

From: "Caleb Elcock" <caleb.elcock@gmail.com>
Sent: Tue, 31 May 2022 16:55:06 +1000
To: "Huon Valley Council" <hvc@huonvalley.tas.gov.au>
Subject: Group Representation for HVC-Draft LPS
Attachments: Huon Valley Community Group LPS representation.docx.pdf

For the attention of Huon Valley General Manager, Mr Jason Browne

Please find attached Huon Valley Community Group LPS Representation for your consideration.

Please send any further correspondence to the contact details as listed in the representation attached.

Regards,

Caleb Elcock

**General Manager
Huon Valley Council
PO Box 210
Huonville TAS 7109**

Dear Mr Browne, General Manager,

RE: Representation for the Huon Valley Council's draft Local Provisions Schedule

This representation is from a diverse group of community-minded Huon Valley land owners who came together as the draft Local Planning Schedule was advertised by Council.

We shared a concern at issues we had found about the LPS process. At a technical level we were concerned about the methodology and base data overlays and how these were used to determine the zoning for our own properties.

We were concerned by the process and how well the Huon Valley community was aware of these significant changes and we quickly realised that many others felt concern, also. We worked together to understand the problem and try to identify solutions, at scales from individual properties through to the way the planning system works.

There are some people supporting our cause who have a range of issues with government and Councils, however the overwhelming support we have received are from the "Mr and Mrs Jones" of the community – professionals, farmers, conservationists and so on. This group supports orderly and open planning – we are not an anarchist movement opposed to government. We are a community group supporting good governance.

We firmly believe that the proposed broadscale application of Landscape Conservation zoning in the Huon LPS is grossly excessive, based on very poor scientific data and lacks any ground validity.

OUR ASSOCIATION

We very quickly realised that there was a large amount of community concern from the few people aware of the changes – but a bulk of the community who were blissfully unaware of the substantial changes to life, community and wealth being proposed.

It is no accident that the "voice" of our group is William Blackstone, the eighteenth-century judge, jurist and academic on legal process. He was a great advocate for the scholarly consideration of the law and supported the concept of popular sovereignty and greatly supported the rights of the individual in law and the administration of the law.

We began to network within the community and established a Facebook group 'No compulsory Landscape Conservation Zoning in the Huon Valley' (<https://www.facebook.com/groups/678304933390750/>). We also held group meetings in Huonville, and a pop-up information table at Woolworths staffed over several different days during May. All this has been voluntary, and we intend to continue with it.

A fundamental belief of the group is that land zoning changes, particularly those with material impacts to the rights of the owner, should never be done without a full and open disclosure with the land holder. To borrow a term – ‘nothing about us without us’.

We understand that the flawed Legislation and equally flawed Ministerial advice encouraged Council to only advertise for 60 days. Our group calls on the Huon Valley Council to be a better custodian of the rights of your residents and ratepayers.

We are also very aware of the appalling social justice issues for people in the community who do not have access to good IT, live “off the grid” and only irregularly check their mail or who have lower literacy skills. There is a significant risk that, poor Council process will disenfranchise many of our friends and neighbours.

In light of this, we call on Council to:

1. Halt the compulsory application of the Landscape Conservation zoning in the Huon Valley.
2. As an interim measure adopt the ‘like-for-like’ transition of Rural Resource to Rural.
3. Councillors and senior managers to critically review the methodology by which the zoning was applied.
4. In cases where the Landscape Conservation zoning seems to be an appropriate option, apply it only with landholder consent and negotiate with landholders to compensate for their loss of rights and effective “down zoning” of their properties.

THE SITUATION SO FAR

In our very brief existence, we have achieved:

- Collected over 200 signatures on a petition to halt compulsory Landscape Conservation Zoning in the Huon Valley (in just 2 and a bit Sundays at Woolworths).
- Produced a number of documents to support individuals to make submissions.
- Talked to over 1,000 community members to raise their awareness.
- Effectively lobbied Council to extend the LPS submission date (twice).
- Effectively lobbied Council to send an individualised letter to each rate payer.
- Supported many people to make submissions on their own LPS recommendation.
- Undertaken our own independent research on the Priority Vegetation Area overlay’s derivation from the Regional Ecosystem Model to identify flaws in the process.

Moving forward we hope to continue our work on the methodology employed, lobby State Government over the many systemic issues in their planning legislation and support Huon Valley people in personal representations to the Tasmanian Planning Commission.

We acknowledge Council for responding to our requests for extensions and letters and hope that this is a sign of the Council’s willingness to openly engage on planning issues on a continuing basis.

We believe that we have learned a lot, and are heartened by the number of people we've helped and encouraged to put representations into the proposed Huon Valley LPS. We want to give them further voice and share our learnings with you, with the following sections of this representation showing evidence of the issues and outline our recommendations.

