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Sent: Tue, 31 May 2022 14:27:17 +1000
To: "Huon Valley Council" <hvc@huonvalley.tas.gov.au>
Cc: "albert@dkcontracting.com.au" <albert@dkcontracting.com.au>; "Simon Zelestis" <szelestis@jmg.net.au>
Subject: REPRESENTATION TO HUON VALLEY COUNCIL ON THE DRAFT LOCAL PROVISION SCHEDULE
Attachments: LPS Representation - 130 Cudgee.pdf

REPRESENTATION TO HUON VALLEY COUNCIL ON THE DRAFT LOCAL PROVISION SCHEDULE

Attn: General Manager

JMG Engineers & Planners have been engaged by Albert deKleine, owner of the site, to prepare a representation regarding 130 CUDGEE ROAD, MOUNTAIN RIVER on the Draft Huon Valley Local Provisions Schedule (HOU LPS).

Please find the representation attached.

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JMG Ref: 220328PL

31st May 2022

General Manager
Huon Valley Council
Via email - hvc@huonvalley.tas.gov.au

Dear General Manager,

REPRESENTATION TO HUON VALLEY COUNCIL ON THE DRAFT LOCAL PROVISION SCHEDULE - TASMANIAN PLANNING SCHEME CONSULTATION; PROPOSED AMENDMENT FOR 130 CUDGEE ROAD, MOUNTAIN RIVER

JMG Engineers & Planners have been engaged by Albert deKleine, owner of the site, to prepare advice regarding 130 Cudgee Road, Mountain River in relation to changes proposed as a result of the Draft Huon Valley Local Provisions Schedule.

1. Site, Location, & Context

The subject site (see Figure 1) is located at 130 Cudgee Road, Mountain River (PID 2668127; CT 145379/6). The site contains an existing dwelling (and associated outbuildings) on a lot with an area of approx. 190,400m². The property has an approx. 568m frontage onto Cudgee Road with an existing access.

The site is zoned *Rural Resource* [26.0]. Surrounding the site is a mixture of *Rural Resource* (to the north, south, east, and west) with *Significant Agriculture* [27.0] approx. 150m to the west and *Environmental Living* [14.0] approx. 630m to the east.

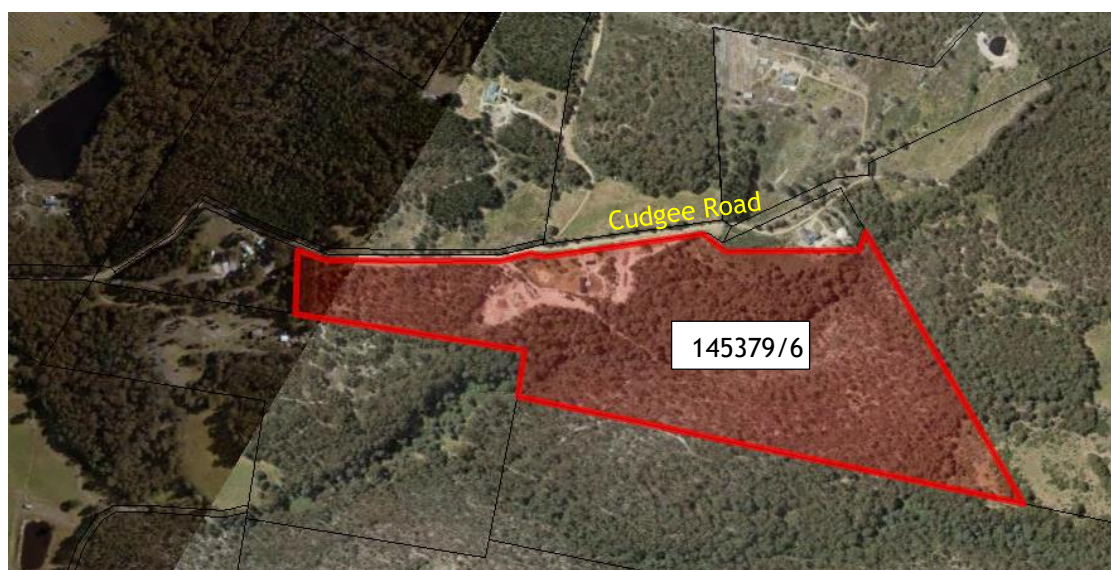


Figure 1 - Subject Site in red (Source: TheList 2018, accessed 28/04/2022)

