

Disclaimer: This Huon Valley Zoning Association Template is to be used to assist the landowner in structuring their position to the Planning Authority. It is not to be understood as planning or legal advice and whilst the information provided in this template is within our best efforts as being correct, these details need to be verified by the landowner, themselves.

Owner / Representor: Jeremy Smutny			Location address: 80 Mitchells Rd, CRABTREE		
CT	PID	Area Size	IPS	Council LPS (Post 35F)	Requested Zone/s
247721/1	7609775	18.53 ha	26.0 Rural Resource	Rural → Landscape Conservation Zone	Rural Zone

Location of title.



LEGEND					
	General Residential		Light Industrial		Community Purpose
	Low Density Residential		General Industrial		Recreation
	Rural Living		Rural		Open Space
	Village		Agriculture		Future Urban
	Local Business		Landscape Conservation		Particular Purpose
	General Business		Environmental Management		Split*

*Split Zones please consult Draft-HVC-LPS data Appendix 61 and later 35F documentation.

**Light Blue Border shows owner's land in question.

Viewshed: 0% Coverage



Huon Valley Zoning Association's Viewshed Map:

LEGEND			
HVZA-ViewShed	8 - 10	18 - 20	Landscape Conservation
No. of Viewpoints	10 - 13	20 - 23	Landscape Conservation Split Zone
< 3	13 - 15	> 23	
3 - 5	15 - 18	HVC-LCZ-Post35F	
5 - 8		VIEWShed	

*Light Blue Border shows owner's land in question.

**Landscape Conservation (LCZ) Borders indicate land within the Huon Valley Councils Endorsed 35F and Draft-LPS with LCZ full or split Zoning intent.

*** The HVZA-Viewshed indicates how visible parts of the subject title is from a viewshed based off of verified scenic road corridors. The colour shade represents how many viewpoints can see a portion of land. Further, explanation is to be provided to the TPC by HVZA.

Property Description

The property has varied topography. There is steep, bushland hillside across the top and right side of the title, as seen in figure 1 below, with the priority vegetation overlay. The bottom third of the property is on a slight slope and has been previously cleared, making up a pre-established cleared area of approximately 30%. The vegetation and topography of the site completely obscures the existing building and sheds from the view of the surrounding areas and roadways. The cleared land has limited potential use for large scale agriculture due to the rocky soil and topography. Other types of business activities could potentially be supported on site such as bee keeping, hobby farming, or small crop production.

Figure 1: 80 Mitchells Road, Crabtree



Current use of title

I bought the land back in 1991, lived here for 32 years and over that time have made it my home. I live a quiet existence in a peaceful location. I collect fire wood from the land and have a small house and a few sheds. I enjoy my hobby of amateur radio, and am well known in the Crabtree area, having lived here for so long. I like to keep to myself, but also enjoy company and help out my fellow neighbours when I can. The top area of my land is steep hillside and is not suitable for use or development due to the topography of the area, however the bottom parts (approximately 30%) have been previously cleared as the gradient flattens out and the land is usable for many things. I have planted many trees and plants over the time I have lived here and made it into my home with a natural looking garden. Now that I am getting older the weeds are getting more difficult to maintain and I am working to clear the area of bracken fern, button grass and foxgloves. The lower slopes of my land have been used to grow raspberry and currant crops in the past. As I get older, my intention is to leave this piece of land to my three daughters, and for them to have the option of building a family home here to enjoy this lifestyle like I do.

How does the title not meet Council's proposed Zone (proposed to change from Rural to LCZ under the PA advice in the 35F report)

