

29 May 2022

68 O'Hallorans Road  
Geeveston 7116

207

General Manager  
Huon Valley Council  
PO Box 210 Huonville  
TAS 7109

Dear Mr Browne,

**RE: Representation for the Huon Valley Council's advertised Landscape Conservation Zoning applied to Whale Point Road (CT 152992/2)**

Property           Whale Point Road, Port Huon (CT 152992/2)

Purpose             Change LPS zoning from Landscape Conservation to Rural Zone

I, Mark Jessop, live next door to this property and would like to submit the following representation that objects to the proposed Landscape Conservation Zone (LCZ) being applied to **CT 152992/2** but submit that it should be zoned Rural.

The land is currently zoned Rural Resource. LCZ has been applied due to the use of the priority vegetation overlay and a Regional Ecosystems Model (the REM) that we believe generally over represents habitat. Council staff using inaccurate GIS models rather than making a detailed physical assessment has resulted in staff failing to make the best "like for like" zoning decision.

**RECOMMENDATION**

1. HVC modify the LPS zoning for CT 152992/2 from Landscape Conservation to Rural Zone.

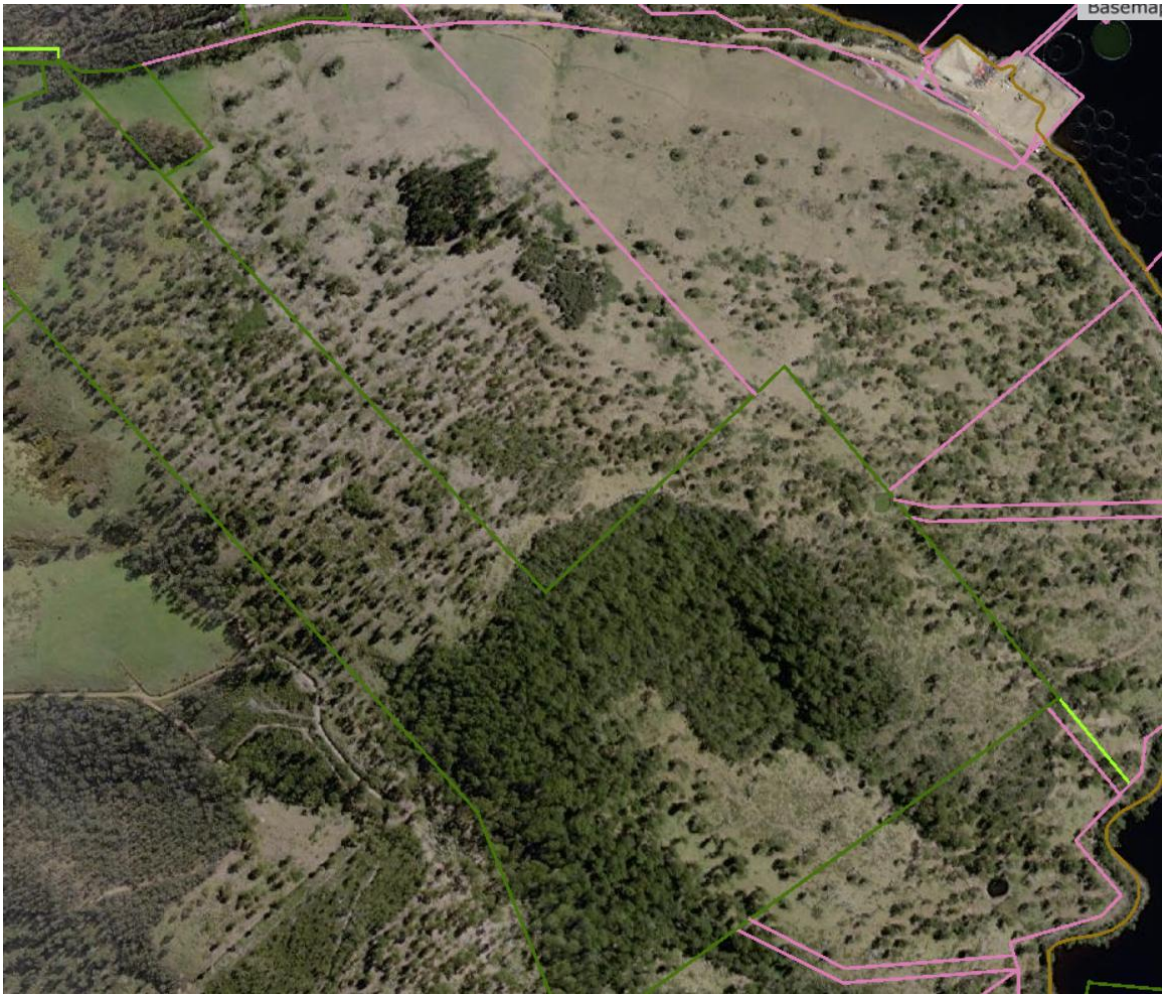
**PROPERTY DESCRIPTION AND CURRENT USE**

