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**Sent:** Tue, 24 May 2022 08:53:12 +1000  
**To:** "Huon Valley Council" <hvc@huonvalley.tas.gov.au>  
**Cc:** "Simon Zelestis" <szelestis@jmg.net.au>  
**Subject:** REPRESENTATION TO HUON VALLEY COUNCIL ON THE DRAFT LOCAL PROVISION SCHEDULE  
**Attachments:** LPS Representation 654 Abels Bay Rd.pdf

## REPRESENTATION TO HUON VALLEY COUNCIL ON THE DRAFT LOCAL PROVISION SCHEDULE

Attn: General Manager

JMG Engineers & Planners have been engaged by Kieran Keshan and Sheila Keshan, owners of the site, to prepare a representation regarding 654 Abels Bay Road, Eggs and Bacon Bay on the Draft Huon Valley Local Provisions Schedule (HOU LPS).

Please find the representation attached.

Katrina Hill.

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JMG Ref: 220327PL

26<sup>th</sup> April 2022

General Manager  
Huron Valley Council  
Via email - [hvc@huonvalley.tas.gov.au](mailto:hvc@huonvalley.tas.gov.au)

Dear General Manager,

**REPRESENTATION TO HUON VALLEY COUNCIL ON THE DRAFT LOCAL PROVISION SCHEDULE - TASMANIAN PLANNING SCHEME CONSULTATION; PROPOSED AMENDMENT FOR 654 ABELS BAY ROAD, EGGS AND BACON BAY**

JMG Engineers & Planners have been engaged by Kieran Keshan and Sheila Keshan, owners of the site, to prepare a representation regarding 654 Abels Bay Road, Eggs and Bacon Bay on the *Draft Huon Valley Local Provisions Schedule (HOU LPS)*.

**1. Site, Location, & Context**

The subject site (see Figure 1) is located at 654 ABELS BAY ROAD, EGGS AND BACON BAY (PID 1579018; CT 141777/3).

The site contains an existing dwelling (and associated outbuildings) on a lot with an area of approx. 37,250m<sup>2</sup>.

The property has an approx. 173m frontage onto the Abels Bay Road (off Randalls Bay Road) with existing access.

The site is currently partially cleared and contains a single dwelling (and associated outbuildings), with mature vegetation on the site.

The site is currently zoned *Rural Resource* [26.0] under the Interim Planning Scheme.

Surrounding the site is a mixture of land zoned *Rural Resource* (to the north, east, and west) with *Low Density Residential* [12.0] to the immediate south. This residential zone constitutes a discrete settlement pattern around Eggs and Bacon Bay with established dwellings (see Figure 2).

Further north, land is zoned *Significant Agriculture* [27.0]. Further south-east land is zoned *Environmental Living* [14.0].

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Figure 1 - Subject Site in red (Source: TheList 2018, accessed 20/04/2022, <<https://maps.thelist.tas.gov.au>>)

## 2. *Huon Valley Interim Planning Scheme 2013*

### *Use and development*

The site is currently zoned *Rural Resource* (see Figure 2) under the *Huon Valley Interim Planning Scheme* (HVIPS). The purpose of the zone is broadly for 'resource development uses', and the protection of rural resources.

Under the HVIPS Residential use is permitted in the zone only if a home-based business or an extension or replacement of an existing dwelling. Residential use is discretionary only if for a single dwelling. All other residential use is prohibited.

The Planning Scheme currently states that any sensitive use (which includes residential use) must ensure that it does not unreasonably convert agricultural land or conflict with or fetter non-sensitive uses.

Subdivision can only occur within this zone where each subsequent lot is no less than 40ha.

Resource development is listed as a 'No Permit Required' use if for agriculture, crops, horse stud, tree farming (amongst other uses), with intensive animal husbandry a 'Discretionary' use. This would likely not restrict the use of the land for a hobby farm.

#### *Codes and overlays*

The site is also covered by the Bushfire Prone Areas code overlay and the Biodiversity Protection Area overlay.

The Biodiversity Protection Area covers only the uncleared area as shown in Figure 3 which identifies areas of potential threatened native flora and fauna communities (covering approximately 2/3 - less than 80% - of the site).

The Biodiversity Code broadly seeks to minimise the loss of threatened native vegetation communities and flora species, conserve threatened fauna habitat, and minimise the loss of locally significant biodiversity values.

