

From: "Evan Boardman" <evan@e3planning.com.au>
Sent: Tue, 31 May 2022 16:58:17 +1000
To: hvc@huonvalley.tas.gov.au
Cc: mark.rabone@billbergia.com.au
Subject: Huon Valley LPS Submission
Attachments: 144 Esperance Coast Road Surges Bay TPS HUO 220531 (1).pdf

Dear Sir/Madam

Please find attached a submission lodged on behalf of the owners of 144 Esperance Coast Road Surges Bay.

Regards

Evan

Evan Boardman
B.Econ, B, Sci (Hons), Grad Dip URP
Ph: 0438 376 840
PO Box 58 SOUTH HOBART TAS 7004
<https://e3planning.com.au/>



ENVIRONMENT
SUSTAINABLE
DEVELOPMENT
ECONOMICS



31 May 2022

General Manager
Huon Valley Council
40 Main Street
HUONVILLE TAS 7109

RE: Submission Draft Huon Valley Local Provisions Schedule 144 Esperance Coast Road Surges Bay 7171

Please accept this correspondence as a submission on the Draft Huon Valley Local Provision Schedule of the Tasmanian Planning Scheme (TPS HUO). The submission is lodged on behalf of the owners of 144 Esperance Coast Road (the Property) Mark and Charlotte Rabone.

The Property is located as per figures 1 and 2, is zoned Environmental Living as per figure 3 under the Huon Valley Interim Planning Scheme 2015 (the Scheme) and is proposed to be zoned Landscape Conservation under the new Tasmanian Planning Scheme Huon Valley Local Provision Schedule (TPS HUO) as per figure 4.