1. Evidence of Issues

a. A Statewide perspective

Looking broadly across the State, a distinct divergence from the generally applied Landscape Conservation Zone (LCZ) norm can be seen emerging from data surrounding Huon Valley Council's approach to LCZ across its municipal area. A sample of three other Local Government Authorities (LGAs) have shown the following proposed/ratified LCZ rates of application in Table 1 below:

Table 1: Percentage of LCZ applied/proposed across a sample of LGAs

LGA	Percentage of LCZ Applied Across Municipal Titles.
Huon Valley	13.4% ¹
Derwent Valley	1.9% ²
Central Highlands	0% ³
Southern Midlands	0% ^{4*}

¹ Data Source: Appendix 61 of the LGA's LPS-Draft supporting documentation.

² Data Source: Appendix 29 of the LGA's LPS-Draft supporting documentation.

³ Data Source: Discovercommunities LGA's Interactive Map.

⁴ Data Source: LGA's Zones 17 June 2021 LPS-Draft Maps. *LGA's 35f, TPC's 35k resolved to apply LCZ to ~8 titles see below * for details.

Note: Data only accounts for LCZ zoning over the whole of a title. No split zoning. So the rate in Huon/Derwent may be higher.

* When looking at the factors that informed Southern Midlands to apply LCZ to the ~8 titles within their area of oversight, the LGA mostly did so at the explicit request of the landowner, and where a formalised Conservation Covenant exists. Instances where LCZ was called for over a land title where a landowner objected to the proposal, the LGA sided with the landholder to apply an alternative zone. These decisions were in general agreement with the TPC.

Many LGAs like Central Highlands and Southern Midlands have started with little to no use of LCZ and only applied it when explicitly requested for by a landowner and where the case has merit.

From a statewide perspective, the landscape conservation issues that this zoning was developed to address are quite minimal in the Huon Valley compared to those in highly cleared agricultural or urban landscapes such as the Midlands or Northwest.

b. Case study areas in the Huon Valley

With the broad extent of application of LCZ emerging as an issue in the Huon Valley, and Priority Vegetation Area (PVA) overlay inaccuracies also concerning, we put together a short series of case studies to explore some issues around these (refer Attachment 1).

Riverside communities at Mountain River and Pelverata are explored for the extent of LCZ and Priority Vegetation Area overlay, with findings:

- Significant error in Grey goshawk-triggered PVA at Mountain River due to excessive protection specification on an unimportant sighting record
- Existing Waterway and PVA (threatened vegetation community) overlays protect identified values in their own right
- Escalated zoning restriction to LCZ unreasonably impedes longstanding and sensible, well-serviced residential and rural uses of properties
- Numerous applications of LCZ to pastured (ie. no/minimal native vegetation) or small serviced titles with sensible residential intent.

Coastal communities at Lady Bay and Recherche are explored for extent of LCZ and PVA overlay, with findings:

- Sparse and apparently insufficient application of PVA overlay for threatened species protection around numerous Swift parrot sightings at Lady Bay, which could be supported by LCZ zoning (perhaps split-title where relevant) to address the landscape scale conservation requirements of this critically endangered species.
- LCZ application to small cleared titles, and in bulk to titles with minimal PVA or Scenic Protection Code overlays, at Recherche's Moss Glen and Jones Beach, without demonstrated need in the context of already abundantly resourced landscape-scale conservation.

c. Community engagement

- Meetings and conversations with various community members including a quantity surveyor, real estate agents, and financial sector workers brought opinions that application of LCZ or Agriculture zoning could significantly increase the cost to landowners of developing (eg. financing/planning approvals for a residence) their property, or cause a material decrease to the property value. The economic productivity of some zoning on properties was also raised, with broadscale LCZ impacts on the traditional rural economic activities of much of the valley being raised.

- A series of face-to-face community engagement sessions were held outside of the Huon Valley Woolworths that saw >1,000 instances of individual or group contact.
- Petition saw 300 signatures in <18 hours contact time
- Key topics of concern for community members include lack of awareness, lack of inclusion in creating awareness (e.g. people that do not use social media and those with literacy challenges), lack of natural justice in the approach, subjectivity of guideline narrative (e.g. “adverse impacts” - what does this mean?) and HVC not following correct application to the HUO LPS by disregarding “like for like” for example LCZ applied to Rural Living or significant agriculture, impacting economic productivity.

We were able to have a community table at Woolworths on three Sundays and a Monday (8, 15, 22, 23 May). We noted on the first day the community awareness of the LPS process was very low. We started to do a survey but in fact found the level of community knowledge so low we could not get a meaningful response. However, those who were aware were generally unhappy with the lack of consultation and wanted to express their concern directly to Council – even people not impacted by the changes. It was in fact a community request to sign a petition that resulted in us introducing a petition.

By the second day there was increased awareness – largely on the back of the letter arriving in the week beginning 16/5. We had much stronger engagement with people wanting to understand the types of zoning etc. Not being planners, we were only able to give the most general advice, but it clearly identified how little capacity there was to understand the technical issues.

