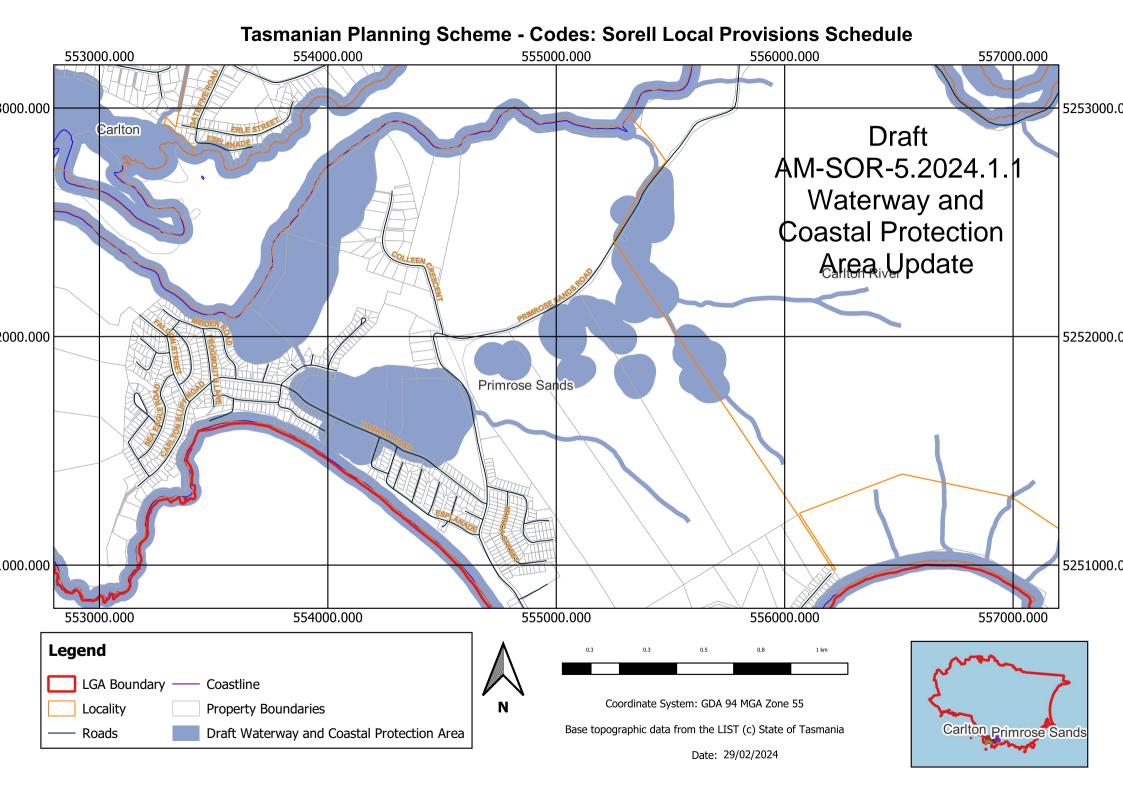
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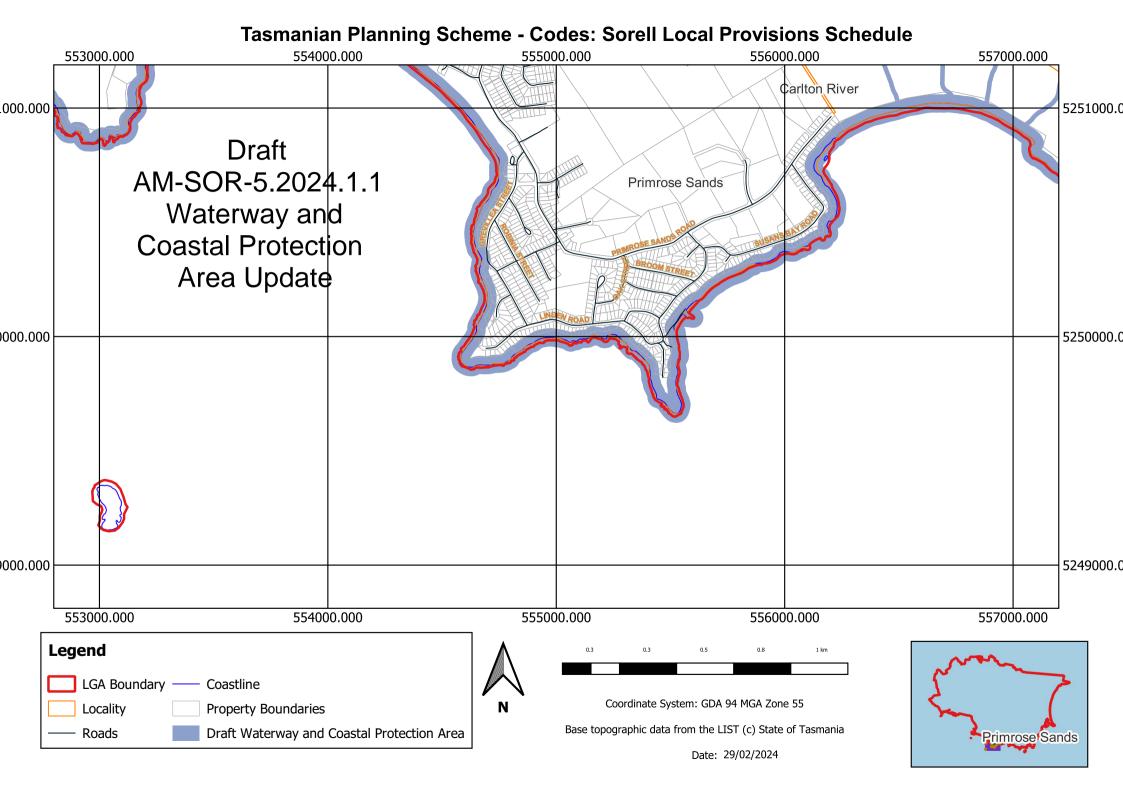


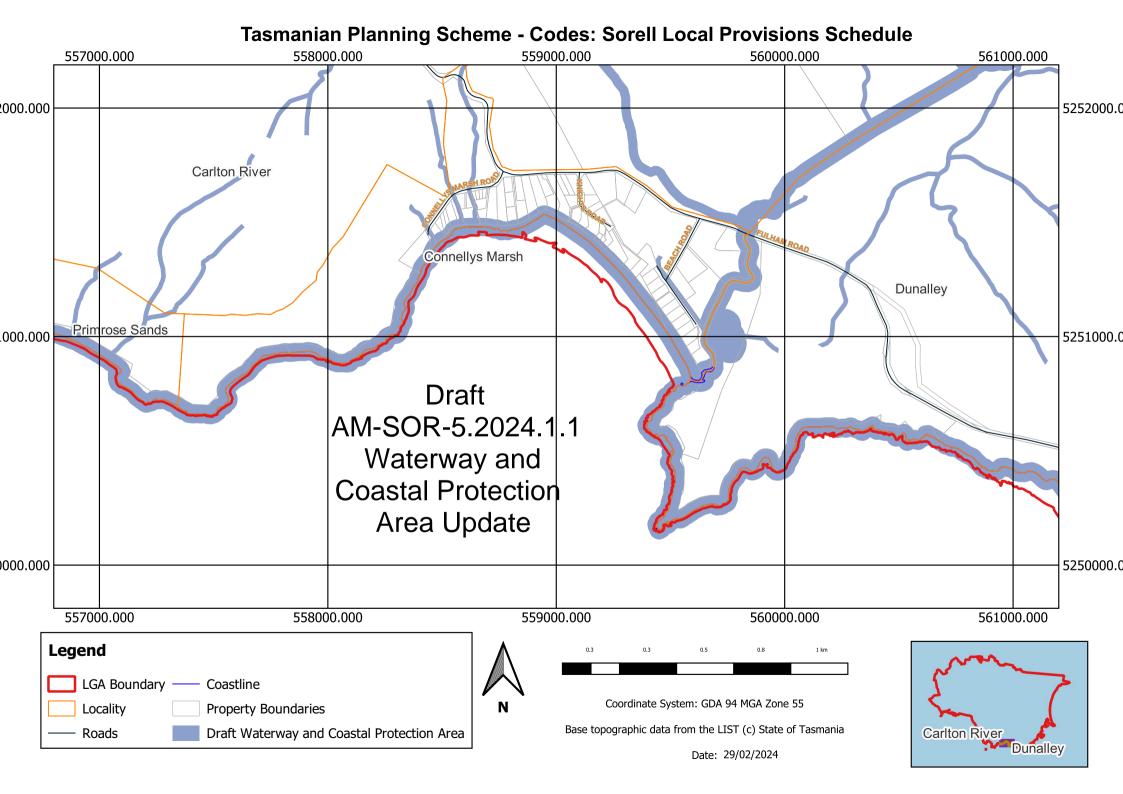








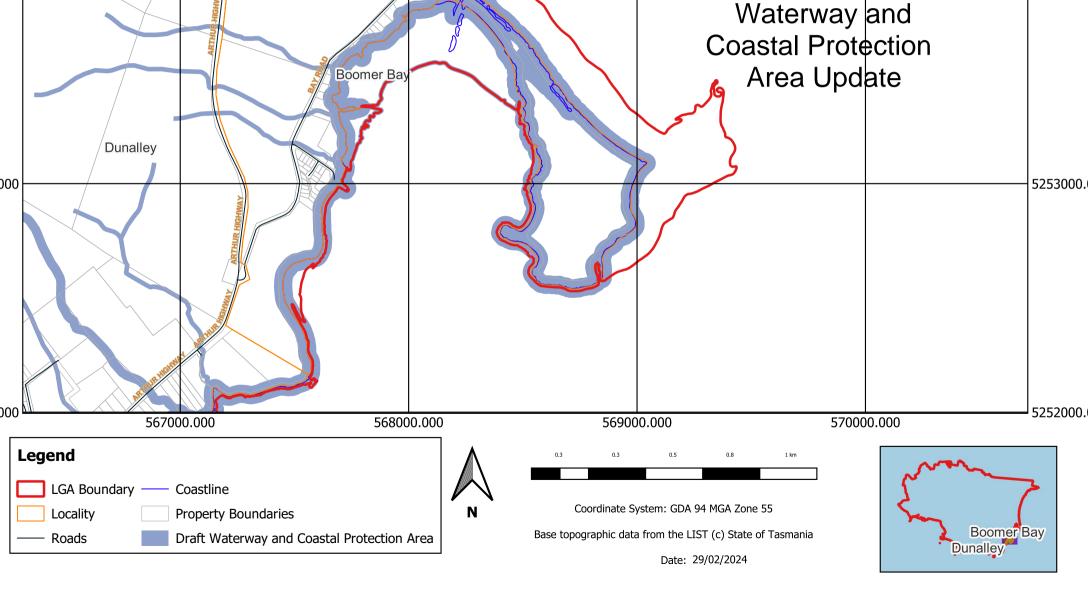




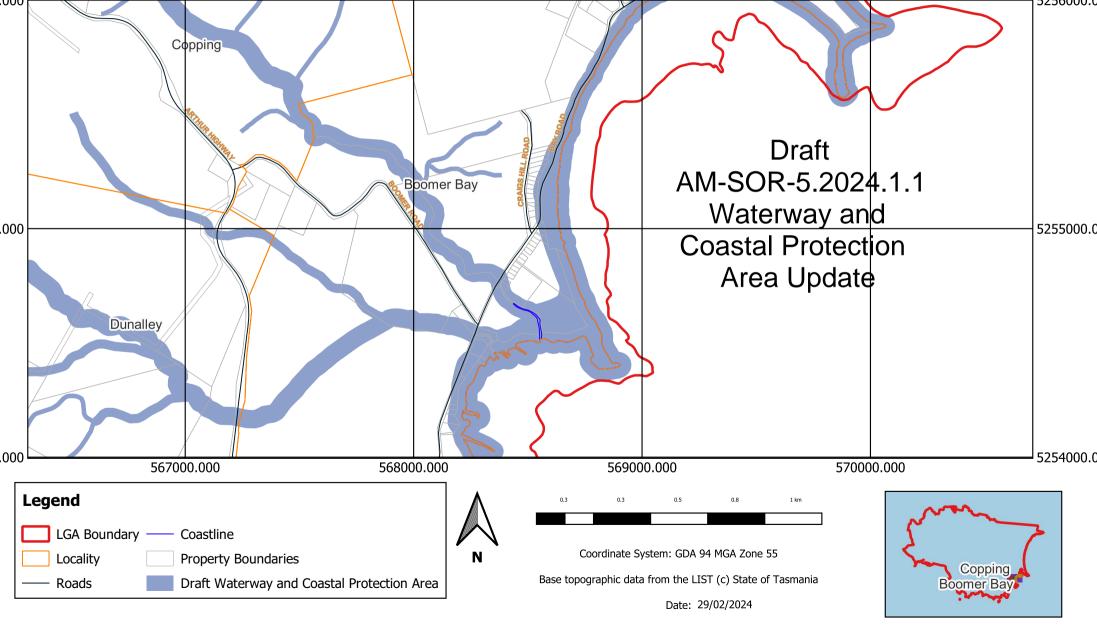
