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To: [TPC Enquiry](#); [McCrossen, Samuel](#)
Cc: [James Hattam](#); [Dr Michael Vaughan](#); [Fiona Taylor](#); lwalters@hotmail.com
Subject: Leprena Trust TPC Directive 4 response 28-2-2024 HVC LPS Scenic Protection
Date: Wednesday, 28 February 2024 3:33:46 PM
Attachments: [Leprena Trust TPC Directive 4 response 28-2-2024 HVC LPS Scenic Protection .pdf](#)

To the Tasmanian Planning Commission,

Please find attached the Leprena Trust response to the Tasmanian Planning Commission Directive 4 (21 Feb 2024) in relation to the Huon Valley Council LPS for the Proposed Blackswan Lagoon Scenic Protection Area.

Please can the TPC Chairperson, Mr John Ramsay, write to the Tasmanian Parks and Wildlife Service seeking a response to the proposed *Blackswan Scenic Protection Area* for inclusion in the Huon Valley Council Local Planning Schedule (LPS) *C8.0 Scenic Protection Code* within the Tasmanian Planning Scheme. This proposal includes parts of the Southport Conservation Area and adjoining coast, under Tasmanian Parks and Wildlife Service (TPWS) management, in accordance with *National Parks and Reserves Management Act 2002* and the *National Parks and Reserved Land Regulation 2019* and the *Crown Lands Act 1976*. The proposed *Blackswan Scenic Protection Area* includes an area of State and National Heritage Listing of international interest and very high scenic value (assessed using the '*Guidelines for scenic values assessment methodology and local provisions schedules for the scenic protection code*' and methods within the '*A Manual for Forest Landscape Management 2006*').

The proposal includes private lands owned by the Tasmanian Land Conservancy, Vaughan's and Trustees for the Leprena Trust, all of whom are fully supportive of the proposal and willing to restrict development and prevent new tracks being built on their lands, provided that similar conditions remain in effect on the TPWS managed areas, and are reinforced through application of the additional Scenic Protection area Management Objectives and retention of the statutory management plan **section 4.4.17 New structures or any other type of development (including new tracks) will not be allowed** in the Conservation Zone.

It is noteworthy that the Scenic Protection proposal is:

1. Compatible with the Tasmanian Parks and Wildlife Service statutory management plan over the relevant parts of the Southport Lagoon Conservation Area's Conservation Zone, and
2. Compatible with LUPAA Section 7(d) for application over water areas, and
3. Complimentary to *National and State Heritage Listing*.

I request the TPWS endorse this reserve compatible Scenic Protection Code, as it will assist in scenic values being identified and considered during potential future management or works. The Code Management Objectives could be included in TPWS proposed statutory Reserve Activity Assessments or the current Huon Valley Council assessment process under the Land Use Planning Approvals Act (LUPAA).

The proposal has the full support of Jean-Pierre Thebault (whilst French Ambassador to Australia), the Huon Valley Council, South East Tasmanian Aboriginal Corporation, Weetapoonna Aboriginal Corporation, and the support of other representors. All the representors request the TPWS support the proposal and retain the current Conservation Zone management prescriptions over the Scenic Protection Area, to protect this highly significant place from development. The previous French Ambassador to Australia has also made similar requests to the Tasmanian Government.

Your sincerely,

Dr Jason Whitehead

Trustee (on behalf of other Trustees/beneficiaries) - Leprena Trust (Sullivans Point, Leillateah Recherche Bay)

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28 February 2024, Copied to:
James Hattam and Leigh Walters
Tasmanian Land Conservancy
Michael Vaughan,
private landholder at Quiet Cove

Leprena Trust Response Tasmanian Planning Commission
Directive 4 (dated 21 Feb 2024) Huon Valley Council LPS
Proposed Blackswan Lagoon Scenic Protection Area

To the Tasmanian Planning Commission,

Please can the TPC Chairperson, Mr John Ramsay, write to the Tasmanian Parks and Wildlife Service seeking a response to the proposed *Blackswan Scenic Protection Area* for inclusion in the Huon Valley Council Local Planning Schedule (LPS) *C8.0 Scenic Protection Code* within the Tasmanian Planning Scheme. This proposal includes parts of the Southport Conservation Area and adjoining coast, under Tasmanian Parks and Wildlife Service (TPWS) management, in accordance with *National Parks and Reserves Management Act 2002* and the *National Parks and Reserved Land Regulation 2019* and the *Crown Lands Act 1976*, and private land under other management (map in **Appendix A**). The proposed *Blackswan Scenic Protection Area* includes an area of State and National Heritage Listing of international interest and very high scenic value (**Figure 1**).



Figure 1. Proposed scenic protection area includes area in fore ground (photo courtesy of B.Brown).

A scenic value analysis has been undertaken by Dr Jason Whitehead (suitably qualified person), applying the 'Guidelines for scenic values assessment methodology and local provisions schedules for the scenic protection code' and methods within the 'A Manual for Forest Landscape Management 2006', and presented to the TPC Committee and Huon Valley Council staff. Huon Valley Council elected members supported the proposal, and the Scenic Protection Code Table C8.1 was subsequently created with technical input from Trent Henderson (Red Seal Planning), acting on behalf of the Leprena Trust, and Clare Hester (ERA planning) and Jacqui Blowfield (Ireneinc Planning), acting on behalf of the Huon Valley Council.

