

**From:** Danielle Gray  
**Sent:** Wed, 6 Apr 2022 11:53:36 +1000  
**To:** Information Management  
**Cc:** Elaine Smith;peter smith  
**Subject:** Representation to draft Huon Valley Council LPS re: 50 Constance Road Cygnet for Smith  
**Attachments:** HVC draft LPS representation 50 Constance Road Gray Planning on behalf of Smith 6 April 2022 FINAL .pdf  
**Importance:** High

To the attention of the General Manager

Dear Sir

Please find attached a representation from Gray Planning on behalf of Elaine and Peter Smith that objects to the proposed Landscape Conservation zoning application to their property at 50 Constance Road at Cygnet under the draft LPS for the Huon Valley Council municipality.

If you wish to discuss, please contact the undersigned.

Regards  
Danielle  
cc. Elaine and Peter Smith

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6 April 2022

General Manager  
Huon Valley Council  
PO Box 210  
Huonville TAS 7109

Dear Sir,

**Representation for advertised draft Local Provision Schedule (LPS) documents, Huon Valley Council with respect to proposed zoning of 50 Constance Road, Cygnet.**

Gray Planning has been engaged by Peter and Elaine Smith who are the owners of 50 Constance Road at Cygnet to submit a representation that objects to the proposed Landscape Conservation zoning as proposed in the zone mapping provided as part of the draft LPS documentations currently being advertised by Huon Valley Council.

The owners of the subject site oppose the zoning of their property from the current Rural Resource zone to the proposed zoning of Landscape Conservation on the basis that this zoning is not justified under the TPC's Section 8A Guideline No.1 LPS zone and Code application guidelines when considered against the characteristics of the subject site and surrounding area.

Commentary against the TPC's Section 8A Guideline No.1 LPS zone and Code application guidelines is provided within this representation as well as commentary on land characteristics.

It is further considered that Council has not undertaken sufficient analysis of the subject site as well as other similarly affected properties or indeed any assessment of values at all to justify a rezoning from a rural zoning to an environmentally focussed zoning that focusses the management, conservation and protection of landscape values. Much of my client's objection relates to a change in zone and change in objectives for future development of the site without any meaningful assessment justifying that change.

The subject site at 50 Constance Road is not located on a prominent skyline or ridgeline and has no identified or documented landscape values.



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It is considered the rezoning proposed by Council in the absence of any identified values is largely not in accordance with the recommended application of the Landscape Conservation zone as outlined in the TPC's Section 8A Guideline No.1 for LPS zone and Code application.

On that basis, this representation opposes the proposed Landscape Conservation zoning of the subject site as proposed under the advertised draft LPS documentation. Instead, it is considered the subject site is more appropriately retained as a rural zoning on a 'like for like' transition from Rural Resource under the current Interim Planning Scheme across to the Rural zone under the Huon Valley LPS.

It is considered that Council should proceed on a 'like for like' basis unless they have compelling information with respect to confirmed values that justifies the rezoning of the subject site to Landscape Conservation. It is understood that the proposed rezoning has not been based on any such analysis as there has been no natural or landscape values analysis tied to any properties proposed to be rezoned to Landscape Conservation as part of documentation submitted by Council to the Tasmanian Planning Commission as part of the LPS process.

### **The subject site**

The subject site is 50 Constance Road at Cygnet (CT-167107/1 and CT-167107/2) and is currently wholly zoned Rural Resource zone under the *Huon Valley Interim Planning Scheme 2015* as shown overleaf in Figure 3.