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Date: 29/02/2024

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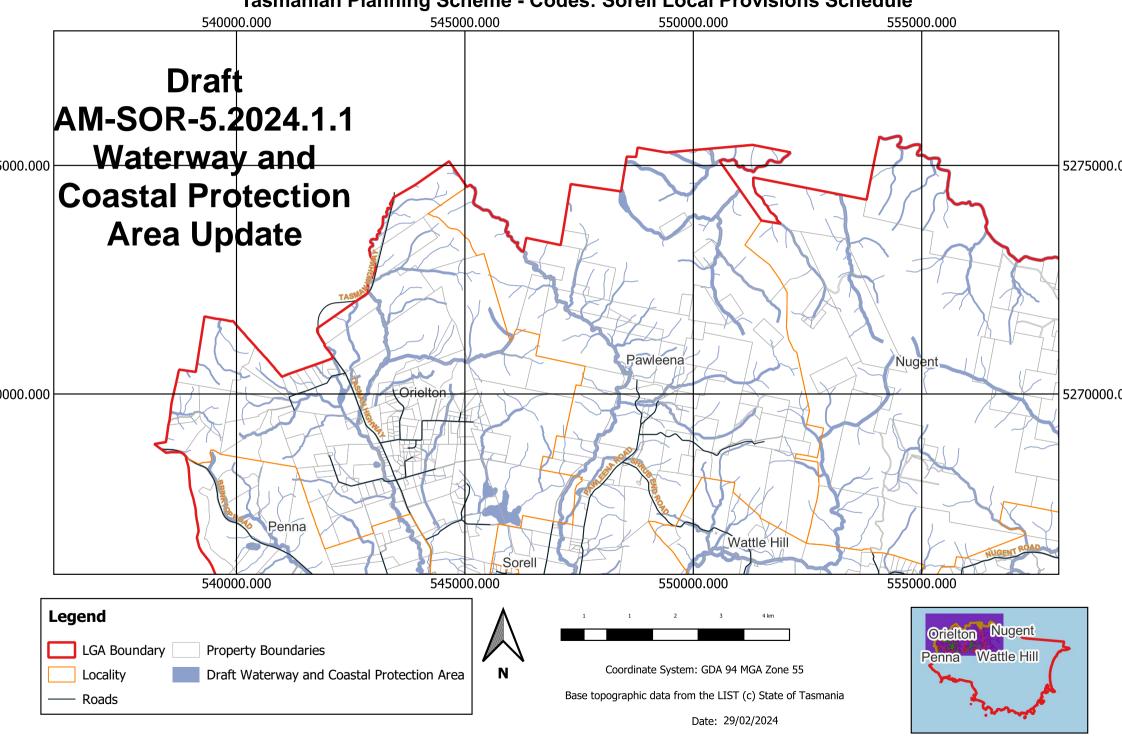
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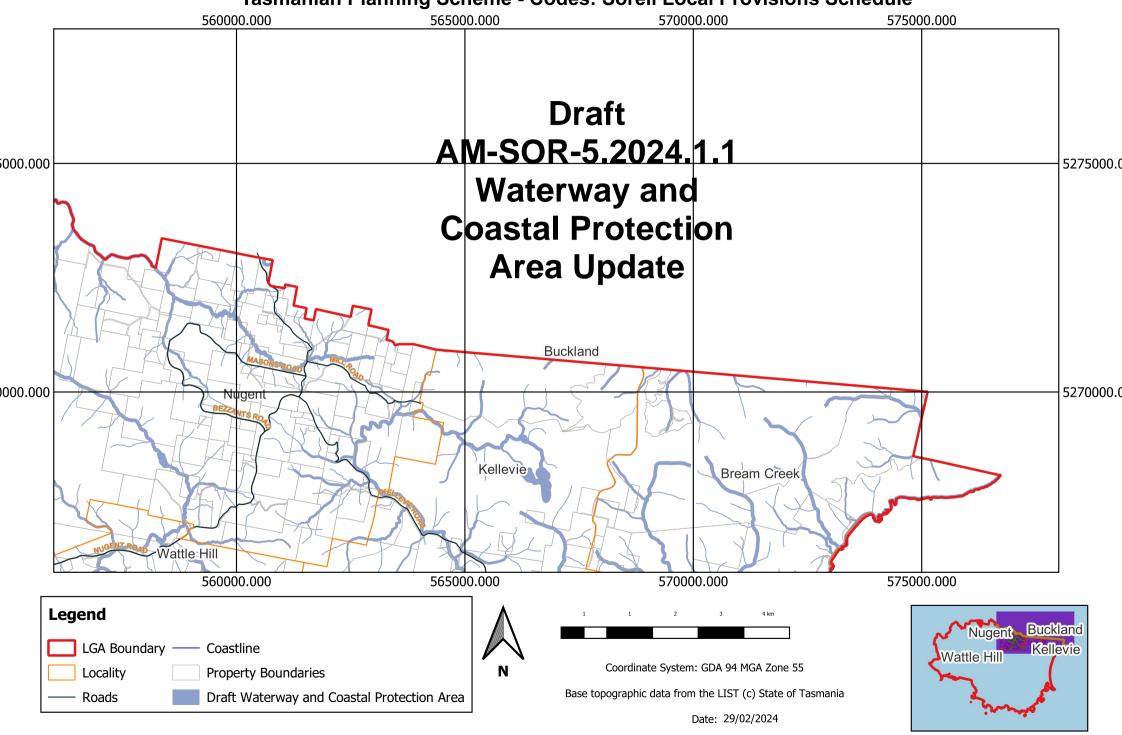