As such under the current Planning Scheme, the clearance of land would likely require a development application, and would likely need to be accompanied by a Flora and Fauna Assessment by a suitably qualified person. In this regard, the current Code may restrict the clearance and subsequent use of the area subject to this overlay.

The TASVEG mapping (see Figure 4) indicates that there is potentially priority vegetation on the site.

The Bushfire overlay covers the entire site.

The purpose of the bushfire-prone code is broadly to ensure that use and development are appropriately designed, located, serviced, and constructed, to reduce the risk to human life and property, and the cost to the community, caused by bushfires.

The current clearing appears to be sufficient for this purpose, however, further advice should be sought regarding bushfire management.

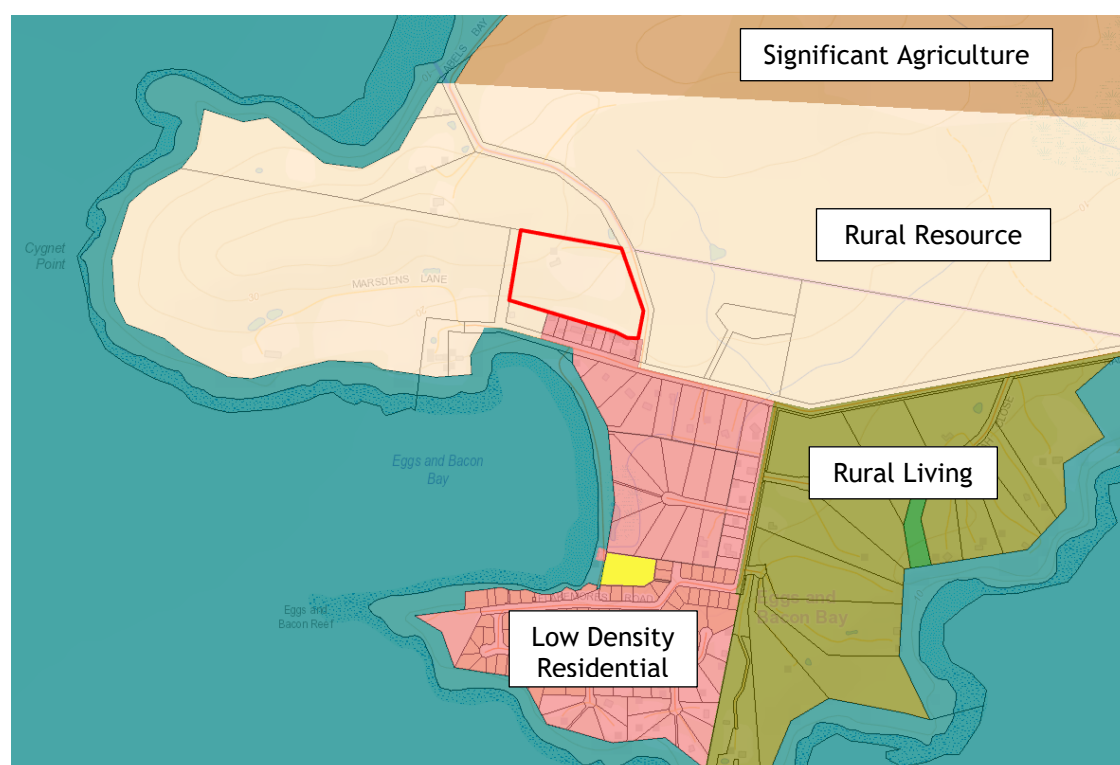


Figure 2 - Zoning - subject site in red (Source: TheList 2018, accessed 20/04/2022, <<https://maps.thelist.tas.gov.au>>)



**Figure 3 - Biodiversity overlay** (Source: TheList 2018, accessed 20/04/2022, <<https://maps.thelist.tas.gov.au>>)



**Figure 4 - TASVEG 4.0** (Source: TheList 2018, accessed 20/04/2022, <<https://maps.thelist.tas.gov.au>>)

### 3. Draft Huon Valley Draft Local Provision Schedule

Under the *Draft Huon Valley Draft Local Provision Schedule* (HOU LPS) the site is proposed to be zoned as *Landscape Conservation*. The purpose of this zone is to protect, conserve, and manage landscape values, and for compatible use or development that does not adversely impact the protection, conservation and management of the landscape values.