By the third day there was significantly more awareness and might we say anger at the process and people returning from the week before with questions and a genuine concern about how little they knew about the process.

The key topics we discussed were:

- How did this happen / who was driving the changes / what authority do they have.
- What do the different zones mean for what I do now and what I plan to do.
- What am I changing to.
- Why am I changing but my neighbours are staying as they are – particularly so with Rural Resource to either Rural or Landscape Conservation.
- How will LCZ impact on me.
- How can I get a planner – too expensive / too short time frame.
- How do people with poor literacy skills / IT access get involved / what support is being offered to them.
- How do I appeal it / stop it / fight it.

Sadly, our greatest take out of this process is that the Huon Valley community felt genuinely let down and this process has further added to their lack of confidence in government – which is the last thing any of us want or intend.

d. Interaction with community members on representations

- Short time frame after people were aware
- The difficulty some people had at engaging/understanding or resourcing a representation
- Numerous inaccuracies in Priority Vegetation Area overlay and perceived over-reach through targeting non-threatened vegetation communities.
- Reluctance of some people to represent because they might draw attention to previous unapproved activity or intended future activities.

2. Recommendations

Landscape Conservation Zone

In our considered opinion, the Huon Valley LPS could be significantly enhanced by a number of key changes in how Council is applying this zoning. In particular:

1. Apply only where land owner provides fully informed consent.
2. Enable broader scale application via split zoning where relevant.
3. Don't apply to full-pasture titles or larger areas of cleared land.
4. Reduce conflict with residential purposes by avoiding application of LCZ to existing residences.
5. Don't apply to small size serviced (road, electricity etc) blocks in residential living character areas.
6. Advocate for reinstating Private Forest Reserves program to respectfully encourage landscape conservation contributions from private land owners.

Agriculture Zone

1. Don't apply to small size serviced (road, electricity etc) blocks in residential living character areas.

Priority Vegetation Area Overlay

1. Remove from non-native vegetation eg. Pasture (Tasveg F-codes)
2. Redefine to listed threatened species (flora & fauna) and vegetation communities as mapped on Tasveg 4.0

Community Engagement

1. Genuinely participate in a consultative approach to decision making and addressing challenges in changing land use, to find acceptable and fair resolutions for both parties.
2. Understand and respect the capacity (or lack of) for community to participate in difficult decision-making processes: make difficult processes accessible. If a decision affects you, you get told about it directly, and processes get simplified and communicated clearly and concisely.
3. Respect that change must be directed by informed strategy, and that asking early with a focus on purpose will engage and bring along community more cooperatively. A quick catch-up attempt that's not community-informed and owned doesn't work, and you need that strategy to reach for and capture opportunities for benefit (eg. Broadly supported conservation funding for greater LCZ implementation).

Signed:



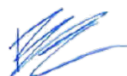
Amy Robertson
Independent forester
BEnvSci, DipNRM, GAICD, MFA, FPO (Planning)
Phone 0407 651 200 / Email amyware@yahoo.com / Mailing PO Box 177 Geeveston TAS 7116

Signed:



Dr Belinda Yaxley
Director Nautilus Collaboration: BSc (PhD Zoology)
Phone 0438721803/Email byaxley@nautiluscollaboration.com / Mailing 410 Cloverside Road
Lucaston TAS 7109

Signed:



Edwin (Caleb) Elcock
MEd (QUT), PostGdipTheo (St Marks, CSU), BBus (Deans, CHC), CELTA (UQ)
106 Mitchells Rd CRABTREE 7109 / c.elcock@uq.edu.au

Signed:



Mark Jessop
BA (Hons), Registered Psychologist
68 O'Hallorans Rd Geeveston 7116

Signed:



Nathanael Charles Elcock
BRTP (Hons, UQ)
26 Glenbervie Rd DOVER 7117 / n.elcock@uq.edu.au

From: "Caleb Elcock" <caleb.elcock@gmail.com>
Sent: Tue, 31 May 2022 17:04:56 +1000
To: "Huon Valley Council" <hvc@huonvalley.tas.gov.au>
Subject: Re: Group Representation for HVC-Draft LPS
Attachments: LCZ_NVcasestudies.docx.pdf

Please Also see/add the attached LCZ_ Case studies as referenced in the Group submission pdf, Huon Valley Community Group LPS Representation.docx.pdf

On Tue, 31 May 2022 at 16:55, Caleb Elcock <caleb.elcock@gmail.com> wrote:
For the attention of Huon Valley General Manager, Mr Jason Browne

