

43 New Rd Franklin



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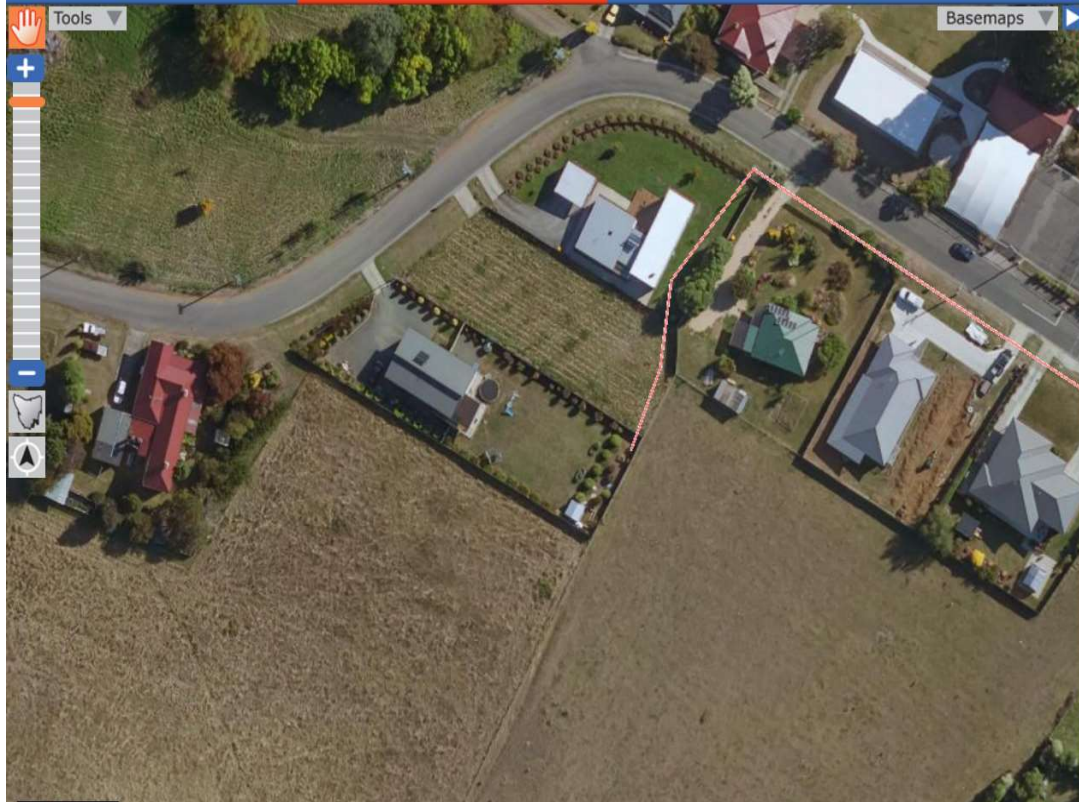
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First I would like to provide some background and address Council's 35F Report

I presented to the Interim Planning Scheme hearings in 2016 – at the time Council sought to re-zone approx. 3 hectares of my land together with land on 2 other properties as an Urban Growth Zone. In the IPS process I requested that my land be re-zoned in a similar way to that which is in my current LPS representation. Council and TPC advised me then that under the IPS that translation in most circumstances needed to be like for like and that the LPS within the Tasmanian Planning Scheme would provide the mechanism for zones to be created that best fitted the zone purpose statements. Although I thought that it was poor planning I accepted that. Council also advised the TPC and me that it would undertake a strategic review of the Structure Plan for Franklin and that this would underpin the LPS. As there was no strategic justification for the creation of the Urban Growth zone that Council sought the TPC instructed that my land be zoned Rural Resource.

Notwithstanding the advice that was provided in 2016 that translation was to be like for like, 26 neighbouring and near titles were not translated like for like in the IPS but were zoned Rural Living or Low Density Residential from Rural. These changes were done without a strategic review.

But little will be learned about Franklin from a strategic review that isn't already known. Council's heritage expert, Graeme Corney has provided his advice and the constraints to agriculture and urban growth are clear. I would highlight the lack of road infrastructure as a particular constraint to urban growth.

In any event, there is no current imperative to create or plan for significant urban growth in Franklin. STRLUS informs us that Franklin growth should be limited to just 10% between 2010 and 2035. Also,

there are currently 1500 potential new titles in Port Huon which is just 10km away.

Importantly, if an imperative to intensely develop Franklin in the future occurs, the zoning that I propose will not preclude this.

Essentially, we have been in limbo for 7 years and Council asks that we remain so for a further period whilst it does the work that should already have been done.

This, in my view, is unreasonable but further I believe we are being denied procedural fairness and Council is contravening LUPAA.

I made several separate representations to the LPS. I did so deliberately so that Council and the TPC could assess my title separately but I wanted to demonstrate that what I propose would fit into a cohesive planning pattern that could be understood and justified. However, Council has not considered my representations separately but has chosen to regard them as a single submission. By bundling them together Council can argue that the changes that I seek are substantial. They are not.

In taking this course, Council has not assessed the merits of any of my representation(s). Instead it asks that consideration is deferred while it undertakes a review of the Huon Valley Land Use and Development Strategy including new structure plans for each of the major centres. This in my view is procedurally unfair and not in line with LUPAA Section 35 2 (c) which requires that Council provides a statement of the planning authority's opinion as to the merit of each representation. This has not been done. I have also asked Council to assess the merits of my representation since the publication of the 35F report. They have declined to do so.