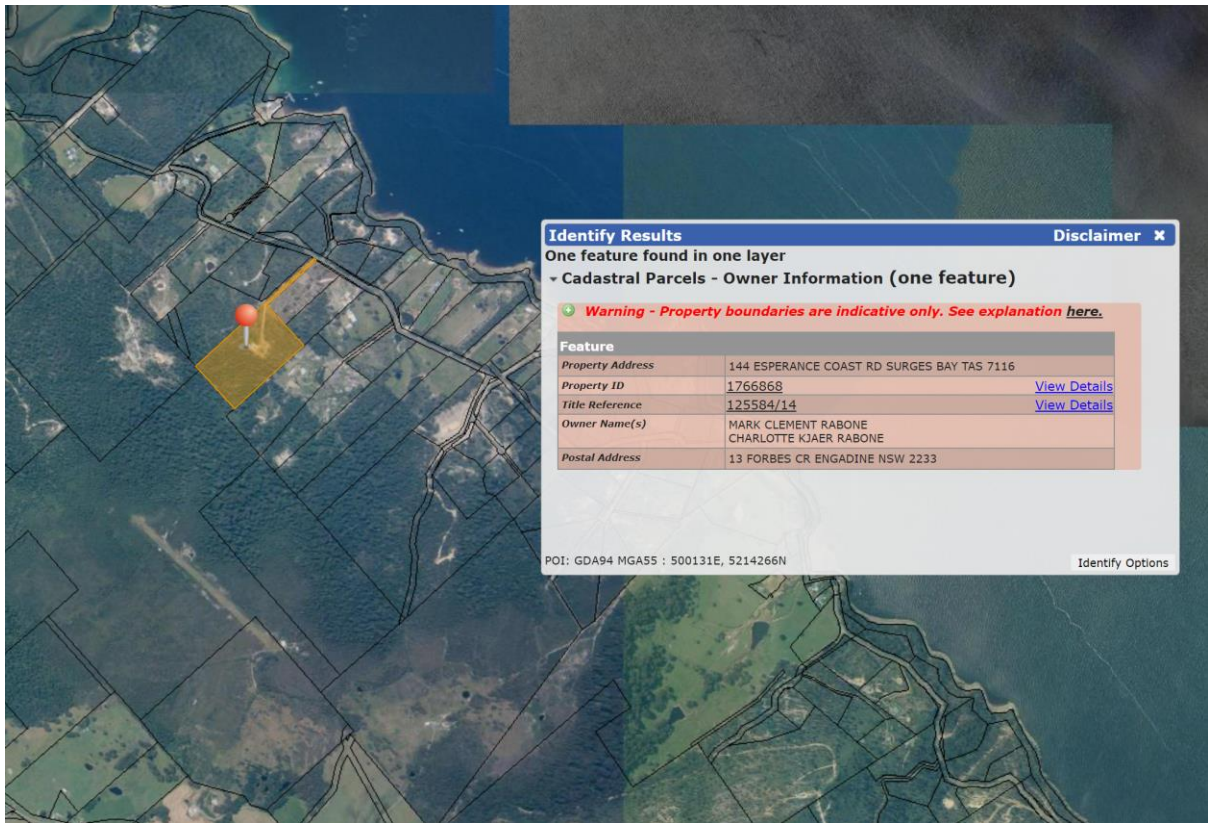


Figure 1: Property Location

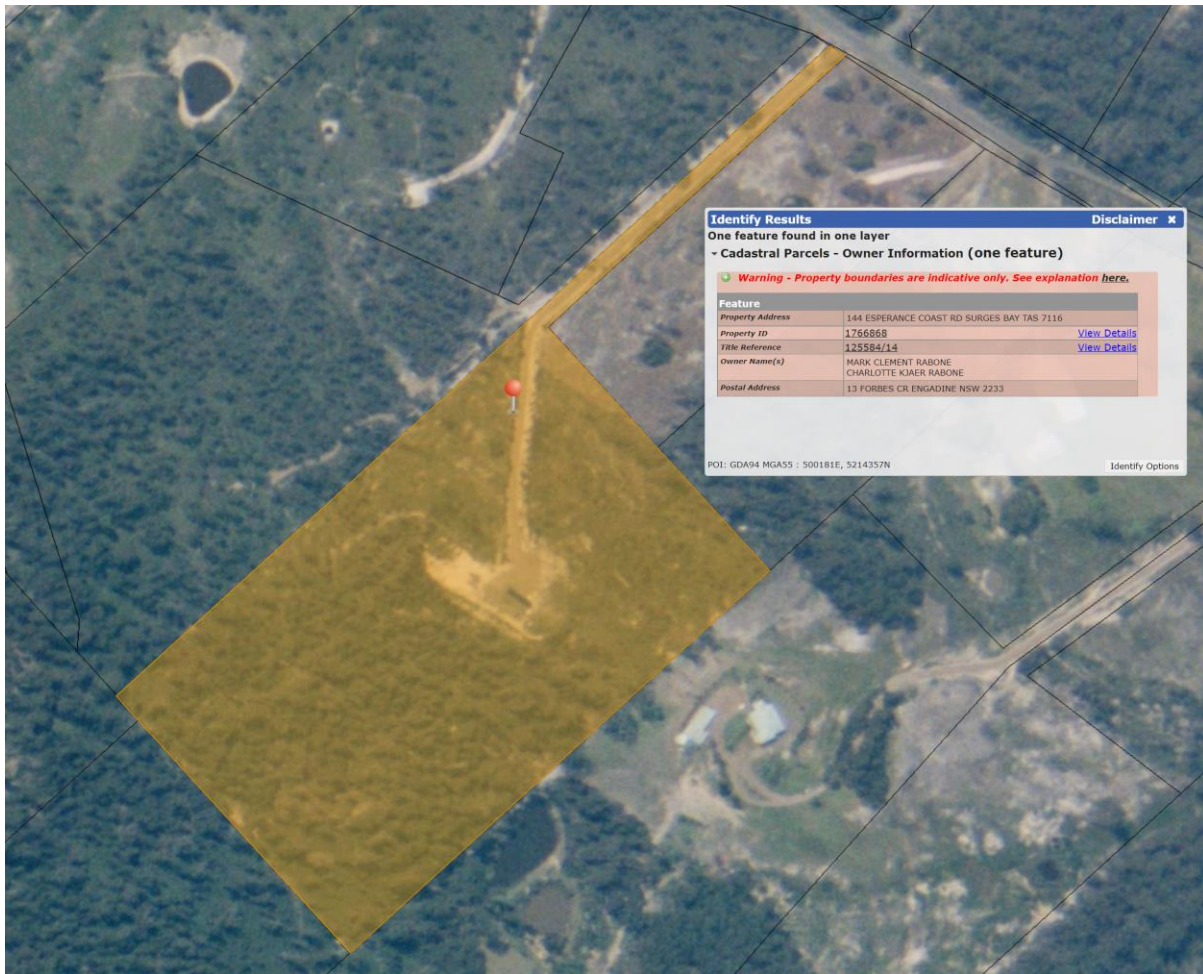


Figure 2: Property location

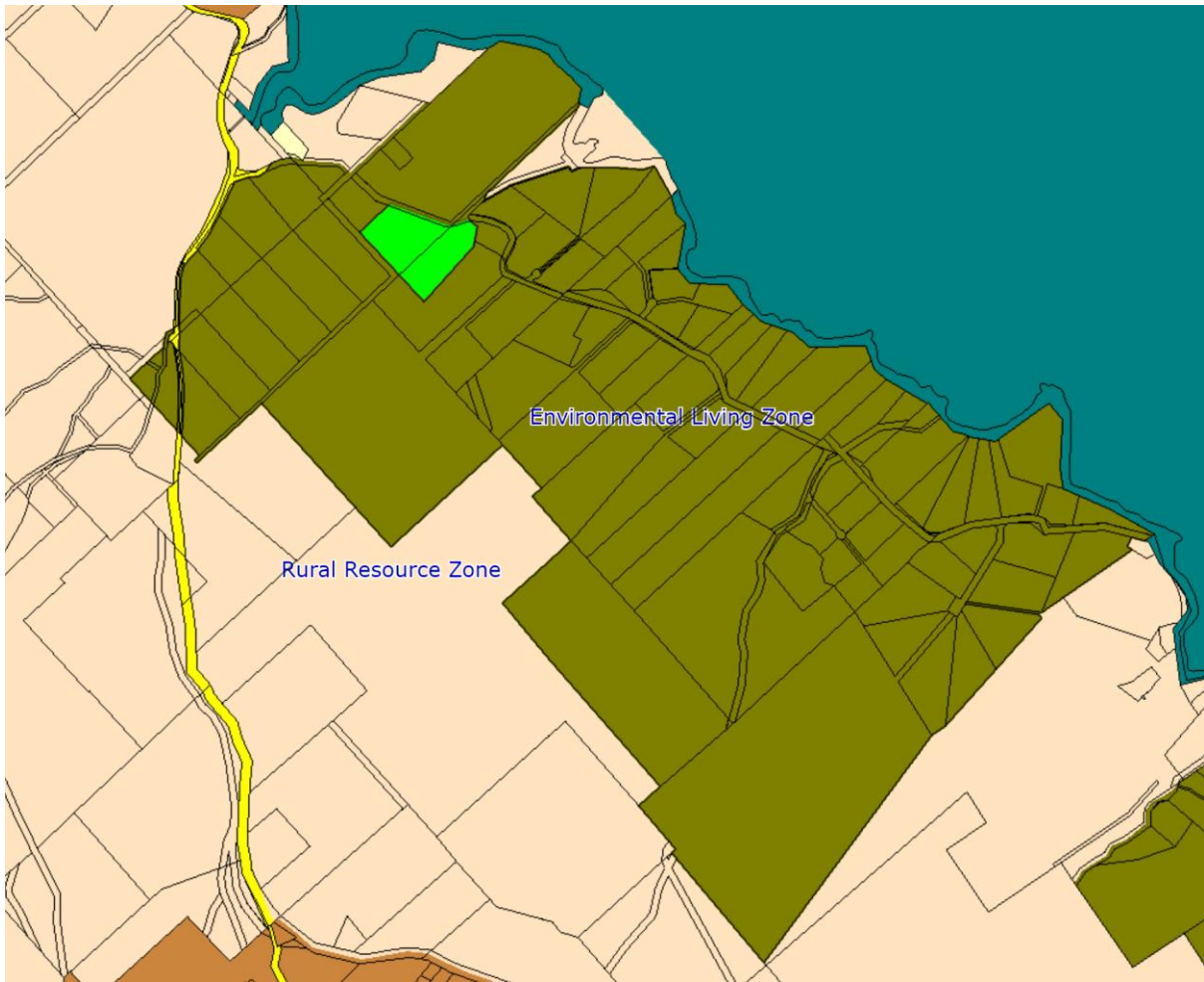


Figure 3: Property zoning under the Scheme

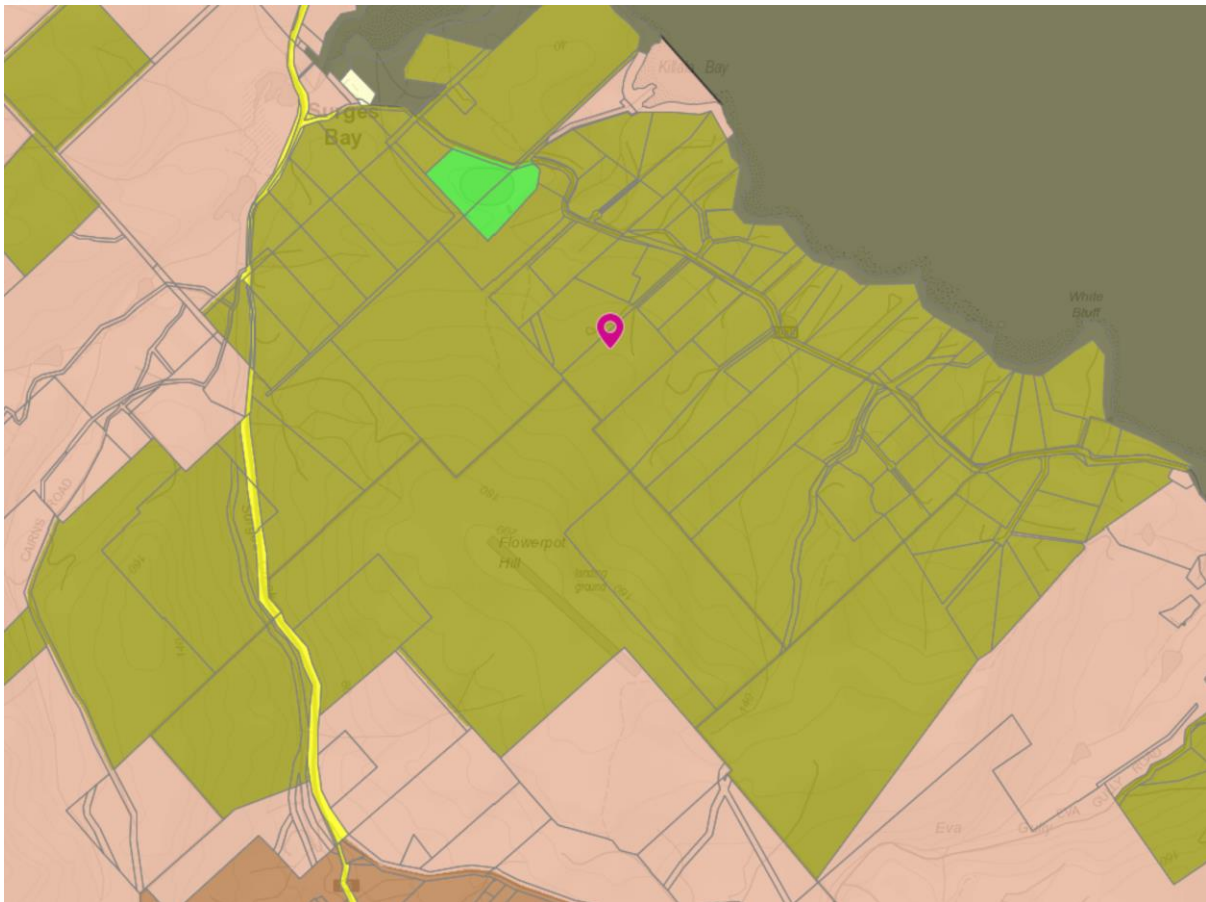


Figure 4: Property Zoning TPS HUU.

My clients contacted me on Monday 30 May after contacting their Solicitor Tierney Law on 20 May after having received a letter from Huon Valley Council on 18 May 2022 (the letter was dated 3/5/22). This letter was referenced Planning changes: exhibition of the draft local provisions schedule of the Tasman Planning Scheme. My clients reside in Sydney making it imperative that they are notified of any changes to the use and development potential of their Property rather than relying upon word of mouth or neighbours.

As Council is aware the TPS HUU had been on public advertising for almost four months before Council decided that it would be appropriate to specifically notify potentially affected landholders of the proposed zoning changes. Whilst it is appreciated that Council notified my clients, the lateness of the 18 May letter has provided no time to prepare a detailed response and a more detailed response will be presented to the Tasmanian Planning Commission when a future hearing is held.

My clients strongly object to the proposed Landscape Conservation Zoning and request that their Property and that of the Coastal Residential Hamlet of Surges Bay be zoned Rural Living.