In the original ^{draft LPS} 35F report compiled by The Huon Valley Council Planning Authority, this title was zoned as Rural, which the title owner agrees is an appropriate zone for his property. A neighbouring property owner (Jennifer Cambers-Smith) wrote a representation (#393) to have the zoning of this title changed to LCZ. The response from the planning authority in the 35F report was to change the zoning from Rural to LCZ. In her representation, Jenny Cambers-Smith made reference to a Tasmanian Farmers and Graziers Association \$10K grant that was recently awarded to her and thirteen other adjoining properties to manage invasive weeds on this property and surrounding properties as being reason for Jeremy to 'be supportive of this zone change'. However, I argue that accepting a grant to manage invasive weeds on your property is by no means in the same league as changing the zoning of your property, which has far-reaching implications for the way you are able to use your own private property. I am in no way supportive of changing the zoning of my property at 80 Mitchells Road Crabtree from Rural Zone to Landscape Conservation Zone. I also have grave concerns about the way in which Jenny Cambers-Smith went about submitting the representation on my title for the change of zone and feel as though I have been taken advantage of by a neighbour who pretended to be a friend, however, tried to hide from me her true intentions and plans for my own private land. If Jenny Cambers Smith was sure that I would support the change of Zone on my property at 80 Mitchells Road, why did she not inform me of her intention to submit a representation on my land, or ask for my opinion on the presented change of zone from Rural to LCZ? Jenny Cambers Smith was in the middle of her campaign for a seat on HV Council at the time these representations were submitted, and I feel as though there has been a misuse of power by Jennifer. Further to this, in Jennifer's hearing that was scheduled on Thursday 6th July, she was asked outrightly by a member of the planning commission board if she had the owner's consent for the change of zoning and her response in the hearing was, directly quoted: "yes I have spoken to the owner and he is quite happy". This not only was an outright lie; she has neither spoken to me about it, nor am I happy about her representation nor the planning authority's response to it; but is deplorable behaviour for a currently sitting member of the Huon Valley Council. For this reason, I am here making my opinion on the matter known to you.

The main argument in Jennifer Cambers smith's representation to change the zoning from Rural to LCZ was that the priority vegetation overlay used is outdated and that there are significant areas of bush not included in the overlay. I argue that this is not true. As can be seen clearly from fig. 2 and figure 3 below, the area highlighted by Jennifer Cambers Smith in her representation as 'bushland currently not included in HVC's biodiversity protection area and priority vegetation, is not all bush land. The areas highlighted by Jennifer to be included in the priority veg overlay are cleared areas of land with some trees left remaining. The aerial photographs make it had to see 'on the ground' cleared areas as the canopies of the trees reach broadly and therefore look to be densely wooded when in fact it is not. More specifically, the lower left region of the highlighted areas Jennifer is stating is 'priority vegetation' is very clearly cleared land with some low lying shrubs. It is overreaching to attempt to classify this as priority vegetation. (Also see photos 1 – 4 below to show cleared areas of land illustrating points made above).

Figure 2: Map used by Jennifer Cambers-Smith in her representation against 80 Mitchells Road.