The proposed *Blackswan Scenic Protection Area* has the full support of Jean-Pierre Thebault (whilst French Ambassador to Australia), the Huon Valley Council, Mr David Shelley (Honorary Consul for France in Tasmania), South East Tasmanian Aboriginal Corporation, Weetapoono Aboriginal Corporation, first nation businesses (Ochre Rain Pty Ltd, and Pakana Services Pty Ltd), Palawa elders Uncle Rodney Dillion and Professor Gregory Lehman (former Pro Vice-Chancellor for Aboriginal Leadership from the University of Tasmania), Joe Shemesh (photographer) and Dr Jean-Philippe Beaulieu (historian and astronomer). The proposed scenic protection area includes private lands owned by the Tasmanian Land Conservancy, Vaughan's and Trustees for the Leprena Trust, all of whom are fully supportive of the proposal and willing to restrict development and prevent new tracks being built on their lands, provided that similar conditions remain in effect on the TPWS managed areas, and are reinforced through application of the additional Management Objectives Table C8.1 (endorsed by the Huon Valley Council **Appendix B**) and retention of the statutory management plan **section 4.4.17 New structures or any other type of development (including new tracks) will not be allowed** in the Conservation Zone as it applies here. It is noteworthy that the Scenic Protection proposal is:

- 1) Compatible with the Tasmanian Parks and Wildlife Service statutory management plan over the relevant parts of the Southport Lagoon Conservation Area's Conservation Zone (**Appendix C**), and
- 2) Compatible with LUPAA Section 7(d) for application over water areas (**Appendix D**), and
- 3) Complimentary to *National and State Heritage Listing* (**Appendix E**).

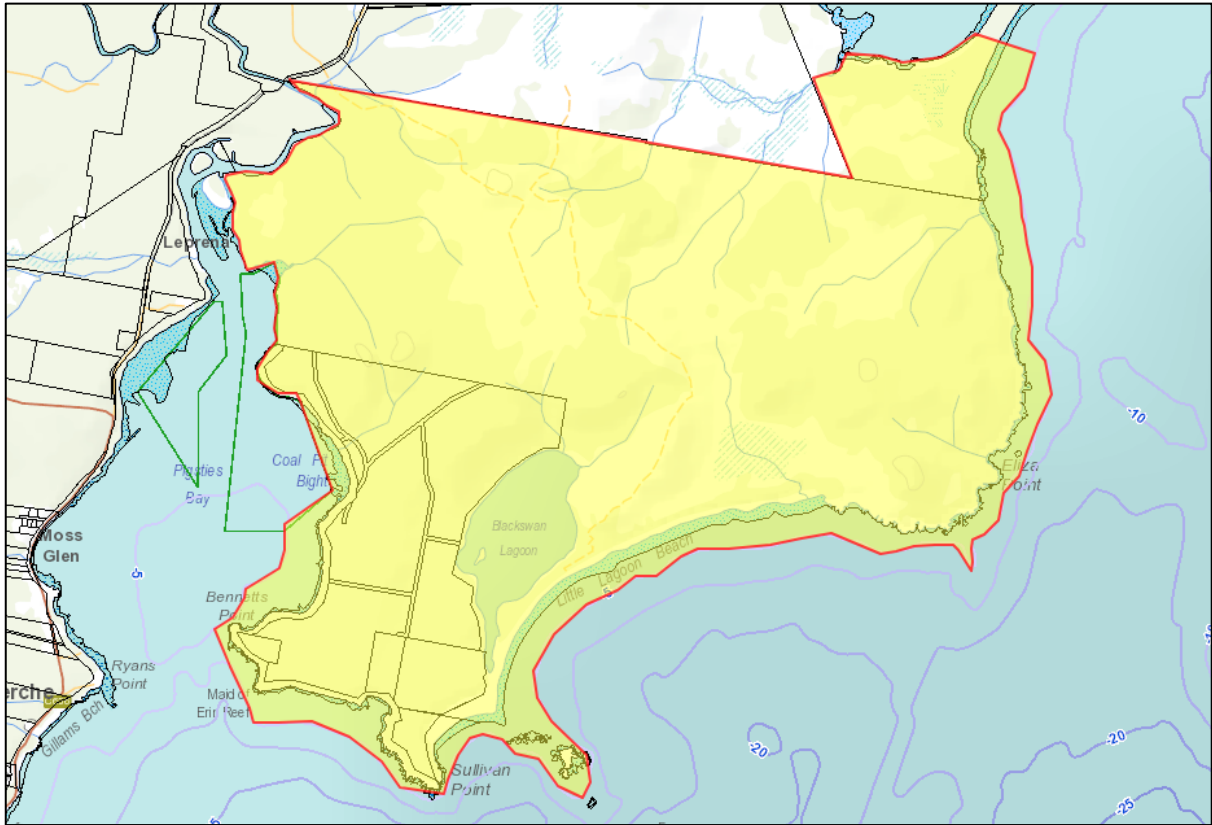
I request the TPWS endorse this reserve compatible Scenic Protection Code, as it will assist in scenic values being identified and considered during potential future management or works. The Code Management Objectives could be included in TPWS proposed statutory Reserve Activity Assessments or the current Huon Valley Council assessment process under the Land Use Planning Approvals Act (LUPAA) (please see further discussion in **Appendix F**). All above stakeholders request the TPWS support the proposal and retain the current Conservation Zone management prescriptions over the Scenic Protection Area, to protect this highly significant place from development. The previous French Ambassador to Australia has also made similar requests to the Tasmanian Government.

Your sincerely,
Dr Jason Whitehead
Trustee (on behalf of other Trustees/beneficiaries)
Leprena Trust (Sullivans Point, Leillateah Recherche Bay)



APPENDIX A:

The extent of the proposed *Blackswan Lagoon Scenic Protection Area* is (red outline and highlighted), includes parts of the TPWS managed Southport Conservation Area (Conservation Zoned), an area of State waters, and private land (Title References 137404/1, 203443/6, 203411/1).