The Property belongs to the Bender Pastoral Company and part of an integrated pastoral business rising cattle in the Huon Valley.

The area has been used for saw milling and farming since the beginning of European settlement in the Huon. The land has a range of farming improvements including pasture, dams and fencing.

According to listmap the property is approximately 70ha, and appears to be around 40 ha of pasture with some paddock trees. I have physically inspected the block and this appears correct. This makes it about 43% native vegetation. Whale Point hill is the prominent feature.

The property next to it 142073/1 and 142071/6 and are both zoned Rural in the new LPS.



This picture shows the general nature of this pasture areas. The dark green understory plant is Gorse - a declared weed.



## ARGUMENT

This submission puts 6 cases for why LCZ is either incorrectly applied or unnecessarily applied. In summary it is argued:

Observation	Impact	Argument	Outcome
LZ1 Guideline not followed	Title does not meet LZ1 for inclusion of the LCZ	Ground testing show the property well under the 80% threshold at around 40% native vegetation.	The block does not meet LCZ1 and cannot be zoned LC.
Rural Zone for title is consistent with past, current and future use	STRLUS would encourage the most productive use of the land - which is rural	The property has been an operating farm for most of the 1900s and continues in the same use today. It has rural use potential.	The block most appropriately fits the Rural zoning
Consistent Zoning patterns are preferred within neighbouring blocks	LCZ on this property is inconsistent with other properties in the area	In the new LPS the majority of larger properties within 1km zoned Agriculture or Rural	The title should be zoned Rural
Like for Like transition not applied	The title was not comparatively assessed between LCZ and RZ	When the title is assessed against RZ it meets RZ1, RZ2 and RZ3. When assessed against LCZ it does not meet the criteria.	The block should be zoned Rural
Priority Veg Report - has not been ground tested and lacks accuracy and validity	Topography and Natural Asset and Scenic Code Overlays provide protection to these values	The REM is a model and has not been ground tested - it is inaccurate. Natural Asset and Scenic Protection Codes provide ample protection where it is desirable.	The majority of the vegetation is on Whale Point Hill - which is not likely to be developed and is also protected by other overlays.
Threatened species can be protected without Zoning	Topography and Natural Asset and Scenic Code Overlays provide protection to these values	The REM is a model and has not been ground tested - it is inaccurate. Natural Asset and Scenic Protection Codes provide ample protection.	LCZ is not required to achieve a balance between resource development and preservation of natural assets