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2. Huon Valley Interim Planning Scheme 2013 Zone

The site is currently partially cleared (approx. 1.5ha) and contains a single dwelling (and associated outbuildings and dam), with mature native vegetation on the site.

The site is currently zoned *Rural Resource* (see Figure 2) under the *Huon Valley Interim Planning Scheme* (HVIPS). The purpose of the zone is broadly for 'resource development uses', and the protection of rural resources.

Resource development is listed as a 'No Permit Required' use if for agriculture, crops, horse stud, tree farming (amongst other uses), with intensive animal husbandry a 'Discretionary' use. This would likely not restrict the continued use of the land for rural activities, including as a hobby farm.

3. Huon Valley Interim Planning Scheme 2013 - Codes

The site is covered by the following overlays: Bushfire Prone Areas, Biodiversity Protection Area, and Landslide Hazard Area.

The Biodiversity Protection Area covers identifies areas of potential threatened native flora and fauna communities. The Biodiversity Code broadly seeks to minimise the loss of threatened native vegetation communities and flora species, conserve threatened fauna habitat, and minimise the loss of locally significant biodiversity values.

As such under the current Planning Scheme, the clearance of land would likely require a development application and would likely need to be accompanied by a Flora and Fauna Assessment by a suitably qualified person.

The TASVEG mapping (see Figure 4) indicates that there is potentially priority vegetation on the site.

The Bushfire overlay covers the entire site. The purpose of the bushfire-prone code is broadly to ensure that use and development are appropriately designed, located, serviced, and constructed, to reduce the risk to human life and property, and the cost to the community, caused by bushfires. The current clearing appears to be sufficient for this purpose, however, further advice should be sought regarding bushfire management.

The site is considered Low to Medium Landslide risk and a geo-tech assessment may be required for further/future development

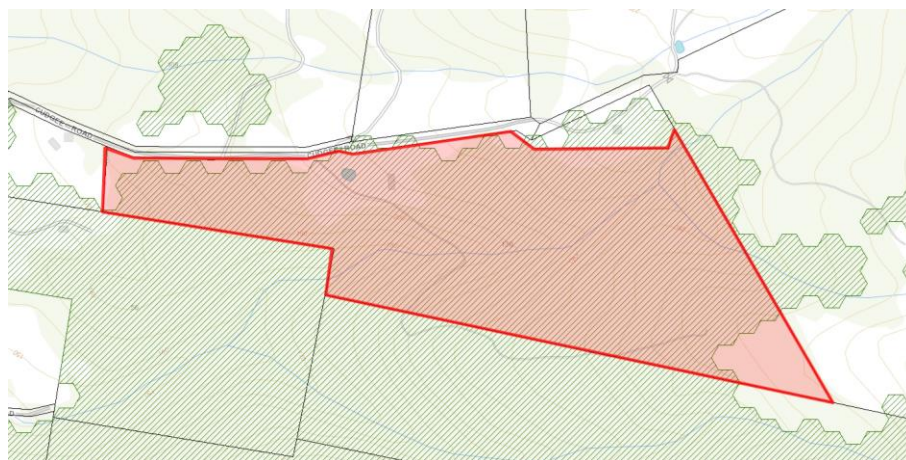


Figure 3 - Biodiversity overlay - (Source: TheList 2018, accessed 20/04/2022, <<https://maps.thelist.tas.gov.au>>)