APPENDIX B:

Table C8.1 (endorsed by the Huon Valley Council)

C8.1 Scenic Protection Area

Reference Number	Scenic Protection Area Name	Description	Scenic Value	Management Objectives
To be determined	Blackswan Lagoon	<p>Low lying coastal peninsular, covered in native forest, moorland and button grass plains and includes coastal dunes, wetlands, scrubland, sandy beaches, rocky shorelines, tidal flats, rivers, streams, and coastal lagoons.</p> <p>Evidence of development on the peninsular is now limited to a few revegetated ruins only visible when standing at these locations and most have heritage significance. There are a few disused vehicle tracks present within the landscape that are evident from the air but are less visible from coastal and water locations.</p> <p>Description of the scenic protection area includes:</p> <p>(a) the forested hills north and east of Eliza Point and Bowdens Mistake (up to approximately 63m elevation), the connecting saddles and adjacent spurs that descend to sea-level to the south and east, and to open plains to the north and west;</p> <p>(b) An open ridge east of Blackswan approximately elevation, northward via a forested saddle and approximately 48m elevation and then descends north as an open vegetated spur;</p> <p>(c) Forested hills north of and west of Blackswan lagoon</p>	<p>(a) The natural undeveloped visual aesthetic are values of importance within the National and State Heritage Listed area and larger scenic protection area that are associated with the 1792 and 1793 D'Entrecasteaux expeditions, including the French garden site, Bennetts Point observatory site, other activity sites and historic recording of ethnographic and scientific discovery and friendly interactions with First Nation's people in 1793. A public campaign to prevent logging in the area, and obtain national and state heritage listing, saw iconic aerial imagery of the area used that raised the international awareness of the undeveloped scenic value associated with the area's cultural heritage, vegetation, water forms and landform features.</p> <p>(b) Ethnographic records were made between the 1790s to 1840s from European contact with First Nations people, and contemporary oral histories indicating the location of burials and sites of cultural importance in an area with high scenic aesthetic due to lack of development currently in use:</p> <p>i) The forested areas and foreshore around Blackswan Lagoon, Little Lagoon Beach, Quiet Cove, Pigsties Bay, Bennetts Point and Southport Lagoon are where important French and First Nations interactions occurred in 1793;</p> <p>ii) Bennetts Point where French Astronomical observations occurred in 1792 and important French and First Nations interactions occurred in 1793;</p> <p>iii) Quiet Cove where First Nations houses were drawn in 1792 and important French and First Nations interactions occurred in 1793;</p> <p>iv) The eastern coastline of Pigsties Bay is where the French Garden is located and the d'Entrecasteaux expedition shore-based encampments occurred in 1792;</p> <p>v) Sullivans Point used by the French in 1792 as a coastal surveying location;</p>	<p>(a) Development, excepting works related to currently existing access tracks, must occur so that no visual evidence of development is evident on the peninsular, to respect and enhance the scenic integrity and cultural historic landscape associated with the scenic values, including all the following:</p> <p>i) No vegetation removal or any disturbance to forest canopy cover, including bushfire protection measures related to use or development, that results in visual impact when viewed from a site identified within the Description or Scenic Value of this Scenic Protection Area.</p> <p>ii) Development must not include roofed buildings and if non-roofed buildings or structures are proposed they are only to be located where existing use rights for camping exists under Nature Conservation Covenant at the effective date, excepting traditional Aboriginal huts for the purpose of cultural use and knowledge sharing that does not involve the construction of a permanent structure.</p> <p>iii) No development is to be located between high water mark and the 5m bathymetric contour, except for mooring ropes and buoys, to prevent visual impact from marine facilities or the like.</p> <p>iv) New vehicle or bicycle tracks must not be established.</p> <p>v) New walking tracks must not be established around the coastal foreshore, or the foreshore of Blackswan Lagoon, or inland between Quiet Cove and Blackswan Lagoon or Little Lagoon Beach (including parts of CTs 203691/1, 137404/1, 203443/6 and 203411/1),</p>

		<p>that continue to Sullivans Point;</p> <p>(d) A forested rise ascending from the coast east of Pigsties Bay and the D'Entrecasteaux River;</p> <p>(e) Numerous hills up to 54m elevation within a mosaic of forested and open vegetation;</p> <p>(f) The Little Lagoon Beach dune ridge;</p> <p>(g) The isthmus between Big Lagoon Beach and Southport Lagoon;</p> <p>(h) Blackswan Lagoon;</p> <p>(i) The islands known as The Images and to a surrounding water depth of 5m;</p> <p>(j) The coastal land and south eastern foreshore of Southport Lagoon down to the mean high water mark;</p> <p>(k) The coastal land and foreshore from Big Lagoon Beach and around the coast to Pigsties Bay and extending to a water depth of 5m but excluding the existing Marine Farming Zone within Pigsties Bay;</p> <p>(l) Land to the mean high water mark of the eastern bank of D'Encastreaux River to the former Leprena Track Bridge location.</p>	<p>vi) Type locations for historic plant and animal collections, including the forested area behind Little Lagoon Beach, the type of location for Tasmania's floral emblem (<i>Eucalyptus globulus</i>);</p> <p>vii) First Nation living and heritage sites along the coast, including the coastal area from Big Lagoon Beach to Little Lagoon Beach.</p> <p>(c) Scenic values include the undeveloped forest and open vegetation mosaic forming visually distinctive variations in vegetation patterns created through influence of past cultural fire management.</p> <p>(d) Blackswan Lagoon where there is year-round high abundance of black swans and is a water form and wildlife feature of high scenic value.</p> <p>(e) The natural undeveloped visual aesthetic is appreciated by locals and visitors for cultural and passive recreational uses when located at the following viewpoints:</p> <p>i) walking on former vehicle tracks, beaches and rocky foreshores within the scenic protection area,</p> <p>ii) flying over the area typically by people going to or from Melaleuca,</p> <p>iii) boating or kayaking around the coastal shoreline (including Southport Lagoon),</p> <p>iv) anchorages and moorings in Pigsties Bay and Quiet Cove,</p> <p>v) public roadside viewing from Moss Glen,</p> <p>vi) from private properties within the scenic protection area,</p> <p>vii) from private properties in Moss Glen, Finns Beach, Jones Beach and Catamaran,</p> <p>viii) from Finns Beach, Jones Beach and Gillams Beach near public camping grounds,</p> <p>ix) public viewpoints at Cockle Creek, Adams Point, Fishers Point and the walking track joining these locations, and</p> <p>x) the Bruny Island Lighthouse viewpoint.</p>	<p>due to the high visual sensitivity and significance of these areas.</p> <p>vi) Establishment of any new walking tracks and signage must be kept to a minimum and must follow the route of existing access tracks with minor deviations in route as necessary for the protection of natural, heritage or scenic values and must have minimal visual intrusion from the sky and avoid being seen from surrounding coastal and waterway locations.</p> <p>vii) Prevent development on sand dunes that would impact on the scenic values of the coastal dune, including through loss of coastal vegetation and or dune stability.</p> <p>(b) Development related to currently existing access tracks, must occur in a way which limits visual evidence of development on the peninsular to respect and enhance the scenic values of the area, including all the following:</p> <p>i) The upgrading of existing access tracks must have minimal visual intrusion from the sky and avoid being seen from surrounding coastal and waterway locations.</p> <p>ii) All works related to converting sections of former vehicle tracks into walking tracks must prevent erosion or other damage and must reduce visual impact from vegetation disturbance and prevent the exposure of rock and soil.</p> <p>iii) Former vehicle tracks other than areas being retained as walking tracks must either be left to continue natural recovery or actively rehabilitated through management actions where required.</p>
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APPENDIX C:

Proposed *Blackswan Scenic Protection Area* is compatible with the Tasmanian Parks & Wildlife Service (TPWS) '*Southport Lagoon Conservation Area George III Monument Historic Site & Ida Bay State Reserve Management Plan 2006*'.

The position of the representors is consistent with the Tasmanian Parks & Wildlife Service (TPWS) '*Southport Lagoon Conservation Area George III Monument Historic Site & Ida Bay State Reserve Management Plan 2006*'. The area within the proposed Scenic Protection area is a 'Conservation Zone'. The Code focused on scenic value protection is compatible with many parts of the TPWS statutory plan:

Section 1.7 State of Significance

Section 1.9 Values Purposes and Objectives of Reservation

Section 2.2 Wilderness & Landscape Values

Section 2.5 Flora

Section 2.6 Fauna

Section 2.7 Aboriginal Heritage

Section 2.8 European Heritage

Section 3.3 Rehabilitation

Section 3.4 Reserve Boundaries

Section 4.3 Other Development within the Reserves

Section 4.4 Zoning

Section 4.4.17 The "Prescriptions for the Conservation Zones"

Section 4.5 Development around the reserves

Table 4 Recreational setting for the Reserves

Section 1.7 State of Significance Page 6

.... *The conservation area has high scenic values* ...

The statutory management statement that "*the conservation area has high scenic values*", has not been quantified or described. A detailed analysis of scenic value has been undertaken for the proposed *Blackswan Lagoon Scenic Protection Area* through the application of the '*Guidelines for scenic values assessment methodology and local provisions schedules for the scenic protection code*'. The findings of the analysis and stakeholder consultation has informed the documentation of the areas 'description, scenic values, and management objectives' within the proposed Scenic Protection Area Table C8.1 (**Appendix B**). This has been created with professional planning technical assistance (Red Seal Planning, ERA Planning, Ireneinc Planning, and with further input from Huon Valley Council planners) and conforms with the level of protection that can be afforded through the Tasmanian Planning Scheme Scenic Protection Code. All representors request that the TPWS fully support the proposal and also retain the current Conservation Zone management prescriptions over the Scenic Protection Area.

Section 1.9 Values, Purposes and Objectives of Reservation Pages 7 & 8

The management objectives [include]:

- *to conserve sites or areas of cultural significance...*
 - *to encourage cooperative management programs with Aboriginal people....*
- ...the following management objectives for conservation areas set out in the Act [Schedule 1 of the Nature Conservation Act 2002] **will not apply** in the Southport Lagoon Conservation Area:*
- *..to provide for other commercial or industrial uses of coastal areas [this means no commercial development can occur in coastal areas]*

Scenic protection aligns with the Southport Conservation Areas Values, Purpose and Objectives.

Section 2.2 Wilderness & Landscape Values Page 13

The scenic beauty or landscapes within the reserves provides a significant recreational resource. The lack of significant developments provides a feeling of remoteness and isolation. The natural setting of the area provides a compelling link to the landscape in existence at the time of the 1792 and 1793 French visits and their interaction with the local Aboriginal community.

Aims

The aims of natural and cultural landscape conservation in the three reserves are to reverse the processes of recent human disturbance and restore where possible, naturalness and landscape values.

Prescriptions

Many prescriptions of relevance are found in other sections

*[see **section 4.4.17 New structures or any other type of development (including new tracks) will not be allowed** in the Conservation Zone].*

2.2.1 Carefully consider the visual impact of all developments within the reserves (also see Section 4.3).

Scenic protection aligns with the Southport Conservation Areas Wilderness & Landscape Values are strongly connected to the lack of development that creates an area with high scenic value (see Table C8.1 Scenic Value, below).

Table C8.1, Appendix B
Scenic Value

- (a) *The natural undeveloped visual aesthetic are values of importance within the National and State Heritage Listed area and larger scenic protection area A public campaign to prevent logging in the area, and obtain national and state heritage listing, saw iconic aerial imagery of the area used that raised the international awareness of the undeveloped scenic value associated with the area's cultural heritage, vegetation, water forms and landform features*

Section 2.5 Flora Page 16-18

[The Conservation Area] *remains in a relatively undisturbed state.As a type locality (see for botanical specimens... It is the site of the first botanical collecting in Tasmania (then Van Diemens Land) by Bruni D'Entrecasteaux's 1792 expedition.*

Conservation significance

[includes] Tasmanian bluegum *Eucalyptus globulus*, the floral emblem of Tasmania, was first collected in Tasmania by scientist La Billardiere of the D'Entrecasteaux expedition.