When my clients purchased the Property in 2008, it was zoned Rural Residential, which provided for use and development in accordance with how the overall area of Surges Bay has been developed and used. The existing Environmental Living Zone diminished the development potential of the Property and Surges Bay overall and the TPS HUO would further reduce the development potential of the Property and its value. Residential dwellings under the previous and existing planning schemes are permitted as one would expect within what is a rural residential area. Residential dwellings are now proposed to be discretionary, unless they are within a building area shown on a sealed plan, a very significant change.

The TPS HUO and the proposed Landscape Conservation Zoning of Surges Bay ignores the reality that it has been developed principally as a residential coastal hamlet. Surges Bay has excellent amenity and views and is a place where people live and reside, and it is my clients intention to relocate to Surges Bay in the next few years and construct a dwelling. Making residential dwellings discretionary provides them with no certainty that they will be able to construct a dwelling and that it would be at the discretion of Council.

The zone purpose of the Landscape Conservation Zone does not provide for residential use and development but rather it focuses upon protecting, conserving, and managing landscape values as listed below.

22.1 Zone Purpose

The purpose of the Landscape Conservation Zone is:

- 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.

The most appropriate zone from a strategic planning perspective which would recognise and provide for the established residential use of Surges Bay is Rural Living, which has as its severely limits development potential and the most appropriate zone from a strategic planning perspective should be Rural Living, which has as its Zone Purpose.

11.1 Zone Purpose

The purpose of the Rural Living Zone is:

- 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.

There are numerous smaller undeveloped residential lots within Surges Bay and Council by requiring any applications for single residential dwellings to be advertised regardless of setbacks, height, access etc will place significant unnecessary costs upon future development. Council should be encouraging the future development of Surges Bay and not restricting it with an incorrect zoning. The proposed zoning is also likely to make it more difficult for landowners to borrow for construction of any future dwellings.

Rural Living Zoning would still limit development potential through relevant use and development standards, but the existing uses would be recognised, and future development accommodated.

My clients concerns, with the process which Huon Valley Council have adopted are:

Council didn't give us fair warning of the change – we live in Sydney, NSW and rely on mail correspondence. Councils letter dated 3/5/22 was received on 18/5/22 – less than adequate notice and barely enough time to comprehend the changes let alone prepare and lodge a submission voicing our concerns.