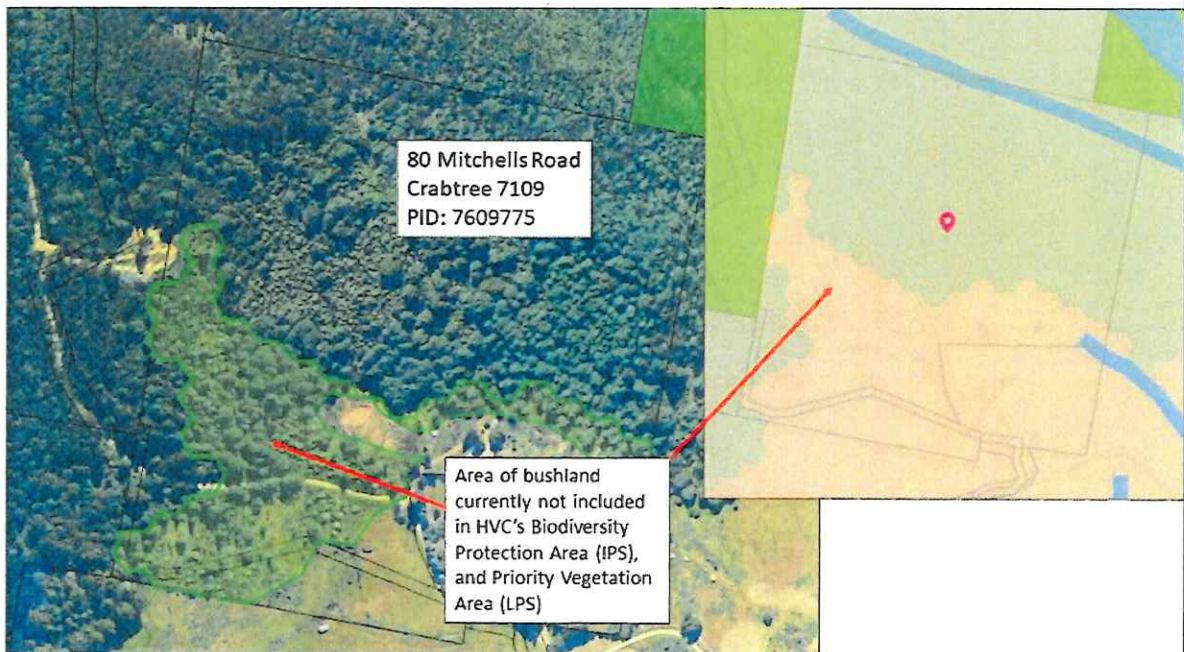


Figure 3: Aerial map showing land without overlays:

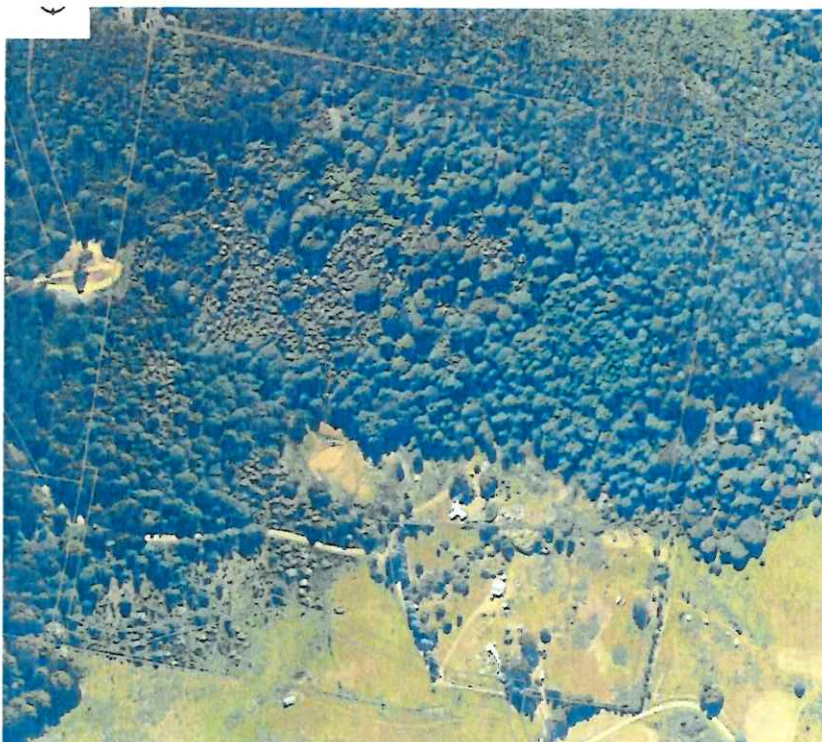


Photo 1: cleared land with some trees remaining. The canopies of trees make aerial photographs look like forested areas, which it is not. Some weeds (bracken fern and button grass) need attention. Also see some trees I have planted myself.



Photo 2: Cleared land in the lower area of my property.



Photo 3: showing cleared land and the beginning of the steep hillside not appropriate for clearing or development. This steep hillside is protected by the natural assets code and priority vegetation overlay.