**Guideline 1 not followed - title does not meet LZ1 for inclusion of the LCZ.**

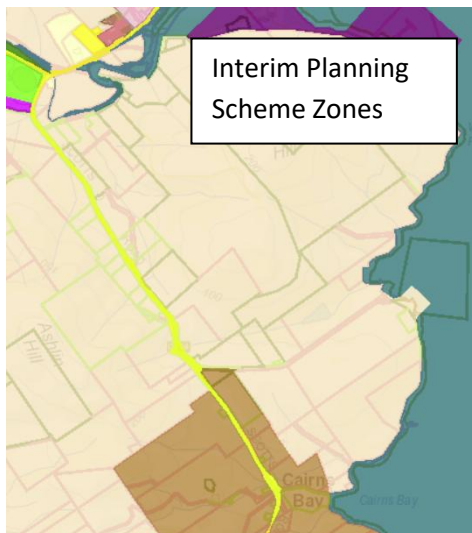
*LCZ 1 The Landscape Conservation Zone should be applied to land with landscape values that are identified for protection and conservation, such as bushland areas, large areas of native vegetation, or areas of important scenic values, where some small-scale use or development may be appropriate.*

In the HVC presentation on the LPS it was stated clearly that LCZ is applied when there is a property or group of properties that are 80% native vegetation.

This title has areas that would fit the definition of native vegetation or even forest - but this is only around 40% of the title. Other areas are pasture with some paddock trees - we would argue this should not be classed as native forest but as rural farm land.

**Rural Zone for title is consistent with past, current and future use.**

Historically the whole of Whale Point Hill and properties on Scotts Road and O'Hallorans Road have all been zoned Rural. We believe that the land remains suitable for larger scale resource development and as such does not meet the intent of LCZ1.



This title is active farm land and is managed as a farm - not as a conservation area. Farms need to evolve to meet changing needs and apply best practice. This involves on going resource development activities. The discretionary nature of these activities will add significant cost and time delays and adds an administrative burden to an already busy HVC staff. Under LCZ, technically many farming changes will require approval from Council which may include additional cost and time spent on consultant reports. It is an unnecessary and unreasonable financial impost on running a farming business.

Guideline 1 states, "the Landscape Conservation Zone provides a clear priority for the protection of landscape values". The HVC fact sheet also states "The Landscape Conservation Zone does not aim to render land 'unusable', rather "allow for compatible use or development where it is consistent with: (a) the protection, conservation and management of the values of the land".

However the comments associated in LZ1 in Table 12 of the HVC supporting document clearly are about restriction or constraint of further development ..."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**".

By its nature the LCZ is about limiting change, it assumes that only "some small-scale use or development may be appropriate" (Supporting Report p 41) - such as maybe a residence in an already cleared area.

The Huon Valley LGA lacks large parcels of land suitable for rural use - there is a large proportion of smaller (<15ha) rural plots. To constrain the future rural use of this parcel of land is not in the best interest of the Huon Valley - economically or socially.

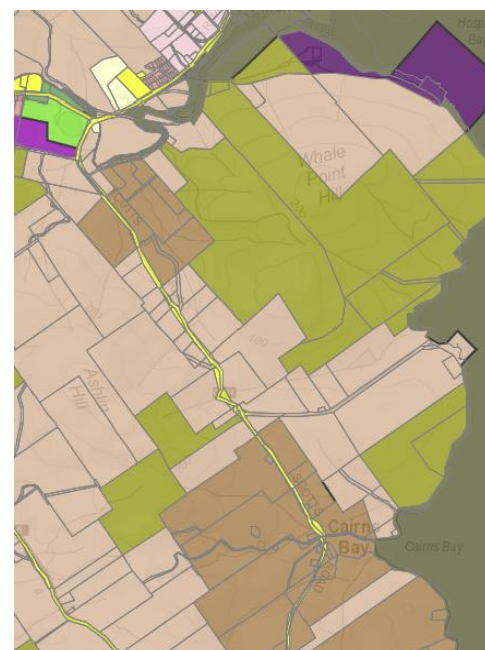
STRLUS Strategic Direction 5 Supporting our Productive Resources, identifies that all forms of primary production are critical to the economic and social health of our regional towns and villages. The STRLUS states "Supporting productive industries through appropriate land use planning responses is important for maintaining the vitality of these individual communities as well as protecting those landscape characteristics, which make Southern Tasmania an attractive place to live and visit".