It has come to my attention that the consultation period was supposed to close in April 22 – that means Council had no intention of providing me with any notice at all! – yet can regularly issue me Council Rates and Land Tax notices when necessary. This appears to be deceptive conduct and certainly indicative of knowing that our rights as landowners are being adversely affected by the proposed change.

If we had sufficient notice (i.e., since January 2022), I would have already lodged an application to build even a small two bed kit home to ensure we could have a retirement home – which is my main priority.

We have been paying land tax proportionate to the land use zone for the last 14 years – that is with the expectation that residential use is permitted. To have this unfairly changed to discretionary is a material change to the land use, an injustice and if such occurs should force compensation to be paid to landowners – of at least half the land value. It should not be landowners who suffer to protect the environment – Council & the government should share the cost of legislating protection for the environment by compensating for the loss of land value.

It is deeply concerning to us that building our retirement home will no longer be a permitted use (under this draft LPS) and will be up to Councils discretion. This has caused us undue stress, has materially changed the land value, and drastically devalued it.

Conclusion

The notification process for what is a significant change to the development potential of my clients property and that of Surges Bay has been entirely inadequate, providing less than 2 weeks to provide a submission.

Council by zoning Surges Bay Landscape Conservation would severely limit development potential of all landholders within Surges Bay. Residential dwellings as a minimum should be permitted within an area used and already developed for residential purposes and not discretionary, and subject to third party appeals.

Surges Bay should be zoned Rural Living under the TPS HZO such that its role and function as a coastal residential hamlet is recognised.



If you have any further queries, please do not hesitate to contact me on 0438 376 840 or email evan@e3planning.com.au.

Regards

Evan Boardman
Grad Dip URP, B ScEnv, B Econ MEIANZ



From: "Mark Rabone" <mark.rabone@billbergia.com.au>
Sent: Tue, 31 May 2022 16:03:08 +1000
To: "tpc@planning.tas.gov.au"
<tpc@planning.tas.gov.au>; "hvc@huonvalley.tas.gov.au" <hvc@huonvalley.tas.gov.au>
Cc: "Evan@e3planning.com.au" <Evan@e3planning.com.au>
Subject: Representation Re: Draft Local Provisions Schedule
Attachments: HVC Lette dated 3 may_ received 18 May.pdf, Map_Blue Dot_144 Esperance Coast Rd, Surges Bay.jpg, Mark Rabone_144 Esperance Coast Road, Surges Bay_Representation re draft LPS_v4.pdf

To: Huon Valley Council & Tasmanian Planning Commission
Attn: To Whom It May Concern:

I hereby submit my representation outlining why the changes proposed would affect my property at 144 Esperance Coast Road, Surges Bay TAS 7116 and give my reasons for my objection to the draft LPS and rezoning of Surges Bay (& my property) to Landscape Conservation. I also provide reasons to support rezoning to rural living zone.