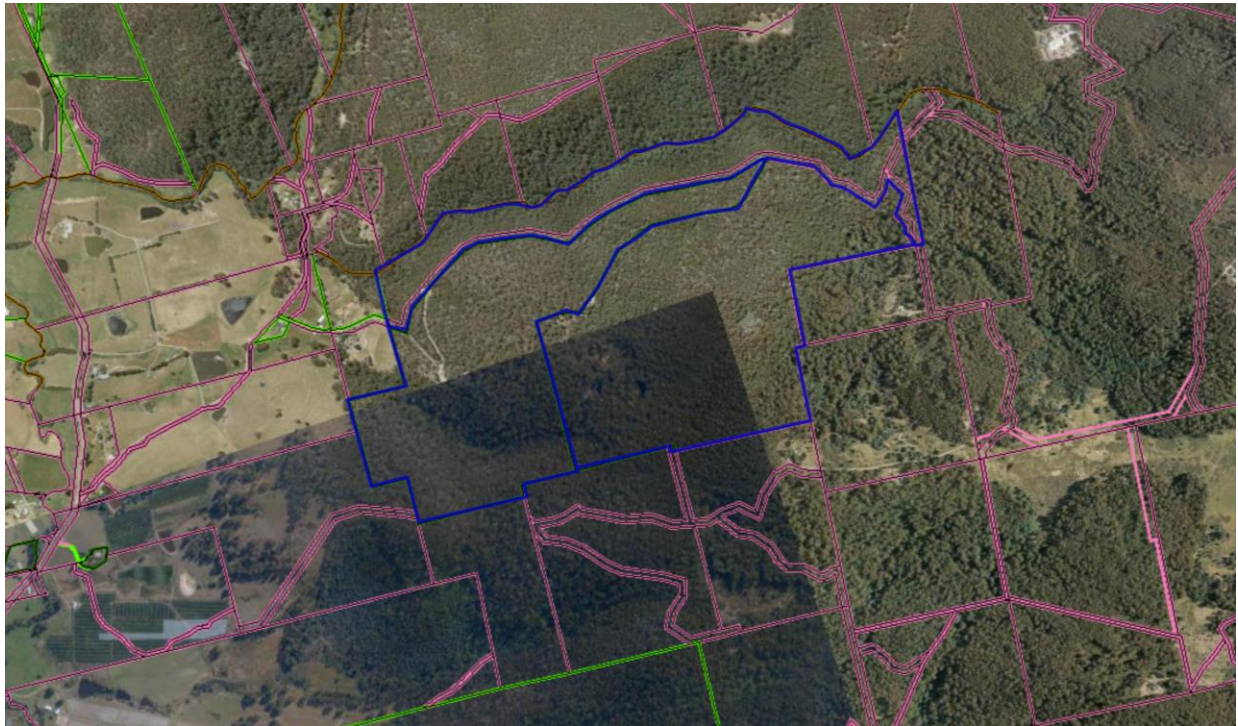
The subject site measures approximately 125.7 hectares in total area. The subject site has frontage onto Constance Road which runs through lot 1, effectively subdividing this title into two separate lot areas with the area of lot 1 north of Constance Road being around 19.6 hectares.

The subject site includes small patches of cleared areas that are not able to be distinguished from the aerial photography as tree canopy cover conceals these.