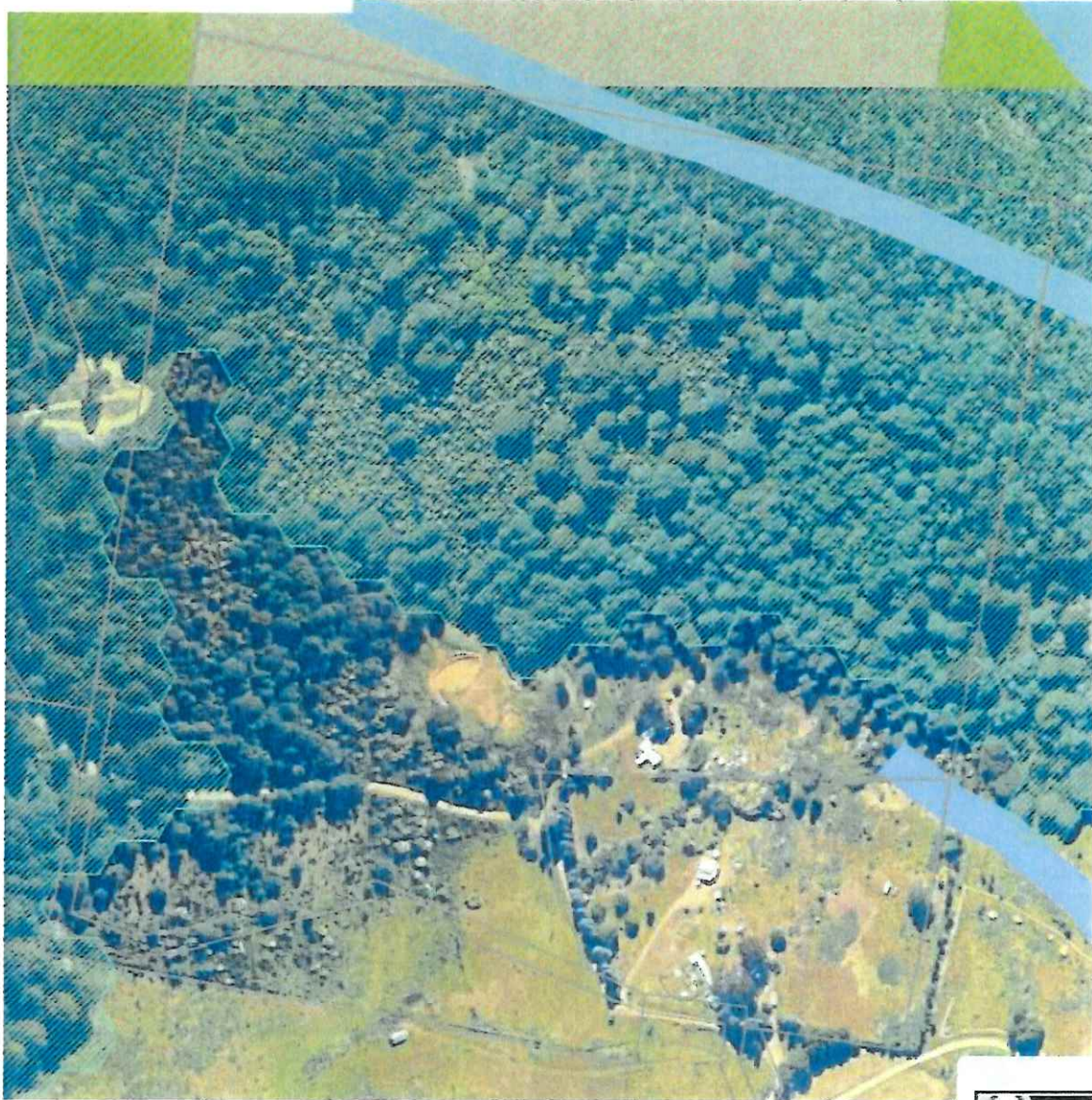
Photo 4: Cleared land (and bracken fern weeds) overlooking my small house and sheds. Also showing trees I have planted as part of my natural looking garden.



In order to apply LCZ fairly, HVC developed criteria that aimed to meet the purpose and guidelines for the zone. These included '80% native vegetation coverage coupled with the presence of either the Natural Assets or Scenic Landscape Code overlay', plus a 'minimum native vegetation patch of 20ha'. This title does not meet either of these criteria, being less than 80% native vegetation coverage, as well as only being 18.54ha in area. The section 8 guidelines state that LCZ *may* be applied to "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". I argue that the area of my land that *is* bushland and native vegetation *is* otherwise protected through the use of the Natural Assets code and the priority vegetation overlay, and so does not meet this criteria either. Finally, the section 8 guidelines also stipulate that Landscape Conservation Zone *may* be applied to "land that has

significant constraints on development through the application of the Natural Assets Code or Scenic Protection Code". The natural assets code does apply here, however, I argue that it does not pose 'significant constraints' on development as the priority vegetation overlay does not cover the lower area of my land, which accounts for approximately 30% of cleared area (see figure 4 below).