#### *Use and development*

Within this zone residential use is permitted if for a home-based business, or for a single dwelling.

Resource Development is a ‘discretionary’ use if not for intensive animal husbandry or plantation forestry. As such under the new zoning, it is likely that a development application would be required for a hobby farm, which would need to demonstrate that it is ‘compatible with landscape values’ having regard to the scale of the use, type of use, and landscape values of the site and surrounding land.

#### *Codes and overlays*

Under the Draft HOU LPS the site is covered by very similar overlays to the current Planning Scheme. The Natural Assets Code (see Figure 5) generally seeks to minimise impacts on natural assets, ecology, priority vegetation, and threatened species habitat. Clearance within this area is likely to require a development application, and

would likely need to be accompanied by a Flora and Fauna Assessment by a suitably qualified person. In this regard, the current new Code may restrict the clearance and subsequent use of the area subject to this overlay.

It has proven difficult to challenge the application of the code on sites through the Tasmanian Planning Commission draft LPS process unless supporting evidence is provided by a suitably qualified person that demonstrates to the Commission's satisfaction that the overlay should not be applied.

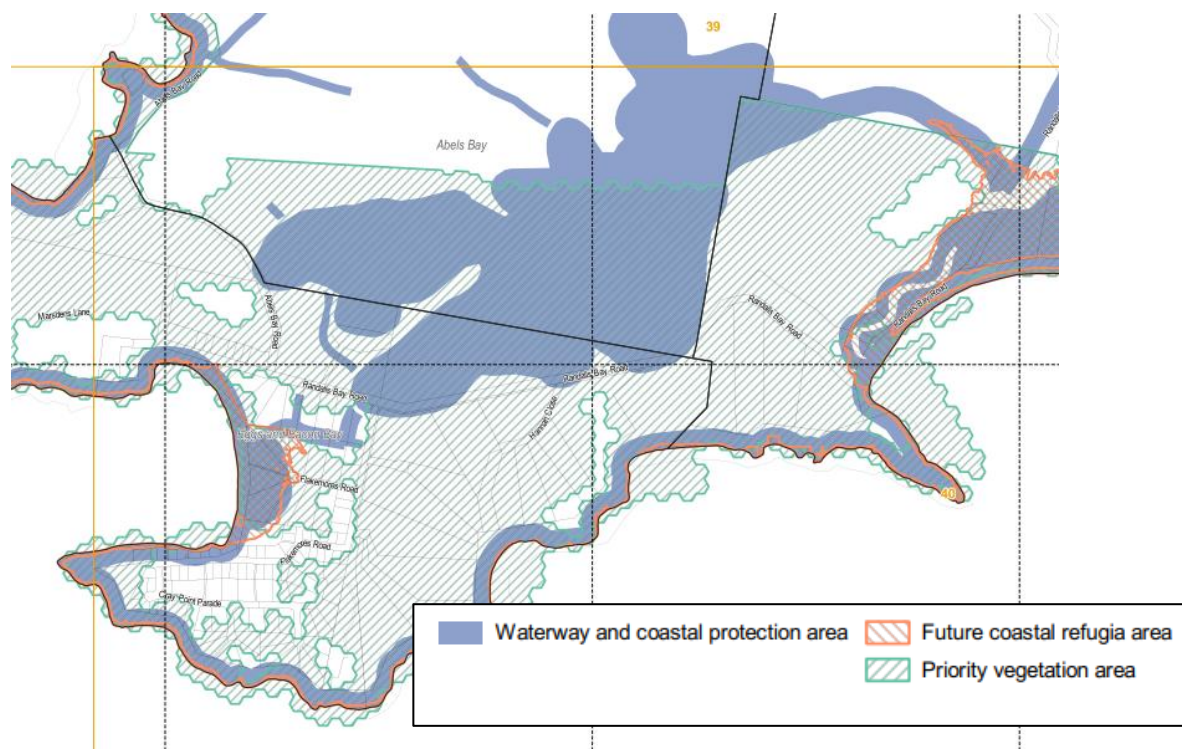


Figure 6 - Huon Valley Local Provisions Schedule Map 40 of 49 - Natural Assets Code ((Source: TheList 2018, accessed 20/04/2022, <<https://maps.thelist.tas.gov.au>>)