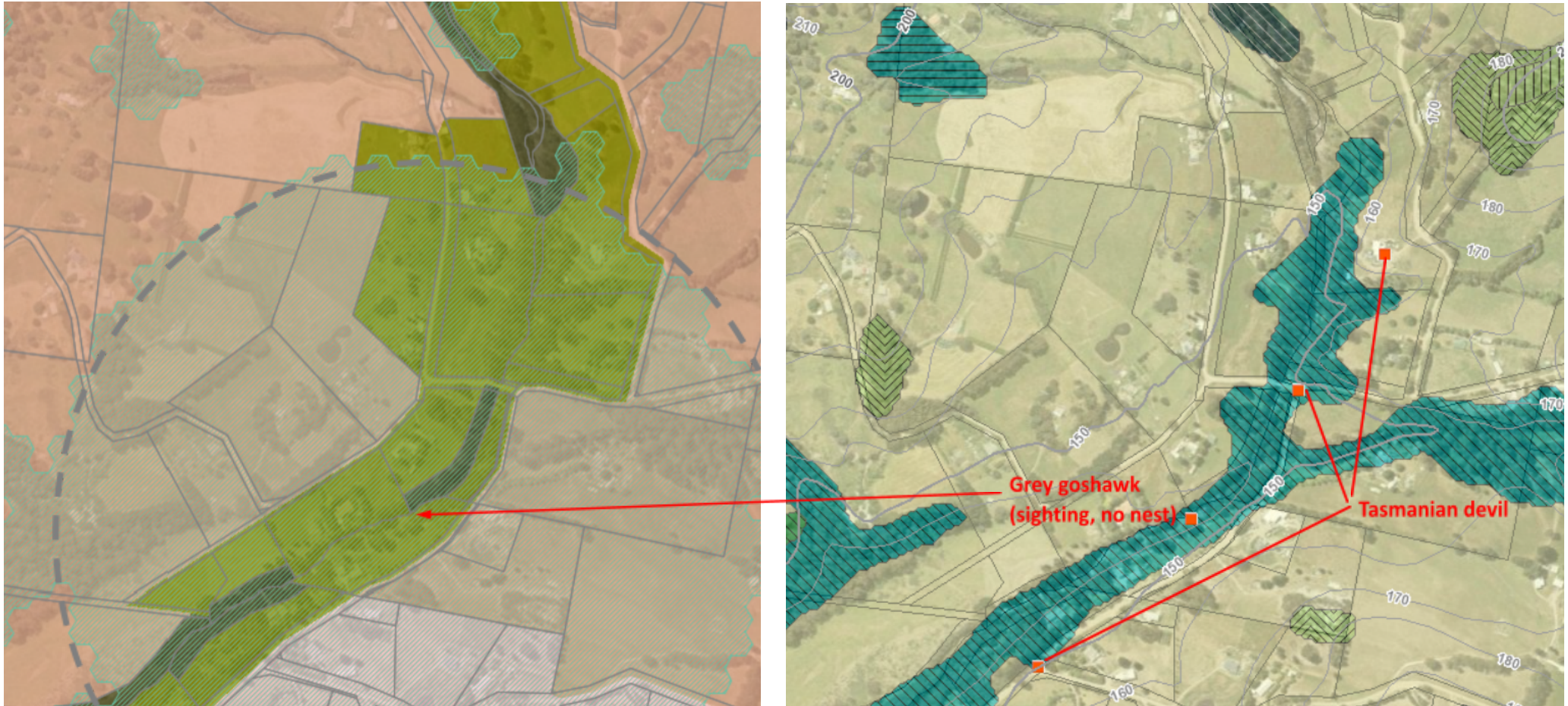
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Regards,

Caleb Elcock

Attachment 1. Cast studies



At **Mountain River**, LCZ has been applied along a strip of properties either side of the Mountain River. No Scenic Protection Code overlay is proposed, leaving natural values alone as the reason for the proposed LCZ, likely reflecting the Tasveg-mapped threatened vegetation community TVI E. viminalis wet forest, also generally mapped along this strip. Waterway and Coastal Protection overlay (not illustrated) also runs along the main river course and largely overlaps the mapped threatened community.

The majority of these proposed LCZ properties are minimally vegetated and many contain residences, reflecting a long history of infrastructure-facilitated living and farming along Mountain River Rd. Zoned as Environmental Living under the current Interim Scheme, a change to LCZ would shift to a purpose focussed on landscape values, being:

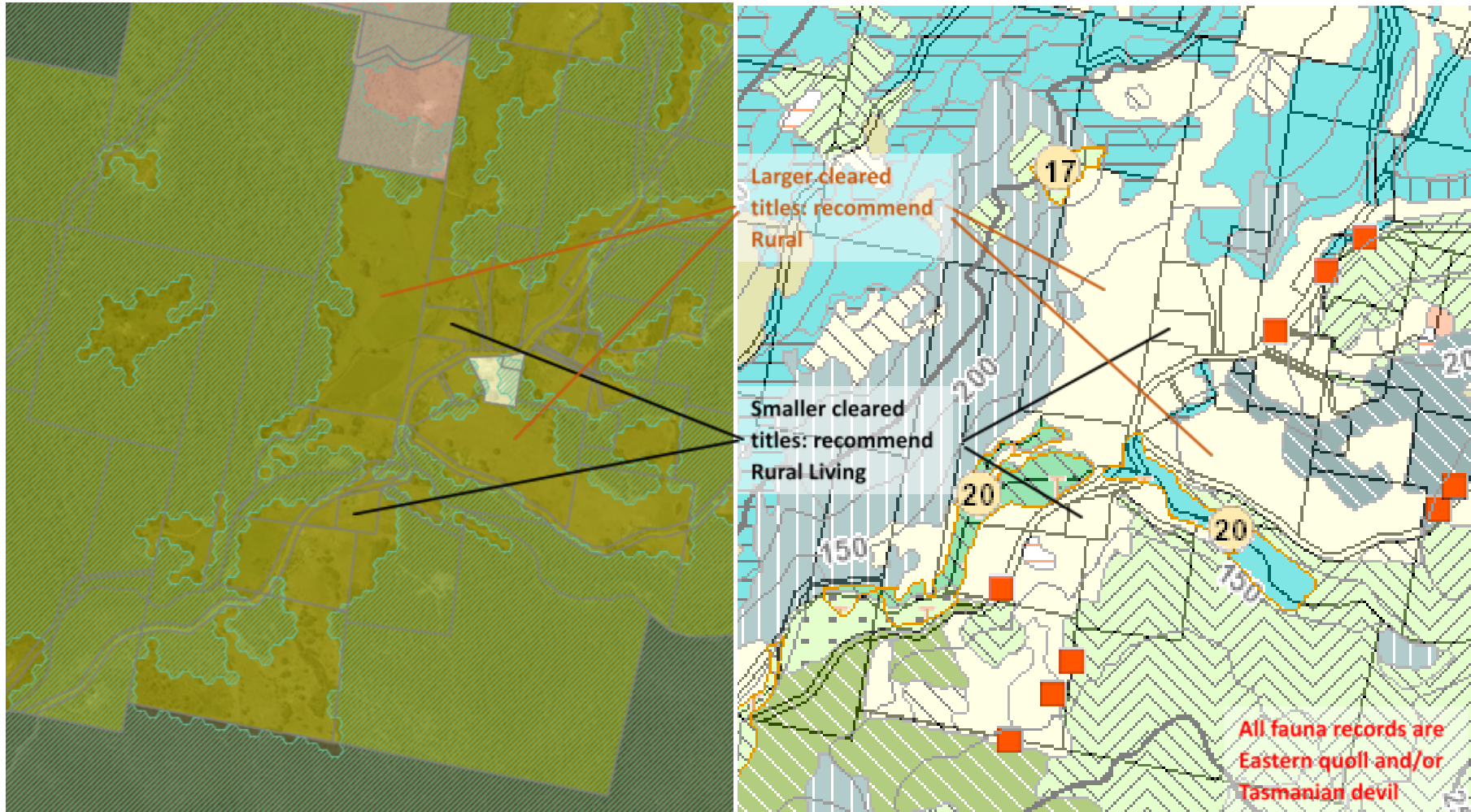
22.1.1 To provide for the protection, conservation and management of landscape values.

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.

Those landscape values – focussed on the threatened native vegetation community and waterway protection – would be identified and managed through the provisions of those Codes, without imposing a landscape conservation purpose (and associated restrictions) on the remainder of those properties.