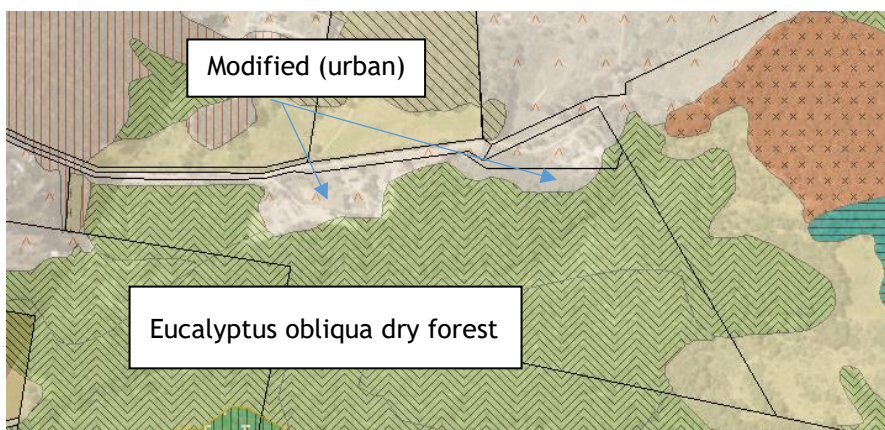


Figure 4 - TASVEG 4.0 (Source: TheList 2018, accessed 20/04/2022, <<https://maps.thelist.tas.gov.au>>)

4. Draft Huon Valley Draft Local Provision Schedule (HOU LPS)

Under the *Draft Huon Valley Draft Local Provision Schedule (HOU LPS)* the site is proposed to be zoned as *Landscape Conservation*. The purpose of this zone is to protect, conserve, and manage landscape values, and for compatible use or development that does not adversely impact the protection, conservation and management of the landscape values.

Use and development

Within this zone residential use is permitted if for a home-based business, or for a single dwelling.

Resource Development is a 'discretionary' use if not for intensive animal husbandry or plantation forestry. As such under the new zoning, it is likely that a development application would be required which would need to demonstrate that it is 'compatible with landscape values' having regard to the scale of the use, type of use, and landscape values of the site and surrounding land. This is likely to restrict the current and future plans for the continued use of the site for rural purposes, including as a hobby farm.

Codes and overlays

Under the Draft HOU LPS the site is covered by very similar overlays to the current Planning Scheme.

The Natural Assets Code (see Figure 5) generally seeks to minimise impacts on natural assets, ecology, priority vegetation, and threatened species habitat. Clearance within this area is likely to require a development application and would likely need to be accompanied by a Flora and Fauna Assessment by a suitably qualified person. In this regard, the current new Code may restrict the clearance and subsequent use of the area subject to this overlay.