Aims

- *minimise harmful impacts on vegetation*

The TPWS statutory management plan notes the conservation significance of an area containing the type specimen of the Tasmanian bluegum *Eucalyptus globulus*, which also has high scenic value, and that an aim is to minimise harm, but there are no specific floral management prescriptions to protect scenic values in the plan. The proposed *Blackswan Scenic Protection Area* Management Objectives seeks to further protect the scenic values associated with this type locality and other vegetation scenic values (see Table C8.1 Scenic Value, below).

Table C8.1, Appendix B

Scenic Value

- (a) *.... A public campaign to prevent logging in the area, and obtain national and state heritage listing, saw iconic aerial imagery of the area used that raised the international awareness of the undeveloped scenic value associated with the area's Vegetation....*
- (b) i) *The forested areas*
- (b) vi) *Type locations for historic plant and animal collections, including the forested area behind Little Lagoon Beach, the type of location for Tasmania's floral emblem (*Eucalyptus globulus*).*
- (c) *Scenic values include the undeveloped forest and open vegetation mosaic forming visually distinctive variations in vegetation patterns created through influence of past cultural fire management.*

Section 2.6 Fauna Page 21

Management issues

. ... tracks through vegetation cause significant habitat fragmentation which potentially has a major impact on aspects such as gene flow, species diversity and movement of feral pests.The profusion of tracks enables greater access of feral pests through the area.

The Southport Conservation Area's Conservation Zone management prescriptions aligns with the Management Objectives of the proposed *Blackswan Scenic Protection Area*, in that **Section 4.4.17** Conservation Zone prescription is that ***new structures or any other type of development (including new tracks) will not be allowed.*** Prohibition on new tracks assists the protection of native fauna as well

protects scenic value. The 'Guidelines for scenic values assessment methodology and local provisions schedules for the scenic protection code' also places very high scenic significance on areas with high concentrations of wildlife, such as Blackswan Lagoon (see Table C8.1 Scenic Value, below).

Table C8.1, Appendix B
Scenic Value

(d) Blackswan Lagoon where there is year-round high abundance of black swans and is a water form and wildlife feature of high scenic value.

Section 2.7 Aboriginal Heritage Page 22

Conservation Significance

All Aboriginal sites are of significance

Prescriptions [includes]

2.7.5 All proposed landscape modification, development, or maintenance will be subject to the prescriptions of this management plan.

The *Aboriginal Heritage Act 1975* provides protection of tangible Aboriginal heritage objects, but fails to protect scenic values associated with cultural landscapes and values. Scenic protection through the mapped area in the proposed *Blackswan Lagoon Scenic Protection Area*, and the associated Management Objectives in Table C8.1 (will assist the protection of scenic values associated with sites of significance to Aboriginal people. It is strongly recommended that the Conservation Zone management prescription '***New structures or any other type of development (including new tracks) will not be allowed***' be retained.

Table C8.1, Appendix B
Scenic Value

- (b) Ethnographic records were made between the 1790s to 1840s from European contact with First Nations people, and contemporary oral histories indicating the location of burials and sites of cultural importance in an area with high scenic aesthetic due to lack of development currently in use:*
- i) The forested areas and foreshore around Blackswan Lagoon, Little Lagoon Beach, Quiet Cove, Pigsties Bay, Bennett's Point and Southport Lagoon are where important French and First Nations interactions occurred in 1793*
 - ii) Bennett's Point where important French and First Nations interactions occurred in 1793;*
 - iii) Quiet Cove where First Nations houses were drawn in 1792 and important French and First Nations interactions occurred in 1793;*
 - vii) First Nation living and heritage sites along the coast, including the coastal area from Big Lagoon Beach to Little Lagoon Beach.*
- (c) Scenic values include the undeveloped forest and open vegetation mosaic forming visually distinctive variations in vegetation patterns created through influence of past cultural fire management.*

Area of high scenic value to Aboriginal people include sites with interconnected tangible and intangible values. Scenic values may be associated with areas of ancestral and contemporary use, containing history, creational stories and burials.

Section 2.8 European Heritage Page 28

Conservation Significance

Sites of early European exploration and settlement.... all have heritage value at the local and state level. [part of the area has State and National Heritage listing]

Management issues

.... the fundamental lack of knowledge of historic heritage sites and of the impact of current management and user activities upon any surviving sites is an issue.

The proposed *Blackswan Lagoon Scenic Protection Area* Table C8.1 scenic value description includes many places of European Heritage significance, including those on private land, where the TPWS statutory plan does not apply. The proposal is complimentary to the values identified through National and State Heritage Listing. (see **Appendix E**).

Table C8.1, Appendix B

Scenic Value

- (a) *The natural undeveloped visual aesthetic are values of importance within the National and State Heritage Listed area and larger scenic protection area that are associated with the 1792 and 1793 D'Entrecasteaux expeditions, including the French garden site, Bennett's Point observatory site, other activity sites and historic recording of ethnographic and scientific discovery and friendly interactions with First Nation's people in 1793. A public campaign to prevent logging in the area, and obtain national and state heritage listing, saw iconic aerial imagery of the area used that raised the international awareness of the undeveloped scenic value associated with the area's cultural heritage.....*
- (b) *Ethnographic records were made between the 1790s to 1840s from European contact with First Nations people, and contemporary oral histories indicating the location of burials and sites of cultural importance in an area with high scenic aesthetic due to lack of development currently in use:*
 - i) *The forested areas and foreshore around Blackswan Lagoon, Little Lagoon Beach, Quiet Cove, Pigsties Bay, Bennett's Point and Southport Lagoon are where important French and First Nations interactions occurred in 1793;*
 - ii) *Bennett's Point where French Astronomical observations occurred in 1792 and important French and First Nations interactions occurred in 1793;*
 - iii) *Quiet Cove where First Nations houses were drawn in 1792 and important French and First Nations interactions occurred in 1793;*
 - iv) *The eastern coastline of Pigsties Bay is where the French Garden is located and the d'Entrecasteaux expedition shore-based encampments occurred in 1792;*

- v) *Sullivan's Point used by the French in 1792 as a coastal surveying location;*

Section 3.3 Rehabilitation Page 33

Many areas of the conservation area damaged by vehicle activity and camping require rehabilitation works.