However, it is worth noting that Council states in its 35F report that each of the changes that I request is not significant of itself.



By taking the action it has Council has not considered whether my representations create zones that satisfy the zone purposes to the greatest extent. Instead, it asks that my property be zoned in such a way that places it in a holding pattern. This is not a purpose of the Rural zone. Council did not assess the merits of my representations in 2016 and it has not again in 2023.

However, Council is not ignorant of my views on the zoning of my property or of the strategic questions that are being asked. Since the IPS I have made several requests for the Strategic review to be done and I made a 32 page submission in 2017 to help inform the LPS process. Council has sat on its hands and has done so, in my view, deliberately because it has a position on the structure plan for Franklin which is unchanged from 2016 and the IPS.

What will be my options if Council does not agree to my proposed changes within its review when it finally arrives? I will be forced to apply for a Scheme Amendment. This will come at a minimum cost of \$20,000 (\$10,000 application fee plus strategic planner fees). This application would not be assessed independently but by Council and the only right of appeal would be if Council did not adequately consider STRLUS and its own Strategy when making its decision. Essentially, making a Scheme Amendment would be futile and the merits of my argument would likely never be brought before the Commission.

**Therefore, I first ask that the Panel ignores Council's request to defer consideration of the merits of my representation in relation to my property at 43 New Rd Franklin.**

I have also made parallel requests for zone changes to neighbouring properties (with their approval) and believe that these are justified and modest changes. **If the Panel agrees to the changes I submit that they would together likely be regarded as a significant modification and require public notice and advertising. This process**

**would have much the same effect as a strategic review but could occur in a timely way. Council could submit to this process.**

I have made 3 further representations in relation to

1. Whether some land is Closed Residential or Village zoning,
2. On the need for a review of the provisions within the Heritage SAP and

3. An extension to the scenic overlay on the hillsides behind Franklin.

I am happy for these to be deferred as they do not have urgent ramifications.

### Zone Change Argument

As detailed in my representations, I submit that the changes to the zone for our land that I have requested fulfil the zone purposes to the greatest extent.

Our title is unusual, it is a kilometre long and 150m wide at its widest. It borders the township and the eastern portion is surrounded on 3 sides by Village zoned land. At its western extent it is previously cleared but now regenerated bush with important landscape values. **It has limited agricultural value due to poor soils (land capability index 5 and 6)), relatively steep land and lack of water. The proximity to the township and future greenfield urban growth on the eastern and south-eastern boundary further constrains future agricultural use.** It is currently used for grazing 7 cattle and growing grass for hay in line with land capability guidelines. It generates income of approximately \$5,000 annually. **It is a hobby farm.**

The grassed paddocks provide a rural backdrop to the township and are critical to Franklin's unique and treasured character. The green backdrop reinforces the linear nature of the township. The original east west boundaries from 1836 land grants are largely retained and provide an important reading of the history of the land. Our southern boundary retains much of its blackthorn and whitethorn hedging and

is being re-instated in the lower (eastern sections) to help ensure that the visual story is not lost.

**The proposed zoning of Low Density Residential and Rural Living creates a buffer to the existing and future urban use.** They would fit in with and extend the existing zoning pattern and grade development density.

Low Density Residential zoning will create 2 new titles to be accessed from an existing crossover between 27 New Rd and 39 New Rd. These 2 titles would be created from a reorganisation of the boundary of the historic casement title that we are acquiring. They would have a modest impact on the amenity of the neighbouring titles. It is not appropriate to develop this land at higher density due to access constraints and to avoid harm to our neighbours.

A small land bank of LDR land would be created which could only be accessed as part of the future greenfield development at 14 New Rd. We would not permit roading across our land from New Rd.. All of this proposed LDR land is below the 20m contour and will be largely screened from the Franklin foreshore and Huon Hwy.. **This will preserve the heritage and landscape character identified by Corney.**

The re-zoning of this land to LDR will create sufficient scale to justify extending the sewerage system. This currently terminates at 27 New Rd but could extend to the 2 new proposed titles, 39 New Rd. and 43 New Rd. This could also in the future feed into sewerage system of an adjacent greenfield development. It is noteworthy that the septic system from 39 New Rd. (zoned Village) currently discharges onto our property.

39 New Rd and 24 Old Rd which border our land (plus 14 Temperance Lane) have requested that their land be zoned LDR and not Village. Their requests have been submitted to the panel.

The balance land which is approx. 6.5 ha would create 2 Rural Living titles and one title split zoned RL and LCZ.

STRLUS provides that land ought not be newly zoned Rural Living unless it is adjacent to a settlement and/or it is part of an existing Rural Living cluster. **Our proposal meets STRLUS in that we border the township and the bulk of the hillside behind Franklin is already zoned Rural Living.** Our title and the others on Old Rd. that are not Rural Living i.e. 26 Old Rd. and 48 Old Rd. function as Rural Living. The owners of both of these titles have requested that they be re-zoned Rural Living. The Decision tree by Tempest & Ketelaar (AK Consultants) which is one of Council's guiding documents states

**'If the title is part of a cluster of lots with domestic scale characteristics where potential is negligible, the land area is in effect already converted and would be considered an established Rural Living area.'**

I think that there is no doubt that the bulk our land and our neighbours' land meets this definition. **These are RL titles in every respect other than name.**

In summary, my representations if adopted would preserve the landscape values of Franklin but would allow modest but appropriate development in a rural setting.