

From: "duncan mills" <duncan.charles.mills@gmail.com>
Sent: Tue, 31 May 2022 16:28:51 +1000
To: "Information Management" <hvc@huonvalley.tas.gov.au>
Cc: tpc@planning.tas.gov.au
Subject: Proposed:: rezoning Objection/ Proposed Planning Amendment /Proposed Legislation Amendment
Attachments: Zoning objection 373 Guys rd.doc, Zoning objection 373 Guys rd.odt

The Planning Manager,
Huon Valley Council

Please find attached Submission.
both in body and as attachment.

<Rezoning Objection/ Application for Rezoning and proposed Amendments to Act Pursuant to Statewide Planning Scheme proposed Local Provisions

31 May 2022

Reference: CT 237661, Folio1, Edition 3, 21 July 2004, Duncan Charles Mills

Address: 373 Guys rd

Contact: D.C. Mills, 0419434260, duncan.charles.mills@gmail.com.au

Preface:

This submission is designed firstly to comply with Local Government screening and secondly to be a critical case study of the fitness for purpose of the Statewide Planning Scheme.

Critical case , are the accepted Scientific methodology for understanding complex systems.

Ref: https://warwick.ac.uk/fac/cross_fac/cim/research/complexity-and-method-in-social-sciences/seminars/seminar-two/brian_castellani_warwick_esrc_seminar_may_2014_casebased_modeling.pdf

Property Description:

This property is 18.46 ha of Estate in Fee Simple (Freehold); Comprising, SE facing Wet Schlerophyll Forest with small section of Dry Schlerophyll on a rocky West slope. It has a 1 ha grassy forest clearing around a 1976 era four room dwelling. Access is by right of way of Guys rd, and off Tobys hill. There is evidence of habitation and forest use dating back to the 18Century. Current use is as a weekend retreat and food; garden and orchard.

Proposed future use:

Residence and extending its retreat function to cabins, combined with selectively managed native forest for optimum ecological function, selective timber extraction and bushfire mitigation.

Proposed Zoning is “Land Conservation Zoning”

This makes any residence and or extractive use discretionary by Local Government and subject to numerous community/environmental values overlays; clearly making it an Arbitrary restriction of Freehold rights as of my purchase in *2000. Restrictions to which I formally object.

These rights exist in principle under Section 51 (xxxi) of the Australian constitution and may not be restricted without appropriate compensation by Government.

Whilst some what ambiguous in direct reading, it has since been clarified by High Court decisions.

Ref: Barwick CJ and others.

Whilst it is noted that “just compensation” is not available under state legislation,

Natural Justice provision remains.

Further : it is noted Tasmanian LAND ACQUISITION ACT 1993 - SECT 29 precludes compensation for diminution of value for Planning Zoning purposes,

Natural Justice rights are still asserted, and require respect.

Therefore:

On the basis of functional failures of the Tasmanian Planning Act 1997 as detailed below, and as authorised by subsequent Amendments to the Act:

“a person may request a planning authority to prepare an amendment of the planning instrument, and the planning instrument may be amended, under this Act as in force immediately before the commencement day as if this Act as in force immediately before”

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Zoning System on evidence, Itself Has no Functional or Legal Integrity. Failing the intent of Tasmanian Planning Act 1997

Participating in an an informal community survey of the Proposed new Tasmanian Planning Scheme Zonings revealed numerous anecdotal accounts of Proposed rezonings failing completely to correspond with existing land use. Commonly cleared and grassed pasture zoned as Landscape Conservation, and hilly Eucalypt forest zoned and Agricultural.

It is quite apparent that the methodology used has substantially failed to incorporate commonly available existing data on ground cover. Not only has the Methodology failed, nor has it been verified. This should be apparent from other submissions.

Problematic : Tasmanian Land Planning Act 1997 (current version)

Reading

Reading and interpreting the Act is difficult due to its at times correct but too convoluted reasoning , and its many laborious minor amendments; Because of this it likely to make its understanding difficult to all stakeholders having to implement, interpret or comply with it; So in all likelihood, given the evidence of its implementation so far, in the field of application.

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Scope

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Amending the Tasmanian Land Planning Act 1997 objectives:

a)In all zones: To limiting destructive exploitation, and encouraging informed ecologically regenerative practice and risk mitigation.

In conclusion thankyou for the opportunity to submit and for the readers attention.

Yours Faithfully ,

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