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Subject: Representation Draft HVPLS - Garden Island Creek
Attachments: Representation Draft HVPLS - Garden Island Creek.pdf

Please find attached representation regarding proposed rezoning of properties at Garden Island Creek under the Tasmanian Planning Scheme and Draft Huon Valley Local Provisions Schedule.

This representation is submitted by the three affected landowners, cc'd into this email.

29 April 2022

The General Manager, Huon Valley Council
Sent by email to: hvc@huonvalley.tas.gov.au

Reference: "Draft Huon Valley Local Provisions Schedule"

**REPRESENTATION REGARDING REZONING
GARDEN ISLAND CREEK under the Tasmanian Planning Scheme and Draft Huon Valley Local
Provisions Schedule**

We submit the following representations.

This representation is lodged collectively by the affected landowners and there are common planning issues which should be considered. In essence, the landowners making the representation jointly contest the Landscape Conservation zone should not be applied for this area of Garden Island Creek and Rural Living is a more appropriate zone.

1 INAPPROPRIATE ZONING

We oppose the proposed rezoning of the lands from Environmental Living to Landscape Conservation and say it should not be applied on the following basis:

- The land does not satisfy the planning criteria and zone application guidelines for the Landscape Conservation Zone.
- The proposed rezoning has been based on an incorrect assessment of the land (by matter of facts) by planners or planning consultants;
- The grouping of properties to assess the criteria is a flawed process because it ignores the characteristics of a particular property. Further, the zoning boundaries are not based on logical planning decisions having regard to lands which meet or do not meet the planning criteria;
- Rural Living is a more appropriate zoning;

We respond pursuant to section 8A Guidelines of the Tasmanian Planning Scheme, and consideration of zone criteria in relation to the respective parcels of land:

Zone	Zone Purpose	Zone Application Guidelines	Response to Guideline
<p>22.0 Landscape Conservation Zone Red 150, Green 146, Blue 0</p>	<p>The purpose of the Landscape Conservation Zone is:</p> <p>22.1.1 To provide for the protection, conservation and management of landscape values.</p> <p>22.1.2 To provide for compatible use or development that does not adversely impact on the protection, conservation and management of the landscape values.</p>	<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>LCZ 2 The Landscape Conservation Zone may be applied to:</p> <p>(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;</p> <p>(b) land that has significant constraints on development through the application of the Natural Assets Code or Scenic Protection Code; or</p> <p>(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>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>The Landscape Conservation Zone should not be applied to: (a) land where the priority is for residential use and development (see Rural Living Zone); or (b) State-reserved land (see Environmental Management Zone).</p> <p>Note: The Landscape Conservation Zone is not a replacement zone for the Environmental Living Zone in interim planning schemes. There are key policy differences between the two zones. The Landscape Conservation Zone is not a large lot residential zone, in areas characterised by native vegetation cover and other landscape values. Instead, the Landscape Conservation Zone provides a clear priority for the protection of landscape values and for complementary use or development, with residential use largely being discretionary.</p> <p>Together the Landscape Conservation Zone and the Environmental Management Zone, provide a suite of environmental zones to manage use and development in natural areas.</p>	<p>The land does not have landscape values that are identified for protection and conservation, large areas of native vegetation or areas of important scenic values.</p> <p>The land does not have significant bushland areas and the land has previously been cleared for agricultural and rural living use (ie there is well less than 80% native vegetation per the guideline criteria).</p> <p>The land does not have important scenic values.</p> <p>The land does not comprise large areas of bushland or large areas of native vegetation which are not otherwise reserved.</p> <p>The land does not have significant constraints on development through the application of the Natural Assets Code or Scenic Protection Code.</p> <p>The land use of the subject land is not for the protection and conservation of landscape values. Rather the land use of the subject land is for Rural Living.</p> <p>Whilst the Landscape Conservation Zone may be applied to a group of titles with landscape values that are less than the allowable minimum lot size for the zone, the proposed zoning does not form a logical zoning boundary for planning purposes taking into account the use of the land and its characteristics and nor does it have significant landscape values. It should therefore be excluded from other groups of titles.</p> <p>The Landscape Conservation Zone should not be applied to: (a) land where the priority is for residential use and development, which is the case for the subject lands. The subject lands are more appropriately zoned Rural Living.</p> <p>The land is amongst other lands used for rural residential land uses and has formed part of the local Garden Island Creek community for in excess of 100 years. The land has been partly cleared of native vegetation from prior agricultural and rural residential land use and fails a reasonable test of scenic landscape or conservation land.</p> <p>The Huon Valley Council has acknowledged <i>“The Landscape Conservation Zone has been applied to most of the land currently zoned Environmental Living Zone in the Interim Planning Scheme ...”</i></p> <p>The substitution of the Landscape Conservation Zone as a replacement for the Environmental Living Zone is inconsistent with guidelines as stipulated within the Notes.</p>