**Is LCZ consistent with other properties in the area?**

No. As seen on the map, the vast majority of properties within 1km are rural and agricultural zoned under the LPS. This property and all the titles proposed for LCZ are used for grazing and have been recorded as farming land for generations.

**Rural Zone is the most appropriate for this title**

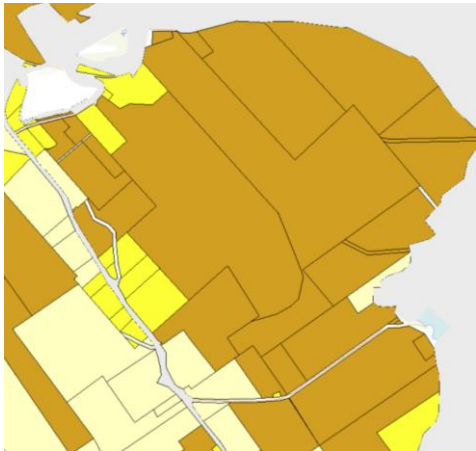
The title is currently zoned Rural Resource. LPS-HUO-TPS - Supporting Report for the Huon Valley Draft Huon Valley Local Provisions Schedule, on page 20 states "Further analysis of land currently zoned Rural Resource and Significant Agriculture was undertaken for land to be rezoned **either** Rural, Agriculture, Landscape Conservation or Rural Living."



And on Page 27 "This has meant that numerous properties that were zoned Rural Resource or Significant Agricultural under the Interim Planning Scheme, have been rezoned to the Rural, Agriculture, Landscape Conservation or Environmental Management Zones in accordance with the Guidelines." We contend that the guidelines were not correctly applied to all of the land on Whale Point Hill. In our view as the long standing use of the land is rural the most appropriate "like for like" transition is Rural.

The Statewide planning scheme and Guideline No1 are clear in the criteria for zoning land as Rural. We provide the following assessment against the Rural Zone criteria:

Zone Application Guidelines	Response
<p>RZ 1 The Rural Zone should be applied to land:</p> <ol style="list-style-type: none"> <li>1. in non-urban areas</li> <li>2. with limited or no potential for agriculture as a consequence of topographical, environmental or other characteristics of the area,</li> <li>3. and which is not more appropriately included within the Landscape Conservation Zone or Environmental Management Zone</li> <li>4. for the protection of specific values.</li> </ol>	<ol style="list-style-type: none"> <li>1. The property is non-urban.</li> <li>2. The property has some, but limited potential for agriculture. The property rises some 217m over 1.2KM - making it relatively steep in places. It is impractical for large scale agriculture - such as irrigated cropping - but perfectly suited for grazing. The top soil is a fertile clay loam - it supports improved pastures with minimal surface rocks. There is opportunity for some high value production on a number of areas on the property - including olives, nuts, grapes and cherries. Irrigation water is possible from the Kermantie River - either to irrigate directly or to store on farm.</li> <li>3. As shown above it does not meet the requirement for LCZ nor is this consistent with its current and long term historical use.</li> <li>4. Scenic values and biodiversity are protected by code overlays and the topography of the block.</li> </ol>