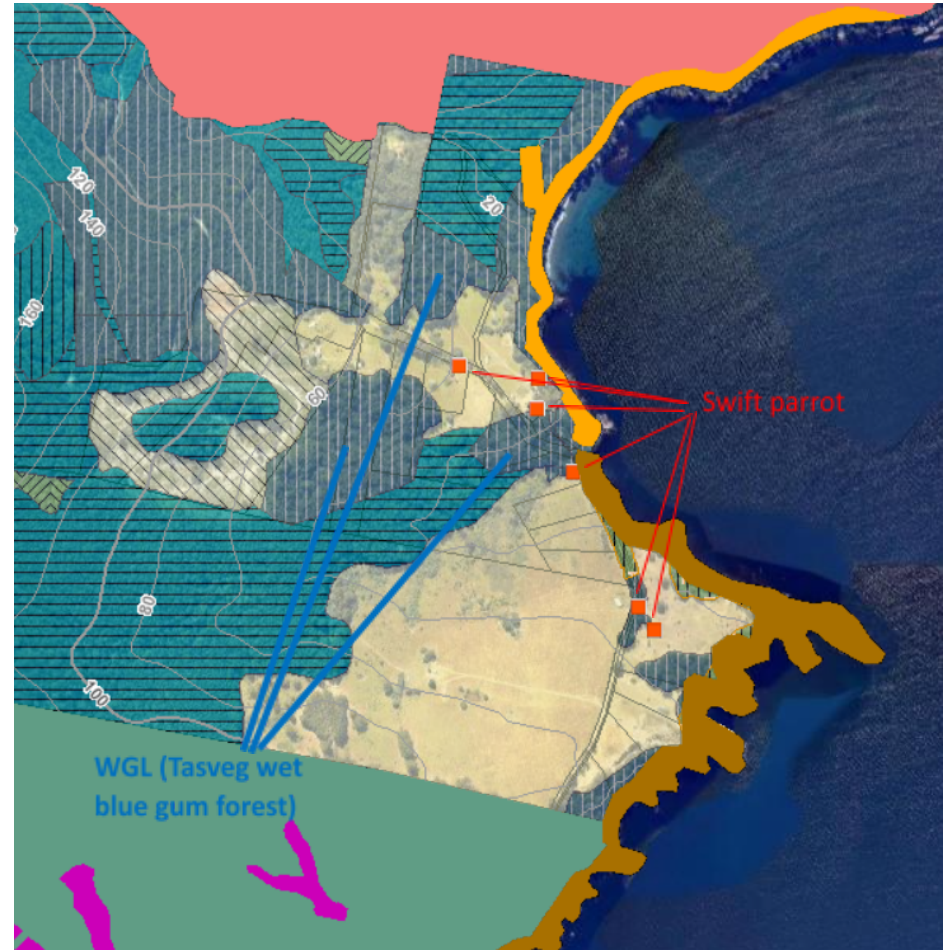
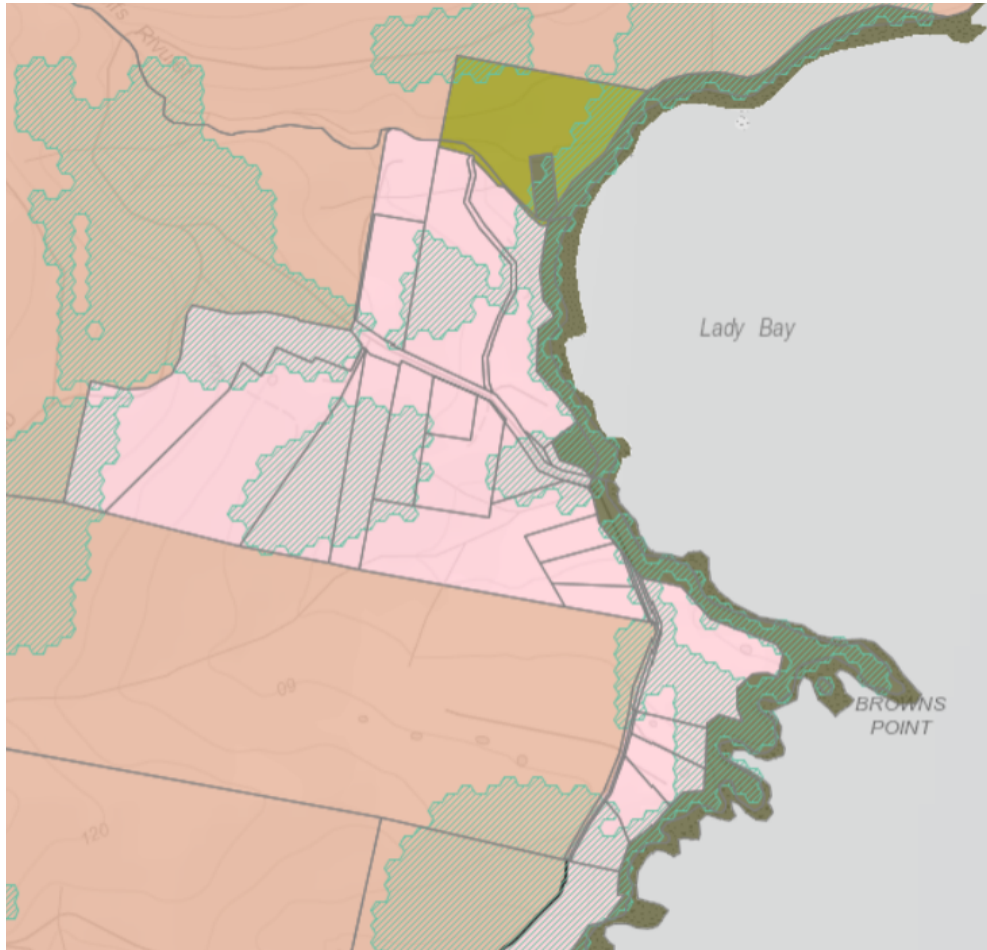
As an example of this imposition, 22.4.2(A4) of the SPPs would apply an acceptable solution of a 200m setback from adjacent Rural Zone for a sensitive (ie. residential) use on these properties, or a performance criteria to “not conflict or interfere with uses in the Rural Zone”: perhaps Rural Living is a more appropriate zone as has been applied to Misty Hill Rd alongside.