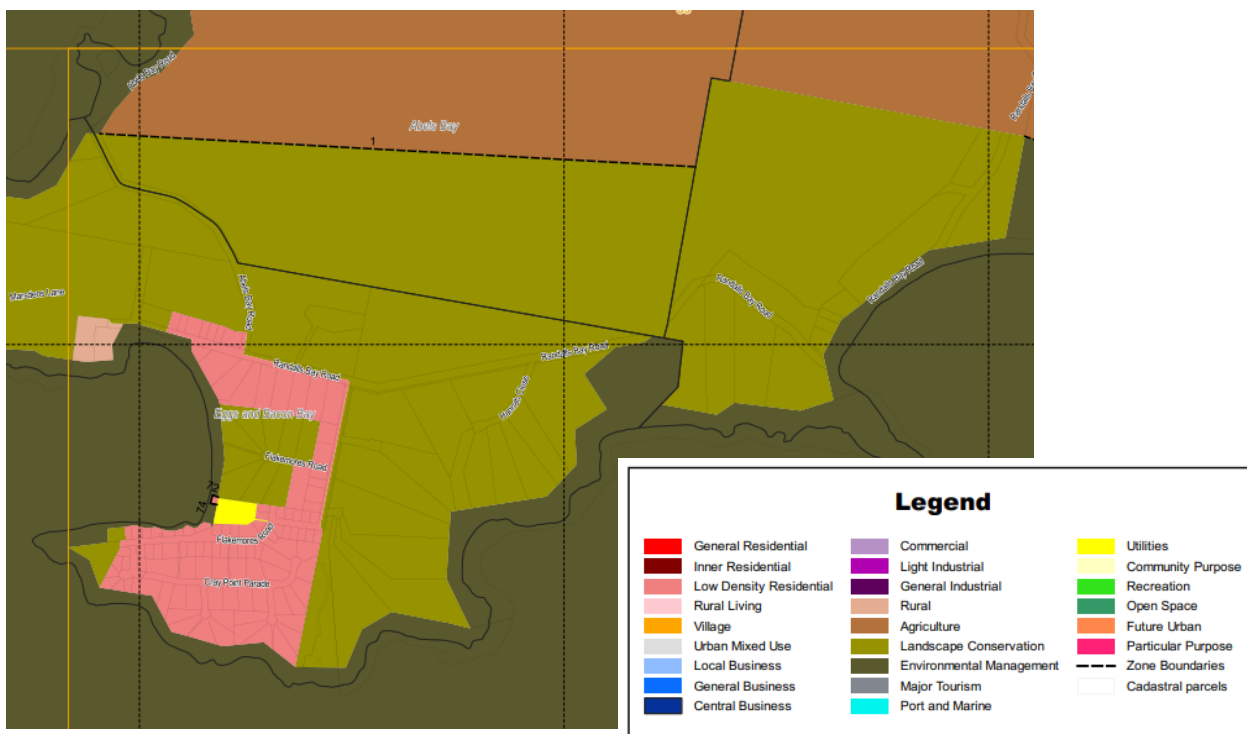
### Rationale for new zoning

The Supporting Report for the Draft *HOU LPS* (November 2021) states (in Table 1 reproduced below) that the land has been zoned as Landscape Conservation (see Figure 6) in accordance with LCZ 1, 2 & 3. The application of this zone is supported by the extent of the Natural Assets Code on the site and surrounding land, and the fact that the site was excluded from the study of 'Land Potentially Suitable for Agricultural Zone' (as outlined on TheList) which suggests that it was never conserved as a suitable site for agricultural uses.