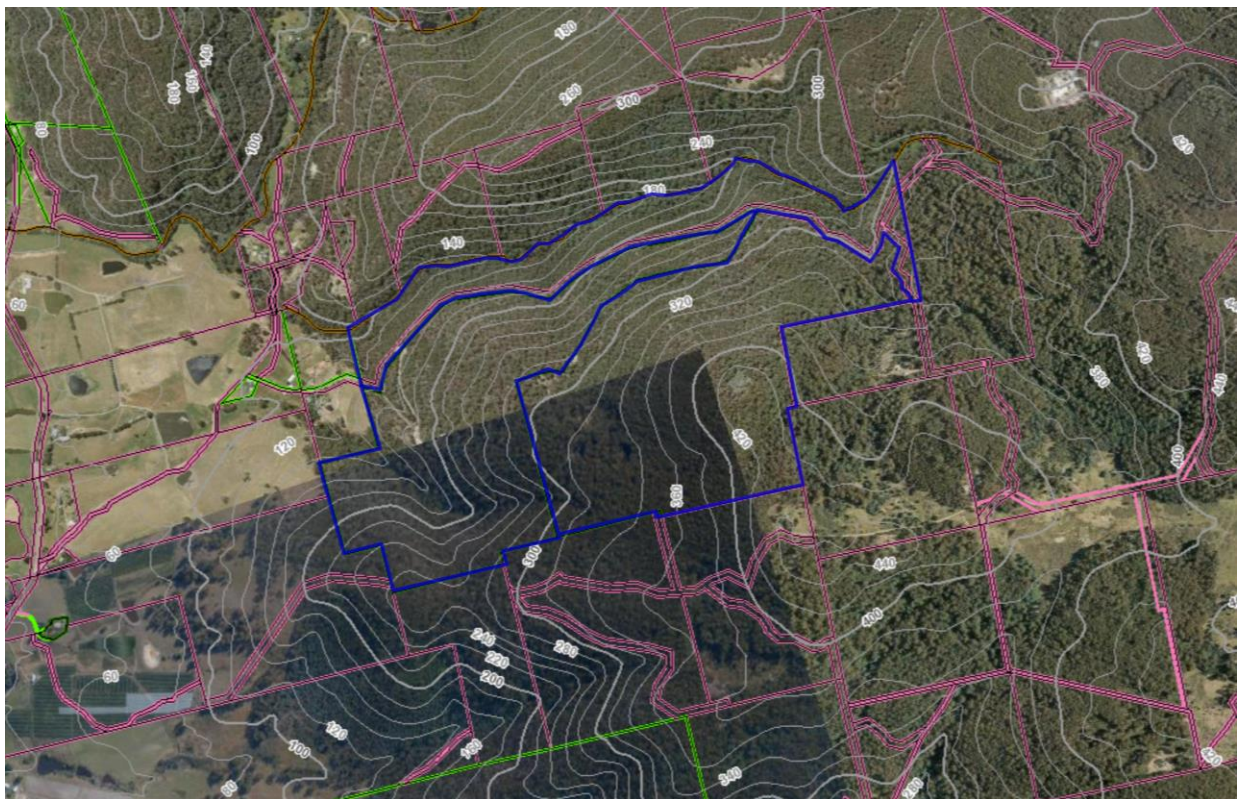
The subject site has vehicular access only from Constance Road.







**Figure 1.** The two titles that make up 50 Constance Road are outlined. Source: TheLIST, sourced 22 March 2022, no nominated scale.



**Figure 2.** 50 Constance Road outlined. The subject site has an undulating gradient and elevation that sits entirely below the 440m elevation peak in the surrounding area. Approximately 50% of the site sits below a 300m elevation. Source: TheList, sourced 22 March 2022. No nominated scale.



The above Figure 2 shows elevation and contour data sourced from The List. The elevation contours confirm the subject site is elevated on a hillside but it not on the 440m most elevated skyline area and sits entirely below this elevation.

### **Owner concerns with respect to the proposed rezoning**

The owners of the property have significant concern about the proposed rezoning to Landscape Conservation.

They have owned the property since 1996 and when purchased, the subject site was Special Rural X zoning and was previously a private forestry lot where it is understood that selective forestry operations were undertaken.

The property was originally a single title and was subdivided to create the two existing titles (lot 1 and lot 2) in 2012.

Concerns about the proposed rezoning to Landscape Conservation raised by the owners include:

*We believe this is inconsistent with the property's value as a rural asset for the following reasons;*

*1 Significant potential for small scale forestry on this property - it was logged prior to 1966 and subsequently*

*2 Large areas of stringy bark wet sclerophyll suitable for forestry that could be effectively thinned for milling without degrading the property*

*3 Large areas of dry sclerophyll that could be effectively thinned for firewood*

*4 Several locations that have been historically utilised for production of hill gravel (weathered dolerite) for surfacing the internal tracks and should be retained for that purpose*