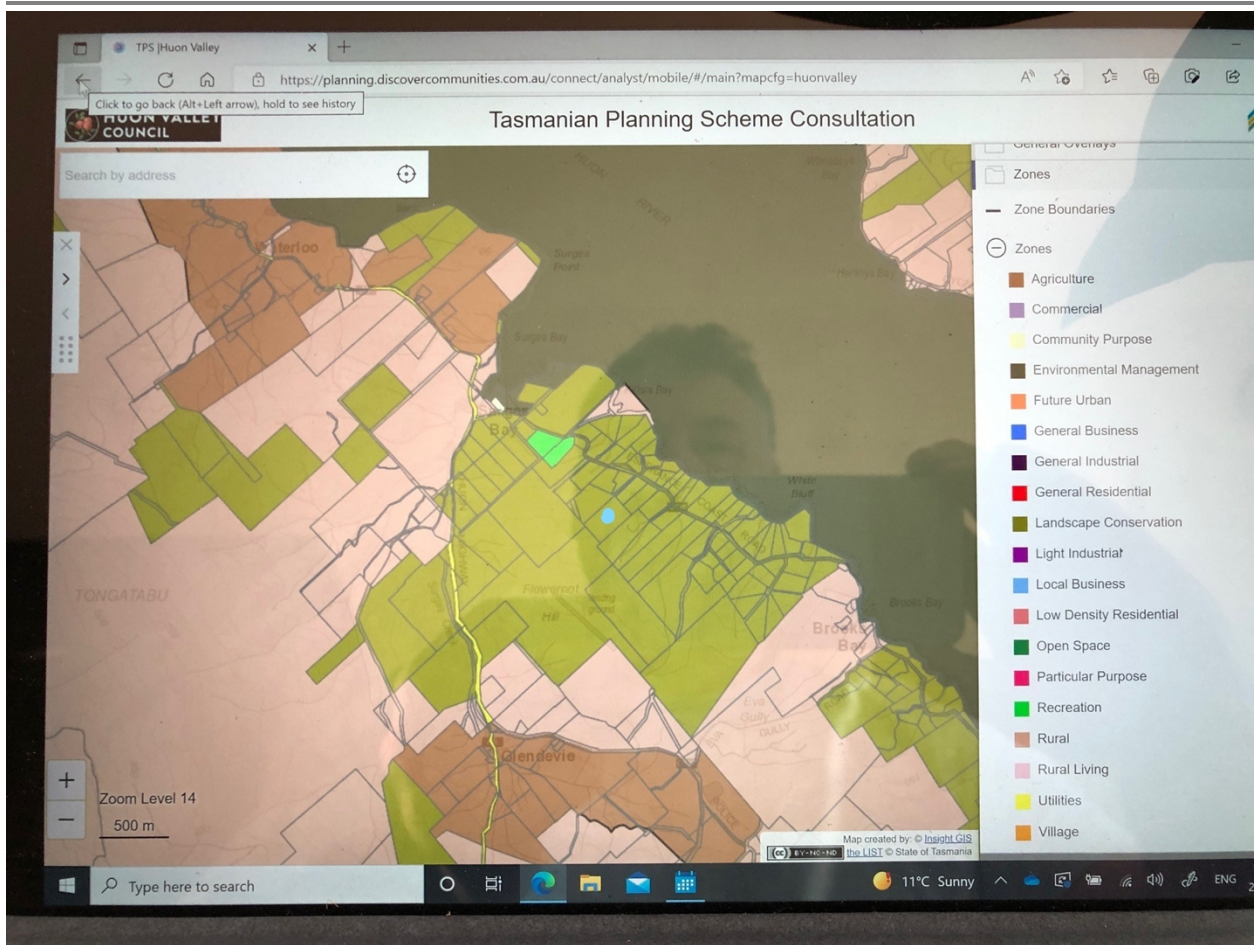
Please find attached

- My letter dated 31/5/22 – the date submission is required to be made according to HVC's letter and not early or late.
- My property marked with a blue dot
- Screenshot of land use that I do not support
- Huon Valley Councils letter

On behalf of

Mark & Charlotte Rabone
13 Forbes Crescent
Engadine, NSW 2233
mcrabone@gmail.com

Message protected by MailGuard: e-mail anti-virus, anti-spam and content filtering.
<https://www.mailguard.com.au>





Mr M C Rabone and Mrs C K Rabone
13 Forbes Crescent
ENGADINE NSW 2233



Our ref: 1766868



012
1000146

3 May 2022

Dear Sir/Madam

RE: PLANNING CHANGES: EXHIBITION OF THE DRAFT LOCAL PROVISIONS SCHEDULE OF THE TASMANIAN PLANNING SCHEME ENDING 31 MAY 2022

The Tasmanian Government is reforming the State's planning system by introducing a single planning scheme for the State – the Tasmanian Planning Scheme (TPS).

The TPS consists of two primary components, State Planning Provisions (SPPs) and the Local Provisions Schedule (LPS). The draft LPS indicates how the SPP (zones and codes) are proposed to apply to each parcel of land in the Huon Valley. The Huon Valley Draft LPS (draft LPS) is being exhibited from 24 January 2022 to 31 May 2022. The public exhibition of the draft LPS is the primary legislated consultation process with local stakeholders and community members prior to the assessment process by the Tasmanian Planning Commission (TPC).

The current and proposed zone for your property:

Title Reference	Interim Planning Scheme	Tasmanian Planning Scheme
125584/14	Environmental Living	Landscape Conservation

You can find additional information on the zone and codes proposed for your property or area of interest by using the online draft LPS Portal which can be accessed from either the ['Have Your Say'](#) or ['Tasmanian Planning Scheme'](#) pages on the Huon Valley Council (HVC) Website. Information on how the zones are to be applied to properties is set out in the TPC's [Section 8A Guideline 1 LPS Zone and Code Application](#). The zone and code provisions and uses for each zone are contained in the State Planning Provisions. It is important to note zones in the SPPs that share the same or similar name under the current interim Planning Scheme will have different provisions and uses depending on the nature of the particular zone and you are encouraged to familiarise yourself with these.

If you have concerns or comments on what is proposed in the draft LPS, you can make a representation (submission) during the above exhibition period on the draft LPS (not the SPPs). Information on how to make a representation is on the ['Have Your Say'](#) page of the HVC website. Please refer to the useful ['dos and don'ts'](#) guide and the [Frequently Asked Questions](#) which provide suggestions on how to submit a representation. A suggested starting point is referring to the [Section 8A Guideline 1 LPS Zone and Code Application](#) guideline document that provides relevant information about how the zones and codes are to be applied. We encourage you to explore engaging a suitable consultant for more technical or merit-based planning questions specific to your property or to assist with technical aspects of your representation.