<p>RZ 2 The Rural Zone should only be applied after considering whether the land is suitable for the Agriculture Zone in accordance with the 'Land Potentially Suitable for Agriculture Zone' layer published on the LIST.</p> 	<p>Agricultural Land Mapping Project Identifying land suitable for inclusion within the Tasmanian Planning Scheme's Agriculture Zone Background Report, May 2017 (published by Department of Justice, Planning Policy Unit).</p> <p>The data and method used in this report is recorded on the GIS ListMap. All land on Whale Point Hill including our block is classed as Potentially Unconstrained (brown) and nearby properties as Potential by Constrained Criteria 2A (Yellow).</p> <p>In the AK Consultants report Guidelines for Identifying Areas of Interest, it states that where there are "multiple titles ..... a consistent zoning per holding is preferred where appropriate."</p> <p>Other adjoining titles owned by the Bender Pastoral Company are proposed to be zoned Rural.</p>
<p>RZ 3 The Rural Zone may be applied to land identified in the 'Land Potentially Suitable for Agriculture Zone' layer, if:</p> <p>(a) it can be demonstrated that the land has limited or no potential for agricultural use and is not integral to the management of a larger farm holding that will be within the Agriculture Zone;</p> <p>(b) it can be demonstrated that there are significant constraints to agricultural use occurring on the land;</p> <p>(e) it can be demonstrated, by strategic analysis, that the Rural Zone is otherwise more appropriate for the land</p>	<p>We believe three points are relevant -</p> <p>(a) under the D'ENTRECASTEAUX REPORT Land Capability Survey of Tasmania 2001 the land is classed 5/6 (suitable for pastoral/grazing) - however this assessment does not take into account horticulture (such as viticulture and orchards) or the possible access to irrigation water. By considering these possibilities the property becomes obviously rural.</p> <p>The AK Decision Tree report also provides further valuable advice. It states that irrigation resources can be considered for properties within 1 KM of a stream - this property has riparian rights to the Kermandie River.</p> <p>(b) as outlined above the topography in particular makes large scale agriculture unlikely, but smaller niche production and horticulture which would possibly include a level of on farm processing and making is not unreasonable (such as viticulture).</p> <p>(e) the unique size of the property, positioning in what is a clearly rural/agricultural zone area, the distance from urban/village zones and its already established pastures and infrastructure support Rural zoning.</p>

**Are there scenic values that need to be protected?**

The LCZ "focus primarily on conservation of scenic and natural values, with considerations on the extent of native vegetation, potential scenic values...". We would contend that due to the topography of the land Whale Point Hill is well protected by the addition of the scenic overlay.

What value there is can be amply protected by the existing scenic overlay applied to Whale Point Hill on the top third of the title - away from the primary farming land.

Additional protections are also in place that limit clearing on all land in Tasmania. Substantial areas of the property are excluded from any clearing as the land is "vulnerable" - stream sides, steep slopes, threatened species habitat. As TFGA states on their website -

- Small scale clearing (up to 1 ha per property per year) providing landholder consent is given and the land is NOT vulnerable land. Vulnerable land refers to: stream sides and stream side reserves, machinery exclusion zones, land with steep slopes, land within the high and very high soil erodability class, land that consists of or contains a threatened vegetation community or threatened species, land with vulnerable karst soils, or land that contains an area of trees reserved from harvesting or clearing under an expired forest practices plan.

Scenic values can be protected by dual zoning, but the HVC appears to be unwilling to apply dual zoning - despite other LGAs seeming to be willing to do so (such as Brighton).

### **In conclusion**

We believe that the application of the LCZ is incorrect and the best like for like transition is from Rural Resource to Rural zoning.

We contend that the estimate of native vegetation based on GIS models would be incorrect and at best there is little more than 40% native vegetation. We believe the REM model is largely untested in the Huon Valley, contains substantial over estimates of habitats and is not fit for purpose in determining zoning decisions.

We believe that the topography, Natural Asset and Scenic Protection Code Overlays provides sufficient protection for any natural or scenic asset values of this property. Additionally, applying the LCZ to the whole 70 ha to protect areas already protected is a grossly disproportionate action.

We believe Rural zoning is the best strategic use of this land for the social and economic well being of the Huon Valley.

Finally, Rural Zoning is best suited to the current and historic land use of the block and is consistent with the use of other properties in the area.

Yours sincerely



Mark Jessop  
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