Table 1 - Draft LPS supporting report Table

<p><b>LCZ 1</b>  <i>The Landscape Conservation Zone should be applied to land with landscape values that are identified for protection and conservation, such as bushland areas, large areas of native vegetation, or areas of important scenic values, where some small-scale use or development may be appropriate.</i></p>	<p><i>The application of 80% native vegetation coverage coupled with the presence of either the Natural Assets or Scenic Landscape Code overlay as the first level of selection meets the intent of this guideline in that most of the property is constrained but there may be some potential for small scale use or development. A significant portion of the properties selected are located on the vegetated scenic hill slopes that characterise the Huon Valley. These areas have been spared from historical clearing due to being considered suboptimal for agriculture. The analysis of 'large areas of native vegetation' was attributed to a minimum native vegetation patch size of 20 ha. This links directly with the LCZ use standard 22.5.1 P1 minimum lot size of 20 ha.</i></p>
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<p><b>LCZ 2</b></p> <p>The Landscape Conservation Zone may be applied to: (a) 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; (b) land that has significant constraints on development through the application of the Natural Assets Code or Scenic Protection Code; or (c) land within an interim planning scheme Environmental Living Zone and the primary intention is for the protection and conservation of landscape values.</p>	<p>Addressed by ensuring properties contain the Natural Assets Code overlay. The Huon Valley Natural Assets code is based on the 'Regional Ecosystem Model' which selected priority vegetation patches based on a range of criteria including, threat status, threatened species habitat, relative reservation, local scale fragmentation, and relative rarity.</p> <p>It is important to note that modelling is based on best available data. Portions of the Huon Valley, especially those with limited road access or in remote areas, have had limited sampling and are somewhat data deficient.</p> <p>The Huon Valley is privileged to have a high diversity and abundance of threatened species, placing additional importance on protecting not only core habitat areas but natural ecological corridors be</p>
<p><b>LCZ 3</b></p> <p>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.</p>	<p>This was addressed by using the following selection criteria to select LCZ suitability:</p> <ul style="list-style-type: none"> <li>• Three or more adjoining properties</li> <li>• Borders existing Environmental Management or Environmental Living properties intended to transfer to LCZ.</li> <li>• If less than three adjoining properties, the total area of these properties is at least 20 ha</li> </ul>



**Figure 6 - Huon Valley Local Provisions Schedule Map 40 of 49 - Zones** ((Source: TheList 2018, accessed 20/04/2022, <<https://maps.thelist.tas.gov.au/>>)



#### 4. Discussion of Alternatives

The *Landscape Conservation* zone is not compatible with the existing and intended use of 654 Abels Bay Road as a residence and hobby farm. The *Tasmanian Planning Commission Guidance No. 1* (June 2018) issued by the Minister for Planning and Local Government identifies in RLZ 1 that the 'Rural Living' Zone should be applied to:

*“(a) residential areas with larger lots, where existing and intended use is a mix between residential and lower order rural activities (e.g. hobby farming), but priority is given to the protection of residential amenity”, unless RLZ 4 applies.*

RLZ 4 states that the *Rural Living Zone* should not be applied to land that:

*“(b) contains important landscape values that are identified for protection and conservation, such as bushland areas, large areas of native vegetation, or areas of important scenic values (see Landscape Conservation Zone), unless the values can be appropriately managed through the application and operation of the relevant codes”.*

Since the majority of the land is cleared, and the remaining values are managed through the application and operation of the Natural Assets Code, the *Rural Living Zone* is considered appropriate.

This also accords with the Council's 'Draft LPS Supporting Report' that states that (p.40) the selection criteria and process for the LCZ were as follows:

*“The first step was determining which properties were predominantly covered by native vegetation and formed part of a large area of native vegetation (LCZ 1). All natural vegetation features were extracted from the TasVeg 4.0 layer and intersected with the parcels layer to determine a percentage cover of native vegetation for each lot. 80% native vegetation cover was used as the minimum coverage for selection as potential LCZ properties.”*

Since the subject site has less than 80% coverage and the current and intended use is classed as a hobby farm, it is better suited to the *Rural Living* zone.

Furthermore, the application of the *Rural Living Zone* to the site would not significantly affect the remainder of the *Landscape Conservation Zone* nor the application of the Natural Assets Code.

#### 5. Advice

It is advised to submit a representation on the Draft LPS to have the site zoned as *Rural Living* zone. At a later date, once the Draft LPS is adopted it will also be possible to submit for a scheme amendment (rezoning application) to have the site rezoned if it is not successful through the Draft LPS process.

If you require any further information or clarification with respect to this advice, please contact me on 6231 2555 or at [planning@jmg.net.au](mailto:planning@jmg.net.au).

Yours faithfully

**JOHNSTONE MCGEE & GANDY PTY LTD**



**Katrina Hill**  
**TOWN PLANNER**