The proposed *Blackswan Lagoon Scenic Protection Area* Table C8.1 Management Objective (b) (iii) '*Former vehicle tracks other than areas being retained as walking tracks must either be left to continue natural recovery or actively rehabilitated through management actions where required*', aligns with the management prescriptions of the TPWS management plan, and provides context in relation to improving scenic values.

Section 3.4 Reserve Boundaries Page 34

Management Issues

The present boundaries of the State reserve and conservation area effectively surround several large blocks of private land, providing difficulties for delivering effective land management to these reserves.

Prescriptions

3.4.2 Seek to ensure the complimentary management of surrounding private land.....

The proposed *Blackswan Lagoon Scenic Protection Area* Management Objectives will also apply to private land, and thus reduce TPWS management issues associated with potential development on adjoining private land that may reduce the areas scenic value. This is discussed further in relation to Section 4.5 Development around the reserves (below).

Section 4.3 Other Development within the Reserves Page 37-42

...the reserves have been zoned to provide guidance on the location of development [see Section 4.4 Zoning] Section 4.4 Zoning

The reserves have been zoned to ensure appropriate management and use in their different parts.

Conservation Zone General Aim

To conserve natural integrity ...To conserve heritage values. To maintain the character of naturalness, tranquillity and isolation.

Section 4.4.17 The "Prescriptions for the Conservation Zones" states:

4.4.17 New structures or any other type of development (including new tracks) will not be allowed, apart from the following:

- works required for the maintenance of existing management infrastructure, including tracks; and*
- works required in circumstances of safety, environmental or heritage protection, and for fire management.*

I note that the Scenic Protection Code *C8.6.1 Development within a scenic protection*, has Acceptable Solutions, allowing development (see A1 below).

A1 Buildings or works, including destruction of vegetation, within a scenic protection area must:

- (a) be on land not less than 50m in elevation below a skyline; and*
- (b) not total more than 500m² in extent.*

Most of the proposed *Blackswan Scenic Protection Area* is less than 50m in elevation, and as such any Buildings or works, including destruction of vegetation, will not meet the *C8.6.1 Development within a scenic protection* Acceptable Solution standard. Development works will need to be assessed against the Performance Solution (see P1.1 below) enabling application of the proposed Management Objectives in Table C8.1 (**Appendix B**).

P1.1 Destruction of vegetation within a scenic protection area must not cause an unreasonable impact on the scenic value of a scenic protection area, having regard to:

.... (f) the purpose of any management objectives identified in the relevant Local Provisions Schedule [see proposed Table 8.1].

The current management prescription for this part of the Southport Conservation Area aligns with the Management Objectives of the proposed *Blackswan Scenic Protection Area*, in that **Section 4.4.17** Conservation Zone prescription is that ***new structures or any other type of development (including new tracks) will not be allowed***. This is consistent with the requested Management Objectives in so far as possible through the Scenic Protection Code (Table C8.1, **Appendix B**). The representors would encourage the Tasmanian Parks and Wildlife service to retain the highest level of protection that can be afforded to this area through the support of the Scenic Protection Areas in addition to retaining the current Section 4.4.17 prescription prohibiting new tracks and development.

Section 4.4.17 The "Prescriptions for the Conservation Zones" allows

- works required for the maintenance of existing management infrastructure, including tracks; and*
- works required in circumstances of safety, environmental or heritage protection, and for fire management.*

The Table C8.1 Management Objectives have been made compatible with allowed works in Section 4.4.17.

**Table C8.1, Appendix B
Management Objectives**

- (a) vi) Establishment of any new walking tracks and signage must be kept to a minimum and must follow the route of existing access tracks with minor deviations in route as necessary for the protection of natural, heritage or scenic values and must have minimal visual intrusion from the sky and avoid being seen from surrounding coastal and waterway locations.*
- (b) Development related to currently existing access tracks, must occur in a way which limits visual evidence of development on the peninsular to respect and enhance the scenic values of the area, including all the following:*
 - i) The upgrading of existing access tracks must have minimal visual intrusion from the sky and avoid being seen from surrounding coastal and waterway locations.*
 - ii) All works related to converting sections of former vehicle tracks into walking tracks must prevent erosion or other damage and must reduce visual impact from vegetation disturbance and prevent the exposure of rock and soil.*

It is noted that under the Tasmanian Planning Scheme provides Code Vegetation exemptions, specifically, Clause 4.4.1 that exempts vegetation removal for safety or in accordance with other Acts (see below):

- (d) fire hazard reduction required in accordance with the Fire Service Act 1979 or an abatement notice issued under the Local Government Act 1993;*
- (e) fire hazard management works necessary to protect existing assets and ensure public safety in accordance with a plan for fire hazard management endorsed by the Tasmania Fire Service, Sustainable Timbers Tasmania, the Parks and Wildlife Service, or council;*
- (f) clearance within 2m of lawfully constructed buildings or infrastructure including roads, tracks, footpaths, ...for maintenance, repair and protection;*

It is acknowledged that the area requires fire management as this includes a cultural landscape created through past fire management practices (see Table C8.1 Scenic Value (c)) and appropriate vegetation fires are needed for cultural landscape and ecosystem maintenance. The proposed scenic protection Management Objectives seeks to prevent development of infrastructure assets that then subsequently require areas of vegetation removal for asset protection, thus impacting upon scenic value.