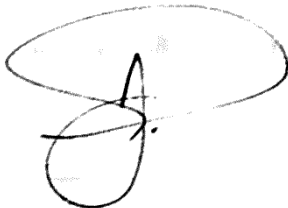
Important websites and direct links:

Name	Web link
State Government Planning Reform Website	https://www.planningreform.tas.gov.au/planning-reforms-and-reviews
Tasmanian Planning Commission Section 8A Guideline 1 Zone and code	https://www.planning.tas.gov.au/assessment-resources/section-8a-guidelines
State Planning Provisions (SPPs)	https://www.planningreform.tas.gov.au/planning/scheme/state_planning_provisions
HVC Have Your Say webpage	https://www.huonvalley.tas.gov.au/consultations/huon-valley-draft-local-provisions-schedule/
HVC Tasmanian Planning Scheme webpage	https://www.huonvalley.tas.gov.au/services/planning-2/tasmanian-planning-scheme/

As a related part of the State planning reform, the State Planning Provisions will be reviewed by the State Planning Office from 2022. As part of this process, the public will be invited to make submissions – further information is on the Planning Reform website (see link above). Please update your electronic contact details with Council to ensure you are notified when this process begins.

For further information, please visit www.huonvalley.tas.gov.au which has extensive Tasmanian Planning Scheme related written and recorded resources.

Yours sincerely



Jason Browne
General Manager



- General Overlays
- Zones
- Zone Boundaries
- Zones
 - Agriculture
 - Commercial
 - Community Purpose
 - Environmental Management
 - Future Urban
 - General Business
 - General Industrial
 - General Residential
 - Landscape Conservation
 - Light Industrial
 - Local Business
 - Low Density Residential
 - Open Space
 - Particular Purpose
 - Recreation
 - Rural
 - Rural Living
 - Utilities
 - Village

Mark & Charlotte Rabone
144 Esperance Coast Road
Surges Bay TAS 7116
31/5/22

Huon Valley Council
23-25 Main Street,
Huonville, Tas, 7109

Re: Draft Local Provisions Schedule

We received a letter from Huon Valley Council on 18/5/22 (letter dated 3/5/22) referencing planning changes: **exhibition of the draft local provisions schedule of the Tasman planning scheme ending 31 May 2022.**

The changes that are proposed will affect all of Surges Bay and specifically our property at 144 Esperance Coast Road, Surges Bay TAS 7116 – and we do not support the proposed rezoning.

The proposed changes to the land zone are irresponsible and overly restrictive for Surges Bay as the area has unique qualities that make it perfect for low density residential habitation and prevent it from excessive land clearing or overdevelopment – these qualities are: -

- 1) Surges Bay is riverside/coastal land that is near the very sizeable Huon River – the water mass helps to moderate the climate keeping it warmer in winter and has great amenity.
- 2) It has very gently sloping land from the river edge towards inland not more than 1 km and below 200m above sea level.
- 3) The has a good climate, rarely ever gets below zero degrees – not even in winter. This is unique and extremely important in Tasmania where weather short distances away is more extreme and just plain cold and miserable.
- 4) It faces North and enjoys excellent all-day sunlight. It enjoys drying winds than run up the river valley and is largely protected from strong Southern & Western winds.
- 5) It is an enviable area where people want to live and enjoy the views.
- 6) It has safe sealed access roads to each property – which makes it defensible from fires.
- 7) The soils are sandy clay – poor soils not generally suitable for crops or commercial farming and thus wholesale or bulk clearing of Surges Bay won't occur. Existing environmental living doesn't allow excessive or total clearing either.
- 8) The tree cover is small and devoid of ferns & tropical rain forests found further inland.
- 9) The last fire event that commenced in the West of Tasmania was able to be defended – and as a result all the towns and properties along the Huon River were able to be saved. Access roads to properties and the abundance of water sources made them defensible and safe. These roads also allowed safe exit for people when it was time to leave.
- 10) The existing land holdings are larger acreage on the hill side beyond Esperance Coast Road and this has prevented overdevelopment and will ensure the same into the future.
- 11) More responsible development land is needed to cater for growing populations – Surges Bay still have capacity to provide this without causing visual destruction or environmental damage and harm by overdevelopment.

- 12) It is not an area that has extensive clearing nor the ability or the drivers to warrant land clearing. It is land that will remain tree covered because of its poor soils and lack of potential to warrant clearing – i.e., no good for timber forestation, or agriculture.
- 13) It is land midway between Geeveston and Dover that has been selected (or to be penalised by selection) in a random manner when compared to other land up and down the river (and further inland) – simply because much of the hillside remains tree covered land.

Areas further inland are not as suitable to allow residential occupation as Surges Bay, yet the proposed new LPS has these inland areas shaded as suitable for residential!

- Steeper land with poor unsealed access – therefore hard or impossible to defend from fires
- Higher elevation making them colder
- Exposed to stronger damaging winds – not more gentle drying winds
- Have steep, wet, fern filled gullies and much larger denser trees and rain forest like vegetation with moss and mildew that would make living there undesirable.
- Would require new roads to be built for access, disrupting the pathway for animals and dissecting the forests.