WCPA 55k

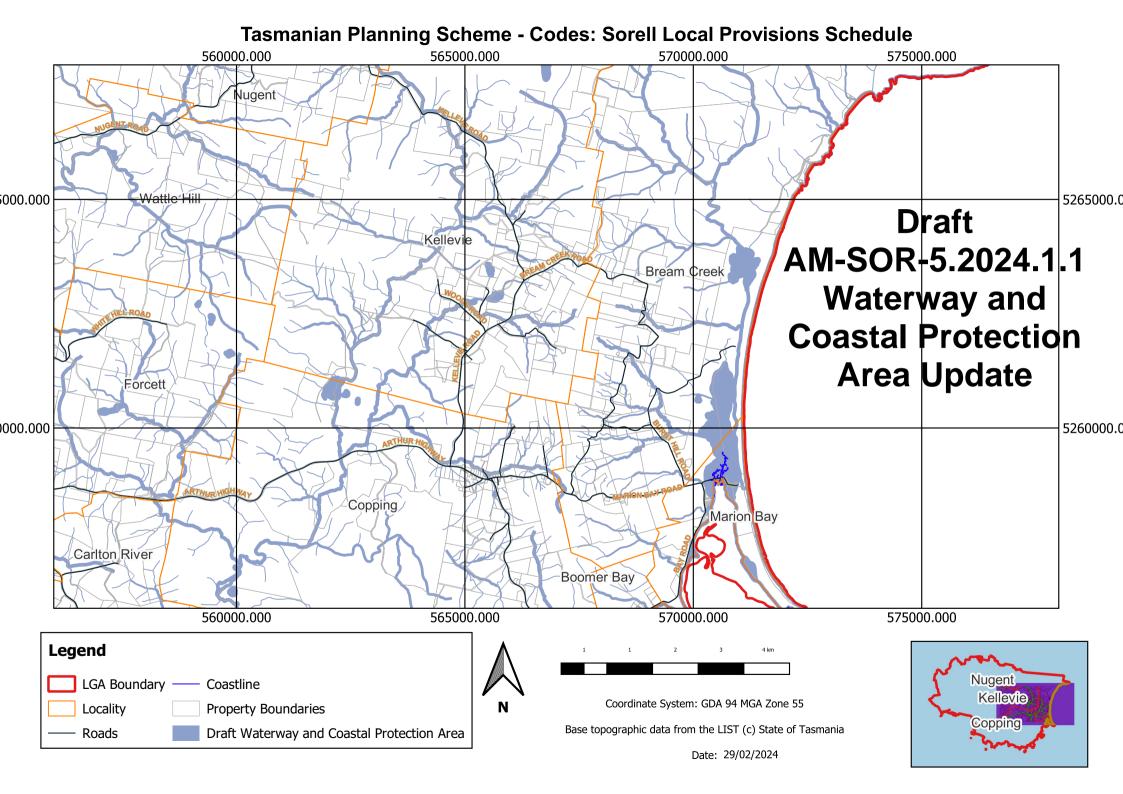
## **Tasmanian Planning Scheme - Codes: Sorell Local Provisions Schedule**



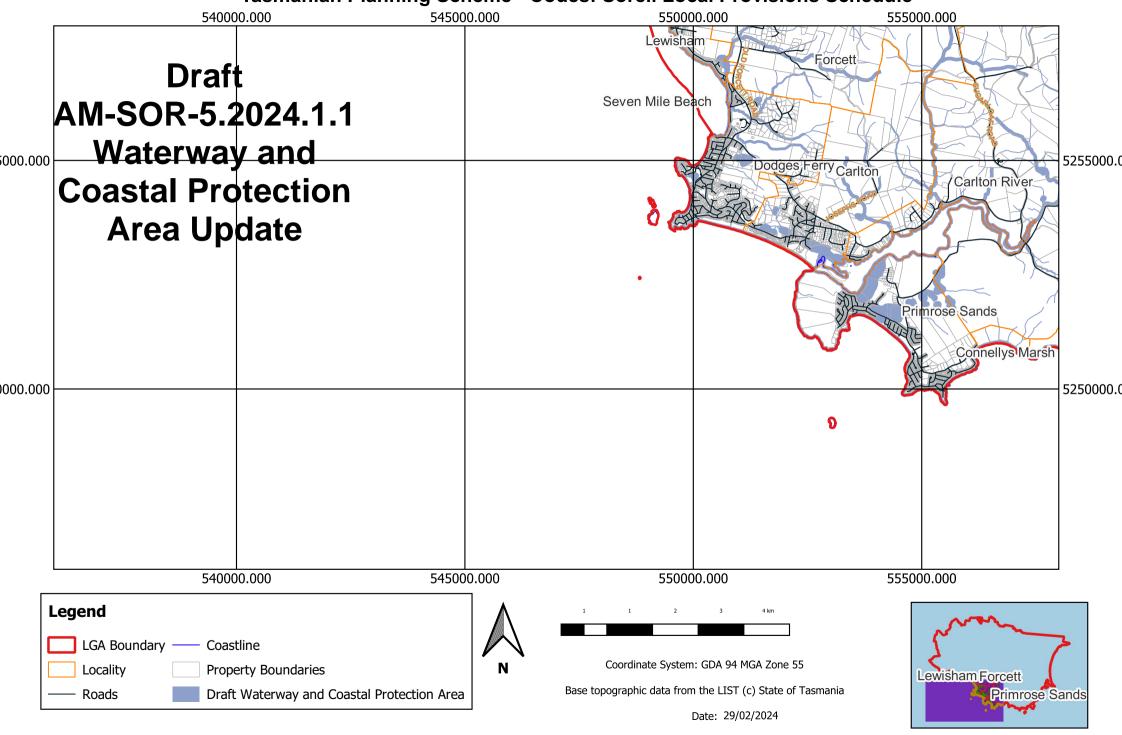
## Tasmanian Planning Scheme - Codes: Sorell Local Provisions Schedule



## Tasmanian Planning Scheme - Codes: Sorell Local Provisions Schedule 540000.000 545000.000 550000.000 555000.000 Nudent Pawleena 5265000.0 000,000 -Wattle Hi Penna Midway Point **Draft** 000.000 5260000.0 AM-SOR-5.2024.1.1 Waterway and **Coastal Protection** Carlton River **Area Update** Carlton Dodges Ferry Seven Mile Beach 540000.000 545000.000 550000.000 555000.000 Legend LGA Boundary — Coastline Wattle Hill Forcett Coordinate System: GDA 94 MGA Zone 55 Locality **Property Boundaries** Lewisham Carlton River Base topographic data from the LIST (c) State of Tasmania Draft Waterway and Coastal Protection Area - Roads Date: 29/02/2024



## Tasmanian Planning Scheme - Codes: Sorell Local Provisions Schedule



# Tasmanian Planning Scheme - Codes: Sorell Local Provisions Schedule 50000.000 565000.000 570000.000 575000.