An additional point at this site is the generous extent of Priority Vegetation Area overlay. The overlay appears to extend to 500m from a Grey Goshawk (endangered species) record. Correspondence from HVC has identified that the Regional Ecosystem Model (REM) used to derive the Priority Vegetation Area overlay applied a 500m radius to Grey Goshawk nests, where current Threatened Species Section advice for this species is for a 100m radius reserve. HVC has indicated they will make a representation to reduce the overlay accordingly around Grey Goshawk nests, but there is another issue here: the record (on the state’s Natural Values Atlas system) is for a Grey Goshawk sighting, not even a nest site. Both the reason and extent of application of Priority Vegetation Overlay across numerous titles and extensive non-native vegetation, is proven wrong in this case.



At **Pelverata**, LCZ has been proposed at broad scale over almost the entire valley. Numerous smaller (0.5-2ha) properties on entirely cleared land are included in the zone without there being any indication from proposed Priority Vegetation Area or Scenic Protection overlays, Tasveg mapping, or Natural Values Atlas threatened fauna or flora records that there is any landscape value present on the property which might require management, protection or conservation as per the zone's purpose.

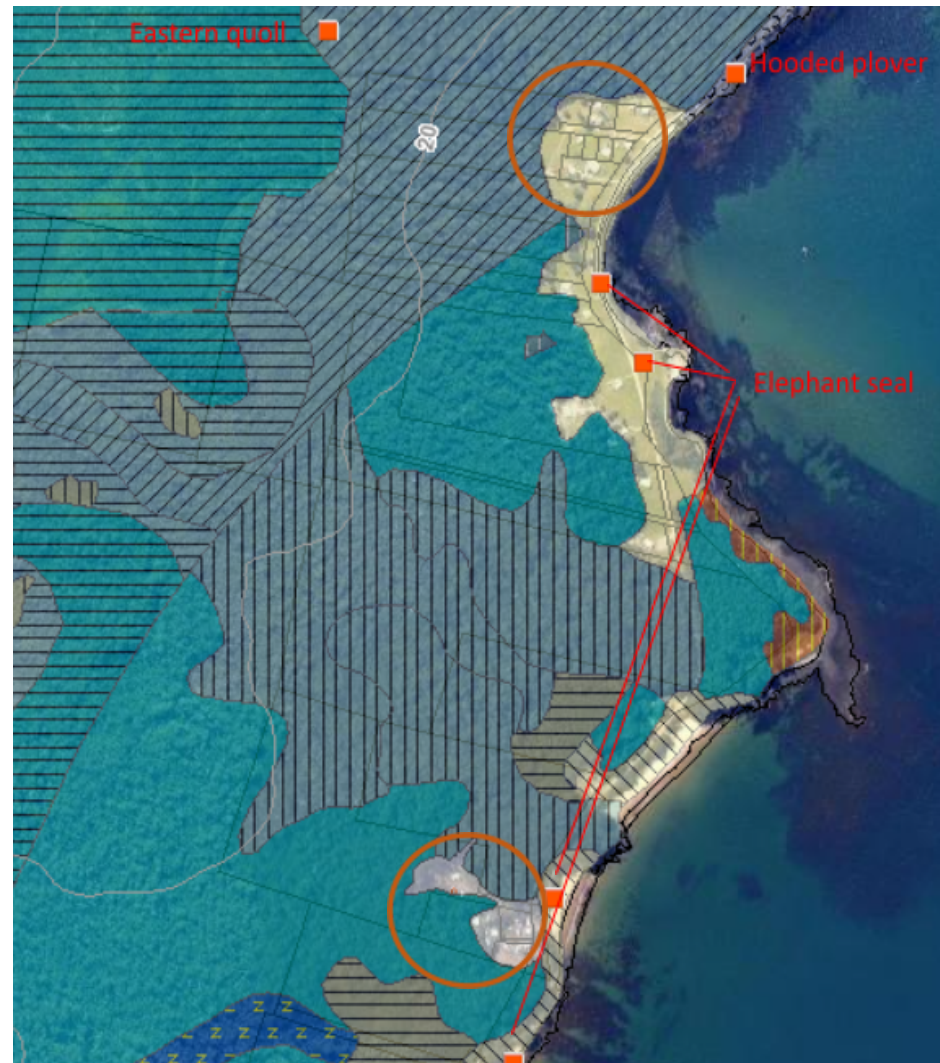
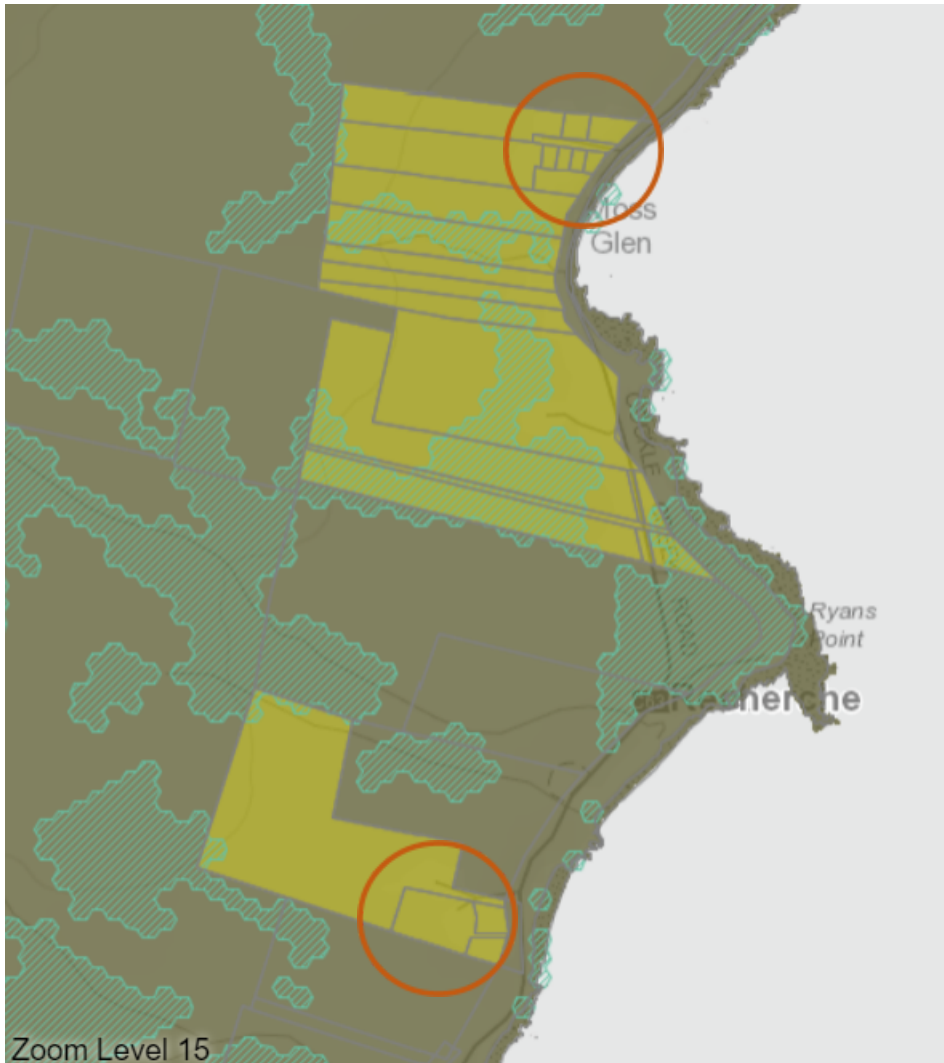
As per LCZ4 of the Zone Application Guidelines in TPC's *Guideline No. 1*, these smaller cleared valley floor properties near services including road, electricity and community hall, ought to have a clear priority for residential use and development (ie. Rural Living Zone). Other larger but substantially cleared titles also fail to display "landscape values that are identified for protection and conservation", and should be more appropriately zoned Rural.