**Table C8.1, Appendix B
Management Objectives**

- (a) Development Including all the following: i) No vegetation removal or any disturbance to forest canopy cover, including bushfire protection measures related to use or development, that results in visual impact.....*

Private Land

Several privately owned blocks are entirely surrounded by the conservation area and the State reserve. Currently there is no significant development on these blocks and for the most part they remain in a 'natural' condition.

Management Issues

Developments on theprivate blocks within and surrounding the reserves, and in more distant view-fields (see Section 2.2), has the potential to impact on a range of conservation values within the three reserves.

Prescriptions

4.5.1 Liaise with the Huon Valley Council during the review of the Planning Scheme, particularly with respect to ensuring the zoning of adjacent private properties is compatible with neighbouring reserve values.

The Southport Conservation Area and Private Land within the proposed *Blackswan Scenic Protection Area* occur in the Huon Valley Council 'Environmental Management Zone' under the Tasmanian Planning Scheme. Application of the mapped scenic protection area and Management Objectives in Table C8.1 will ensure the development standards on the adjacent private properties are more compatible with neighbouring reserve values, by proposing restrictions on new development and prevent new tracks. Existing use rights are intended to remain with the Tasmanian Land Conservancy and Leprena Trust in relation to uses identified in their Conservation Covenant Management Plans, such as tracks and camping areas as well as current MAST approved moorings. It is intended these use rights will be retained once the Blackswan Scenic Protection Area is in effect.

All of the affected private landholders (Tasmanian Land Conservancy, Vaughan's and Trustees for the Leprena Trust), are fully supportive of the proposal and are willing to restrict development and prevent new tracks being built on their lands, provided that similar conditions remain in effect on the TPWS managed areas, and are reinforced through application of the additional Management Objectives Table C8.1 (endorsed by the Huon Valley Council **Appendix B**) and retention of the statutory management plan **section 4.4.17 New structures or any other type of development (including new tracks) will not be allowed** in the Conservation Zone as it applies here.

**Table C8.1, Appendix B
Management Objectives**

- (a) ii) Development must not include roofed buildings and if non-roofed buildings or structures are proposed they are only to be located where existing use rights for camping exists under Nature Conservation Covenant at the effective date,....*
- iii) No development is to be located between high water mark and the 5m bathymetric contour, except for mooring ropes and buoys, to prevent visual impact from marine facilities or the like.*

Table 4 Recreational setting for the Reserves Page 46

Conservation Zone (Reserve Standard Framework (RSF))

Existing level of services = Not Managed for Services & Day Use Get Away (basic)

Aspirational level of service = Not Managed for Visitor Services

The proposed *Blackswan Scenic Protection Area* remains consistent with the Existing and Aspirational level of services prescribed for the Conservation Zone.

APPENDIX D:

Proposed *Blackswan Scenic Protection Area* requires Environmental management Zone extension over state waters.

The scenic protection code applies only on land within certain zones, including the *Environmental Management Zone*. The definition of 'land' within LUPPA includes those areas seaward of the low water mark.

LUPPA definition land includes –

- (a) buildings and other structures permanently fixed to land; and*
- (b) land covered with water; and*
- (c) water covering land; and*
- (d) any estate, interest, easement, servitude, privilege or right in or over land;*

Section 7 (a) of LUPAA supports application of the Environmental Zone and Scenic Protection Area Code seaward of the low water mark.

Section 7 Application of Tasmanian Planning Scheme, and exercise by municipalities of powers, in respect of accretions from sea, &c.

A planning scheme and the Tasmanian Planning Scheme may apply to, and a municipality may exercise its powers under this Act in respect of–

- (d) any area of the sea directly adjoining its municipal district in, on, over or under which any use or development is related to, or affects, the use of any adjacent land, subject to section 11(3)(c) [fishing] and (d) [marine farming in state waters].*

There have been a number of Resource Management and Planning Appeal Tribunal (Tribunal) decisions that have fully considered the scope of section 7(d) of the LUPAA, for example in *J Groves, K Jenkins and S Kelleher v Kingborough Council and Marine and Safety Tasmania (MAST) (53/13 P)*; *I Mitchell, F Scott and H Hussey v Kingborough Council and Marine and Safety Tasmania (MAST) (54/13 P)* *SJ Wragge v Kingborough Council and Marine and Safety Tasmania (55/13 P) [2013] TASRMPAT 083* ("*Groves v Kingborough Council*"), the Tribunal held that it had the jurisdiction not only to assess an 13m extension to a jetty and 6m extension of a boat ramp, but also, by virtue of section 7(d) of the LUPA Act, it had the jurisdiction to regulate the proposed new development of a navigational channel and navigational aids and signs outside of the council's municipal district. Obviously, this case dealt with the application of planning schemes that preceded the Tasmanian Planning Scheme, however the substantive content of the relevant provisions and intent of the LUPAA Section 7 (d) remain unchanged.

The *Environmental Management Zone* under the *Interim Huon Valley Council Planning Scheme* had extended some 200 to 300m seaward of the coastal line around the Proposed Scenic Protection Area. Application of Tasmanian Planning Scheme zoning and overlays seaward of the high water mark is entirely consistent with *Guideline No. 1 Local Provisions Schedule* (LPS): zone and code application

issued pursuant to section 8A of the LUPA Act (the Guidelines). The Guidelines relevantly state with respect to the Environmental Management Zone (EMZ): EMZ 2 The Environmental Management Zone should be applied to land seaward of the high water mark unless contrary intention applies, such as land with existing, or intended for: (a) passive recreation opportunities (see Open Space Zone); (b) recreational facilities (see Recreation Zone); (c) large scale port and marine activities or facilities (see Port and Marine Zone); (d) industrial activities or facilities (see industrial zones); or (e) major utilities infrastructure (see Utilities Zone). Note: If the land seaward of the high water mark that is outside the municipal area is unzoned, the General Provision at clause 7.11 of the State Planning Provisions will be applicable for any use subject to section 7 of the Act. Clause 7.11 requires the consideration of the provisions of the zone that is closest to the site, or the provision of the zone from which the use or development extends.