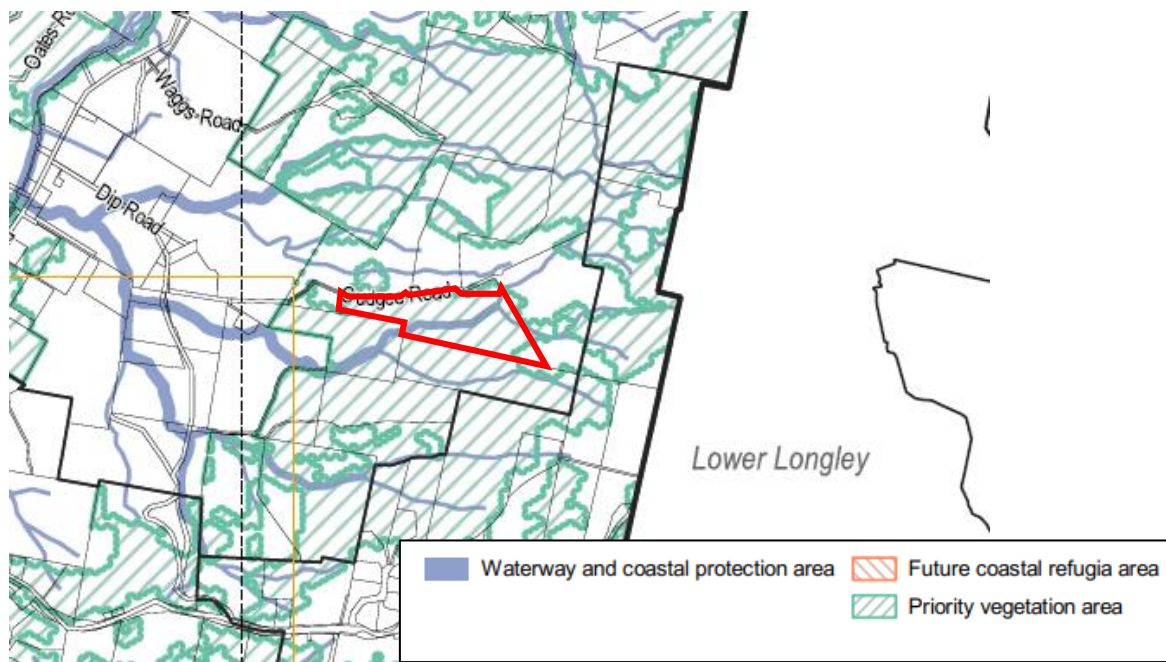


Figure 6 - Huon Valley Local Provisions Schedule Map 13 of 49 - Natural Assets Code

The rationale for new zoning

The Supporting Report for the Draft HOU LPS (November 2021) states that the land has been zoned as Landscape Conservation in accordance with LCZ 1, 2 & 3 (see Table 1 below). It is however noted that the site was determined to be ‘Unconstrained’ within the study of ‘Land Potentially Suitable for Agricultural Zone’ (as outlined on TheList) which suggests that it was considered as a suitable site for agricultural uses. This accords with the basis upon which the current owners have been using the site for a range of rural/agricultural uses, and its historic use for a variety of rural/agricultural uses.

It is also noted that the vast majority of surrounding land within Huon Valley, including sites covered by the proposed draft Natural Assets Code, were also identified as ‘Unconstrained’ within the study of ‘Land Potentially Suitable for Agricultural Zone’, have been zoned as Rural. This includes sites in the immediate vicinity of the subject site, and wider within the Local Authority area.

Table 1 - Draft LPS supporting report Table

<p>LCZ 1 The Landscape Conservation Zone should be applied to land with landscape values that are identified for protection and conservation, such as bushland areas, large areas of native vegetation, or areas of important scenic values, where some small-scale use or development may be appropriate.</p>	<p>The application of 80% native vegetation coverage coupled with the presence of either the Natural Assets or Scenic Landscape Code overlay as the first level of selection meets the intent of this guideline in that most of the property is constrained but there may be some potential for small scale use or development. A significant portion of the properties selected are located on the vegetated scenic hill slopes that characterise the Huon Valley. These areas have been spared from historical clearing due to being considered suboptimal for agriculture. The analysis of ‘large areas of native vegetation’ was attributed to a minimum native vegetation patch size</p>
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	of 20 ha. This links directly with the LCZ use standard 22.5.1 P1 minimum lot size of 20 ha.
<p>LCZ 2</p> <p>The Landscape Conservation Zone may be applied to: (a) large areas of bushland or large areas of native vegetation which are not otherwise reserved, but contains threatened native vegetation communities, threatened species or other areas of locally or regionally important native vegetation; (b) land that has significant constraints on development through the application of the Natural Assets Code or Scenic Protection Code; or (c) land within an interim planning scheme Environmental Living Zone and the primary intention is for the protection and conservation of landscape values.</p>	<p>Addressed by ensuring properties contain the Natural Assets Code overlay. The Huon Valley Natural Assets code is based on the 'Regional Ecosystem Model' which selected priority vegetation patches based on a range of criteria including, threat status, threatened species habitat, relative reservation, local scale fragmentation and relative rarity.</p> <p>It is important to note that modelling is based on best available data. Portions of the Huon Valley, especially those with limited road access or in remote areas, have had limited sampling and are somewhat data deficient.</p> <p>The Huon Valley is privileged to have a high diversity and abundance of threatened species, placing additional importance on protecting not only core habitat areas but natural ecological corridors be</p>
<p>LCZ 3</p> <p>The Landscape Conservation Zone may be applied to a group of titles with landscape values that are less than the allowable minimum lot size for the zone.</p>	<p>This was addressed by using the following selection criteria to select LCZ suitability:</p> <ul style="list-style-type: none"> • Three or more adjoining properties • Borders existing Environmental Management or Environmental Living properties intended to transfer to LCZ. • If less than three adjoining properties, the total area of these properties is at least 20 ha).