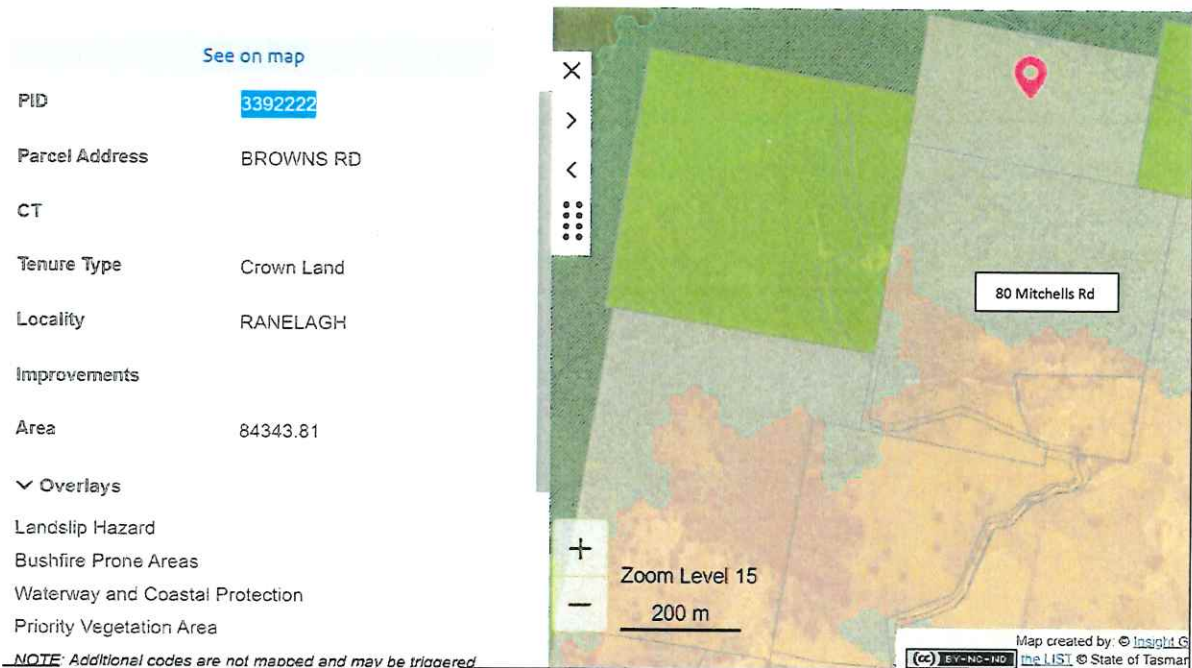
Figure 4: Title showing Natural assets code overlay (priority vegetation)



Although in the guidelines LCZ 3 states "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", I feel that this is not appropriate in this instance due to the lot directly above this title (PID 3392222, Browns Road) see fig. 5. This title currently has the priority vegetation code covering 100% of it, however remains being zoned rural due to the fact that it is crown land owned by, I believe, Sustainable Timber Tasmania. If 80 Mitchells Road is zoned as LCZ, then PID 3392222, Browns Road will be a sole Rural lot. This in itself is against the planning guidelines, as in responses to other representations the planning authority have been known to change the zoning of additional properties to avoid spot zoning, such as in their response to representation 247: "these

two sites are substantially cleared of vegetation, however..... would result in a spot zone should they remain as Rural in the draft LPS. For zoning continuity, all sites should be in the Landscape Conservation Zone under the draft LPS". If Crown land is being zoned with different criteria and based on different guidelines than privately owned land, then this is both unfair and unjust. Why should the permitted uses of crown land be broader and more extensive than a neighbouring privately owned property with much of the same topography?

Figure 5: Map showing location of PID 3392222 (zoned Rural) in relation to 80 Mitchells Rd.



The purpose of the Landscape Conservation Zone is: (22.1.1) "To provide for the protection, conservation and management of landscape values".

Further, LCZ is (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". To me, this is interpreted to mean that the first and foremost purpose of my land, if zoned LCZ, will be or the protection and conservation of landscape values, and the secondary purpose *could* be to use or develop, however that will be at the discretion of council. Considering that Jennifer Cambers-Smith currently has a seat on council, I do not have great confidence in having plans for a larger, more permanent residential dwelling approved. LCZ 4 states that the Landscape Conservation Zone should not be applied to land "where the priority is for residential use and development". I strongly argue that the priority of 80 Mitchells Road **IS** for residential use and development. For me, the primary purpose of my land is to live on. This is why I bought it, and it is every intention to leave it one day for my daughters in the hope that they can live on it. So in this case, whose priorities are being referred to here? 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. This concerns me as I would like there to be the option of building a family home on my property. If this use is discretionary, then what hope will I have to get this approved by council, and at what financial deficit?