I request that the *Environmental Management Zone* be reinstated and the proposed *Blackswan Scenic Protection Areas* be applied within the area provided in scenic area map and described as:

- (i) The islands known as The Images and to a surrounding water depth of 5m.*
- (k) The coastal land and foreshore from Big Lagoon Beach and around the coast to Pigsties Bay and extending to a water depth of 5m but excluding the existing Marine Farming Zone within Pigsties Bay.*

APPENDIX E:

The proposed *Blackswan Scenic Protection Area* compliments *State and National Heritage Listing*.

Much of the proposed *Blackswan Lagoon Scenic Protection Area* occurs within the Tasmania Heritage Register (THR) 'd'Entrecasteaux Expedition Sites Recherche Bay' (THR Identification Number 11018) and the listing recognizes the '**Integrity of the site**' as very high, based upon the '**natural landscape setting** of the French 1792 and 1793 expedition sites'. The 'Management Guidelines for the d'Entrecasteaux Expedition sites and the Ramsgate Whaling Site and Settlement site' have as their conservation objective to conserve the landscape character and visual links between key features' here and that the management objectives are:

- (i) 'retain a sense of the natural setting... "

However, the Ramsgate and Settlement Site include the in the THR Listed areas occur within Cockle Creek, where shacks and other infrastructure currently co-occur, and as such the Management Objectives for visual impact from development are not very strong in the 'Management Guidelines for the d'Entrecasteaux Expedition sites and the Ramsgate Whaling Site and Settlement site'. Although the site is subject to the *Historic Cultural Heritage Act 1995*, the site is not listed within the Local Historic Heritage Code. Section 35(2) of the *Historic Cultural Heritage Act 1995*, requires a discretionary application unless a certificate of exemption is issued by Heritage Tasmania for development in the area that is within the Heritage Registry listing. As such more protective Management Objectives have been proposed to protect the natural undeveloped visual amenity of the area of the proposed *Blackswan Lagoon Scenic Protection Area*.

Much of the proposed *Blackswan Lagoon Scenic Protection Area* also occurs within *National Heritage Register Site number 105665 'Recherche Bay (north east peninsula)*'. The National Heritage Listing for the site includes in the Summary Statement of Significance that the area "constitutes a significant, 'associative' cultural landscape" where there were friendly interactions between first Tasmanians Palawa/Pakana, of the Lyluquonny Nation, and the French during 1792 & 1793, and that the "**the predominantly undeveloped character of the landscape contributes to the appreciation of the [National Heritage] values**" of the site. Whilst the National Heritage Listing acknowledges the importance of the undeveloped character of the landscape, and the National Heritage management principles are set out in the regulations (schedule 5B) of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBc Act). There is no National Management Plan for the area, and as such no clear guidance on protection of the areas scenic values that have been recognised, which demonstrates the need for the proposed *Blackswan Lagoon Scenic Protection Area* and associated management objectives in Table C8.1.

APPENDIX F:

Tasmanian Planning Scheme Codes and the TPWS 2004 Consultation Paper “*National Parks and Reserves Management Act 2002 Reserve Activity Assessment Process Reform Statutory Environmental Impact Assessment Process*”.

It is noted that the TPWS 2004 Consultation Paper “*National Parks and Reserves Management Act 2002 Reserve Activity Assessment Process Reform Statutory Environmental Impact Assessment Process*” may seek exemption from Tasmanian Planning Scheme Codes on the basis they may be incompatible with a reserves management. The Consultation Paper (page 12) provides an example of incompatibility being between reserve land management objectives (vegetation protection) and the Bushfire Code (vegetation removal for built asset protection). The Consultation Paper proposes that the a new ‘statutory Reserve Activity Assessment Process’ will seek to avoid duplication by avoiding Code assessments through Local Government processes under LUPAA (current process). The relative merits of these processes is not being discussed here, and irrespective of the assessment process that will be in effect, the information contained within Codes will be useful for development and works assessment in reserves such as that found in other: *C7.0 Natural Assets Code; C10.0 Coastal Erosion Hazard Code; C11.0 Coastal Inundation Hazard Code; C12.0 Flood-Prone Areas Hazard Code; C15.0 Landslip Hazard Code*, and as such there appear to be no TPWS or NRE policy position that should inhibit LPS Code creation over land and waterways under the tenure of the Crown.

This detailed analysis in **Appendix C** compared the proposed *Blackswan Lagoon Scenic Protection Area* Management Objectives and the Statutory Plans objectives and management prescriptions of the Conservation Zone that applies here, and these were found to be compatible in as far as can be achieved through the application of the Code. In addition to this I request that the TPWS retain current Conservation Zone management prescriptions (Section 4.4.17) over the proposed *Blackswan Lagoon Scenic Protection Area*, (***new structures or any other type of development (including new tracks) will not be allowed.***)

If in future the Code may not apply to reserve land, (i.e. no Huon Valley Council assessment under LUPAA), its presence at least would provide a basis for the TPWS to consult with Huon Valley Council who I envisage would seek scenic protection over this area as part of any potential future Reserve Activity Assessment (RAA) processes. We therefore seek the TPWS and NRE support in full for the proposed *Blackswan Lagoon Scenic Protection Area* and Table C8.1.