At **Lady Bay**, titles with TASveg mapped WGL (wet blue gum (*E. globulus*) forest) in the vicinity of numerous Swift parrot records (NVA) are zoned Rural Living, with a purpose of:

- 11.1.1 To provide for residential use or development in a rural setting where: (a) services are limited; or (b) existing natural and landscape values are to be retained.
- 11.1.2 To provide for compatible agricultural use and development that does not adversely impact on residential amenity.
- 11.1.3 To provide for other use or development that does not cause an unreasonable loss of amenity, through noise, scale, intensity, traffic generation and movement, or other off site impacts.
- 11.1.4 To provide for Visitor Accommodation that is compatible with residential character.

Potential habitat for the (critically endangered) Swift parrot in the blue gum foraging resource and in any hollow-bearing trees in the vicinity, with species presence confirmed by Natural Values Atlas records, is constrained solely by Priority Vegetation Overlay, which compared to the aerial photography visible under Tasveg mapping in the RH map, misses at least half the potential native forest habitat in the Rural zoned area.



- At **Moss Glen** and **Jones Beach**, small titles (1,000-2,600m²) with no native vegetation or Priority Vegetation Area overlay are proposed as LCZ, purpose:
 - 22.1.1 To provide for the protection, conservation and management of landscape values.
 - 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

Natural values on these small-title and adjacent larger-title grassed roadfront residential areas are arguably minimal, and the visual impact of foreground (0-1km distant) landward residential development in the context of visually stunning scenery in the seaward direction, is effectively managed by the proposed Scenic Protection Code applied to 100m from the road.