Considering that the LCZ's main priority is to provide for the protection, conservation and management of landscape values, I would argue that my land at 80 Mitchells Road can not be seen openly by large areas of the surrounding community, nor does it have significant landform features. Therefore, I ask which values need to be conserved? The planning authority's response notes on representation #393 state that "The site is steep [and] is substantially vegetated". The northern half of my property is true of this, and is not suitable for clearing, building or development, however, their response notes also state that "the Rural Zone was applied due to the lower slopes of the site being cleared of native vegetation" and this is also true. The area of my land that is usable makes up the lower area of the block, the area that has already been cleared. This area is not seen openly by the community, nor from any prominent location or roadway. So when the planning authority quotes the same principles in their responses to land planned for LCZ; that "Vegetated hills and valleys framing cleared agricultural land, interspersed with remnant areas of bushland, together with the Huon River and tributary waterways is a key characteristic and landscape value of the Huon Valley" I ask whose values are they? All land in the Huon Valley could potentially fall under this definition/guideline. If my property cannot be seen then what particular values does my property contribute to here, and whose values are they? It is my belief that the application of the natural assets code that covers the majority of the northern part of my land, in conjunction with the application of Rural Zone will provide adequate protection of any landscape values that the planning authority believe need to be conserved. In my situation, having 80 Mitchells Road zoned as LCZ achieves nothing from a community perspective, however, comes at significant cost to myself.

Impacts of Landscape Conservation Zone on my land:

- Unnecessary building restrictions: my primary concern is that the building requirements of the LCZ may prevent me and my children from building or extending the current home to be suitable of a family residence. I am gravely concerned that the title does not include a building area or building envelope, as many titles in the area do not. How this will impact the ability to build a larger, more permanent house on my own land moving forward if it is zoned LCZ is deeply concerning to me. Further to this, if my house is destroyed (for example by fire), how will the LCZ impact my ability to rebuild my home? Will I be left homeless at almost 80 years old?
- Significantly reduced usage: business-related uses have reduced drastically and are all listed as discretionary.
- Reduced property value: the value of my property is likely to decrease significantly if zoned LCZ. As land value is related directly to utility and costs and risks of ownership and LCZ substantially decreases allowable uses whilst increases costs, risks, uncertainties, restrictions and time delays for any development applications, the land value will be severely reduced if zoned LCZ.
- Inability to borrow funds to build, or to refinance if needed: Many mainstream banks have advised that for finance to be provided, banks need to confirm that the property zoning supports residential use as a permitted use. As residential use falls under 'discretionary' in LCZ, this would mean I will be unable to secure finance for a house build. If owners are unable to secure finance for building a home, the land is essentially worthless.

How does the title meet Requested Zone/s

The Section 8A guidelines state that the Rural Zone 1 “**should** be applied to land in non-urban areas with limited or no potential for agriculture as a consequence of topographical, environmental or other characteristics of the area, and which is not more appropriately included within the Landscape Conservation Zone or Environmental Management Zone for the protection of specific values” I argue that my property at 80 Mitchells Road comes under these guidelines and, for reasons stated above, **is not** more appropriately included within the LCZ.

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. 20.1.3 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 clear to me that my title falls within the guidelines stated above for Rural zoning. In the Draft Huon Valley Local Planning Schedule my property was zoned as Rural. It was not until a representation was made by a neighbour, and unknown to me, did the planning authority decide to change their opinion of what my land should be zoned as.

Are you challenging a Natural Assets Code?	Yes	No
Are you challenging a Scenic Protection Code?	Yes	No
Are you challenging any other Overlay?	Yes	No
<p>If Yes, please provide what overlay and evidence as to what you are objecting to and why.</p> <p><i>Previous Overlays:</i> Biodiversity Protection Area, Bushfire Prone Areas, Landslide Hazard Area, Waterway and Coastal Protection Areas</p> <p><i>Proposed Overlays:</i> Bushfire-prone areas, Low landslip hazard band, Medium landslip hazard band, Priority vegetation area, Waterway and coastal protection area</p> <p><i>This is not an all-inclusive list, just what was exhibited by Council in Appendix 61.</i></p>		