2 FACTUAL INACCURACY IN INFORMATION FOR ZONING

Some of the justifications put by the HVC for the rezoning of the land are based on large scale spatial data analysis. No onsite inspection appears to have been undertaken and the proposed zoning is inappropriate.

The HVC Supporting Report for the Huon Valley Draft Huon Valley Local Provisions Schedule notes (p40):

“The first step was determining which properties were predominantly covered by native vegetation and formed part of a large area of native vegetation (LCZ 1). All natural vegetation features were extracted from the TasVeg 4.0 layer and intersected with the parcels layer to determine a percentage cover of native vegetation for each lot. 80% native vegetation cover was used as the minimum coverage for selection as potential LCZ properties.”

“Those located in areas of native vegetation less than 20 ha were removed.”

This has not been applied to the lands.

The lands do not meet the criteria for *“Protection of land with the highest environmental values has occurred through the application of the ... the Landscape Conservation Zone.”* (p80). The lands have been used for agriculture and rural residential use for many decades and have previously been partly cleared native flora and protected fauna. There are large tracts of land within the Municipality which far better represent *“land with the highest environmental values”*.

Riparian areas along the banks of Garden Island Creek, where native vegetation has been preserved and which form fauna corridors, do not form part of the title of the lands.

The lands are not covered by the Coastal Protection Plan.

The lands are not covered by Conservation Covenants.

The lands are not *“Significant landscapes such as key skylines and ridgelines”* (p100 LPS-HUO-TPS) warranting protection by the application of the Landscape Conservation Zone.

Garden Island Creek Road is not a scenic road corridor. It is a no through road, not used by tourists, and only services local residents and land owners. Much of the road is un-sealed.

3 FINANCIAL DAMAGES AND LOSS IN VALUE

There are material changes to permitted uses and development standards under the Landscape Conservation Zone in comparison to the existing zone. The proposed zoning will result in a reduction in permissible land uses (notably Residential), corresponding more difficult planning requirements for approvals for Discretionary Uses, and larger minimum lot sizes, resulting in a reduction in value of the lands.

In particular we note a significant change in the minimum lot size of 6 ha under the existing Environmental Living zone to 50 ha under the draft Landscape Conservation zone would have a material negative impact on the value of the land. Hence Rural Living B or C zoning is suggested.

We put the HVC on notice the landowners may seek financial damages and their costs in the event there is a down zoning of the land.

More generally the application of the Landscape Conservation Zone broadly to many parcels of privately owned land which do not have significant conservation values, across the Huon Valley Municipality appears to have been an error in sensible planning judgement. Other than public notices (which landowners may not have seen) landowners have not been written to and advised of the proposed rezoning of their land and Huon Valley Council have been dismissive of the real impact on permitted uses and development standards. Many landowners do not know the intricacies of planning schemes and legislation and may not have had the ability to make representations, yet the community have expressed very negative sentiment to the application of the Landscape Conservation zone in the Huon Valley Municipality.

We request the proposed re-zoning of the properties to Landscape Conservation not be implemented and the land be re-zoned Rural Living.

Person Making Representation	Property
Carolyn Phyllis Kitchener	50 Garden Island Creek Rd Garden Island Creek Tas 7112
Amanda Jane George Michael Adrian George	6104 Channel Hwy Garden Island Creek Tas 7112
Grant Neil McCall	6054 Channel Hwy Garden Island Creek Tas 7112