It was the qualities of Surges Bay that specifically drove us to purchase our block here. Prior to the purchase, we carefully checked that the land was suitable for building a residential property – and yes, it was, as it was zoned **rural residential**. Having confirmed this, we purchased the land which was at a premium to other land we were considering – due to its wonderful location, sunny northerly aspect with good views – but it was worth it. We have yearned to escape over development (i.e., Sydney) and have no plans or desire to attempt a carving up of our property or unnecessary clearing. We like the density level in Surges Bay as it is.

Several years later, the land zoning was changed to **environmental living** – I might add without any notification from Council (that I can remember). Whilst we had no opportunity to make representation, the environmental living zoning did not concern us drastically as the permitted use to build a residential property remained.

But now, the draft LPS proposes to change the land zone to **landscape conservation** – with the big difference being residential property use is **no longer a permitted use** – it's a discretionary use. With each change the land use is becoming more restricted, and this proposed change makes the land less valuable. The location of a residential build position on the land is further restricted – so whilst the land may be large, the building site would need to be located on a subdivision plan as “suitable for development”.

We have owned the block of land since 2008 and have been paying it off with the intention to transition to move from Sydney and reside on the property until retirement. That move circa 4 ½ years' time. I have always wanted to build the home myself as an owner builder – hence I haven't commenced any development application to date. I may need to rethink delaying lodgement for my residential home.

It is deeply concerning to us that building our retirement home will no longer be a permitted use (under this draft LPS) and will be up to Council's discretion. This has caused us undue stress, has materially changed the land value and drastically devalued it.

Our property has: -

- 16 acres (6 hectares)
- An approved shed;
- An approved septic system;
- A lapsed development approval for a residential building (Previous owner);

- A cleared house site;
- Cleared fire protection zones around the existing buildings and house site – which we have maintained for the past 14 years.

The previous owner did not build the house due to divorce – and the development approval was not to our liking and so we didn't seek an extension of the building approval when Council sent us a letter.

My issues with the Draft Local Provisions Schedule as follows: -

1. The draft LPS does not consider the qualities of Surges Bay outlined in points 1 to 13 above.
2. The Draft LPS landscape conservation zone aims to prevent clearing that is necessary for safe residential occupation of the land – fire protection is a MUST for rural living areas and the current zoning has this correctly catered for. Development without due regard for safety is irresponsible. Discretionary approval will ultimately prevent further development.
3. Areas currently zoned **environmental living** are areas that should be transferred back to **Rural Living Zone** NOT transferred to **Landscape Conservation**.
4. Other areas further West that are more remote, have less views, are at higher risk of fire danger are identified as **rural living zones** which would allow more development & clearing than proposed for Surges Bay – which doesn't make sense as that land has more unique forests. Surges Bay is perfect for restricted residential development – not overdevelopment. Overdevelopment is already controlled by restrictions on subdivision of lands.
5. The land is worth less under this zoning, with residential use no longer permitted, instead being discretionary. If I was forced to sell my land (without a residence), with the new zoning of landscape conservation, it would be worth much less (I estimate 50%) because development on the property is not guaranteed. The risk associated with not being able to get development approval to build is the reason the land is worth less to a future purchaser.
6. Banks are unlikely to fund the purchase of land where the land zone does not automatically permit residential use and they may be unwilling to fund for residential constructions as well. This supports my assertion above that the land is worth less. This is unfair and unjust. It's hard enough to buy land, pay it off and save to build only to have this opportunity in jeopardy with ever changing planning zones affecting our land.
7. We have been paying land tax proportionate to the land use zone for the last 14 years – that is with the expectation that residential use is permitted. To have this unfairly changed to discretionary is a material change to the land use, an injustice and if such occurs should force compensation to be paid to landowners – of at least half the land value. It should not be landowners who suffer to protect the environment – Council & the government should share the cost of legislating protection for the environment by compensating for the loss of land value.

My issues with the Huon Valley Council are: -

1. Council didn't give us fair warning of the change – we live in Sydney, NSW and rely on mail correspondence. Council's letter dated 3/5/22 was received on 18/5/22 – less than adequate notice and barely enough time to comprehend the changes let alone prepare and lodge a submission voicing our concerns.
2. If we had sufficient notice (i.e., since January 2022), I may have prepared and lodged an application to build even a small two bed kit home to ensure we could have a retirement home – which is my main priority.

I have raised my concerns about the draft LPS with e3planning (by providing a copy of this letter) and have authorised Evan Boardman to provide additional submission & representation to objection & rejection of the proposed landscape conservation zoning being applied to Surges Bay and my land, and also supporting a rezoning to rural living zone.

Regards

A handwritten signature in blue ink, appearing to read 'Mark Rabone', with a stylized flourish at the end.

On behalf of both Mark Rabone & Charlotte Rabone
mcrabone@gmail.com
0428286411