These comparable sites in terms of identified agricultural potential and vegetation coverage are also of a similar character to the subject site (i.e. in low land agriculture areas and not on the vegetated hills and mountains referred to in 2.4.5.3 of the Draft LPS Supporting Report), and subject to similar vegetation coverage (including multiple sites within the valley that have large expanses of *Eucalyptus obliqua* dry forest as identified in the TASVEG 4.0 layer).

5. Conclusion

This submission contends that the *Landscape Conservation* zone is not compatible with the historic and existing use of 130 Cudjee Road for its current operations and would also compromise the owners proposed plans to expand operations on site. 'Guideline No. 1 Local Provisions Schedule (LPS): zone and code application' states under section 3.0 'LPS zone and code application' that "The primary objective in applying a zone should be to achieve the zone purpose to the greatest extent possible".

The Rural 'Zone Purpose' [20.0] states:

"The purpose of the Rural Zone is:

20.1.1 To provide for a range of use or development in a rural location:

(a) where agricultural use is limited or marginal due to topographical, environmental or other site or regional characteristics;

(b) that requires a rural location for operational reasons;

(c) is compatible with agricultural use if occurring on agricultural land;

(d) minimises adverse impacts on surrounding uses.

20.1.2 To minimise conversion of agricultural land for non-agricultural use.

20.1.3 To ensure that use or development is of a scale and intensity that is appropriate for a rural location and does not compromise the function of surrounding settlements.”

It is submitted that the owner of the land has demonstrated through the historic, current, and proposed future use of the site for rural purposes that the underlying primary use of the land is for rural uses. This accords with the ‘Unconstrained’ findings of the ‘Land Potentially Suitable for Agricultural Zone’, and the historic and current use of the site.

Conversely, it is clear from the use of the site and intentions of the landowner that the site is not currently being used, nor is it intended to be used, for the purposes identified under the ‘zone purpose’ for the *Landscape Conservation* zone. It is submitted that the coverage of the Priority Vegetation Area provides sufficient protection for the natural assets, ecology, priority vegetation, and threatened species habitat and that the zone applied should primarily reflect the underlying land use.

It is, therefore, requested that the Council reconsiders the proposed zoning under the draft LPS to reflect the suitability of the site for rural uses, in line with the zoning of similar sites within the vicinity where ‘Unconstrained’ agricultural land, including land with large areas of vegetation coverage, that have been zoned as *Rural*.

An alternative zone, such as *Rural*, would enable the continued operation of current land for rural uses, as well as facilitate its potential future expansion, which is at risk under the proposed new zoning. The *Rural* zone would also accord with the primary purpose of the land, with the PVA overlay providing sufficient protection for the natural assets on site.

If you require any further information or clarification with respect to this advice, please contact me on 6231 2555 or at planning@jmg.net.au.

Yours faithfully

JOHNSTONE MCGEE & GANDY PTY LTD



Katrina Hill

TOWN PLANNER