*5 No endangered tree species on the property*

*6 Potential for any freshwater aquaculture and small scale horticultural enterprise (propagation, nursery, etc) will become prohibited under the new proposed Landscape Conservation zoning*

*7 Documented house site, 140m2 shed and other infrastructure has been previously approved that are consistent with a rural property*

*8 Other infrastructure in place consistent with Rural eg Mains power supply*





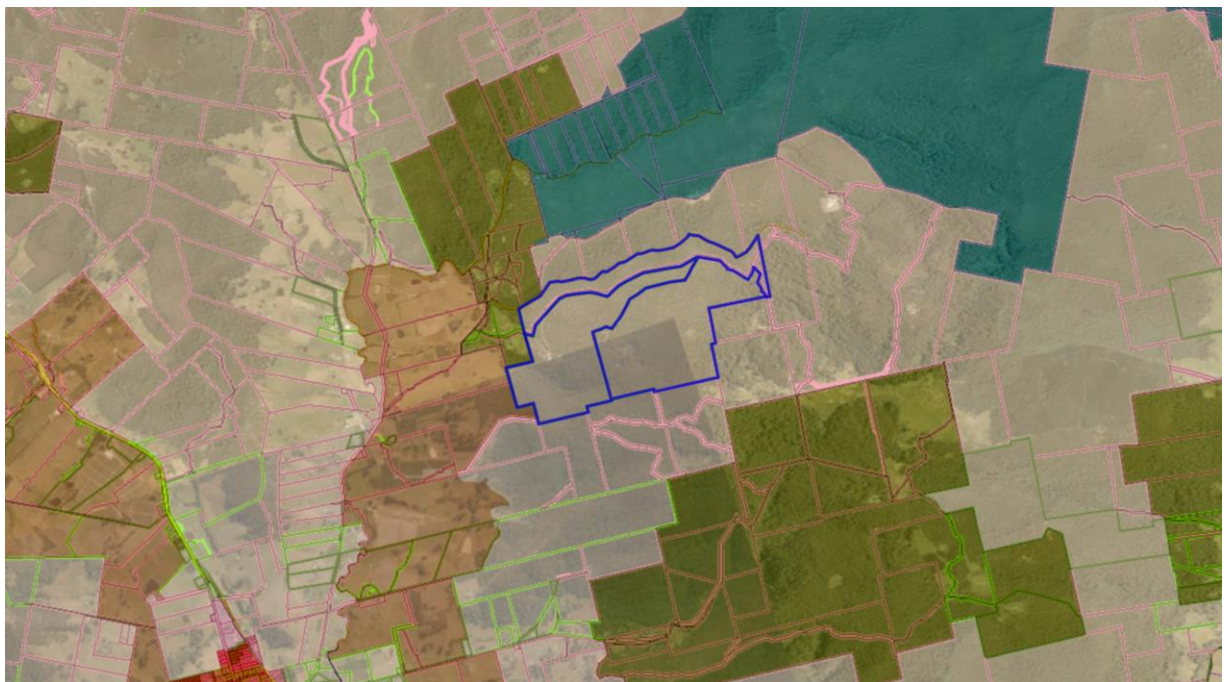
### Current zoning

The subject site at 50 Constance Road is currently zoned Rural Resource under the *Huon Valley Interim Planning Scheme 2015*.

This zoning is widely applied to surrounding properties to the north, east and south. There are also very large areas of land managed by Council and Parks and Wildlife to the west that are zoned Environmental Management to the north of the subject site.

There are also small areas of properties to the north, south and south-east zoned Environmental Living. These Environmental Living zoned properties appear to have features such as natural watercourses, areas of Biodiversity Overlay or 100% cover of thick Eucalyptus forest and understorey in elevated settings.

The majority of properties in the surrounding area currently zoned Rural Resource under the Interim Planning Scheme have varied characteristics. Many have grazing and agricultural use evident as well as varied and 'spotty' vegetation cover that suggests that previous forestry has been undertaken.

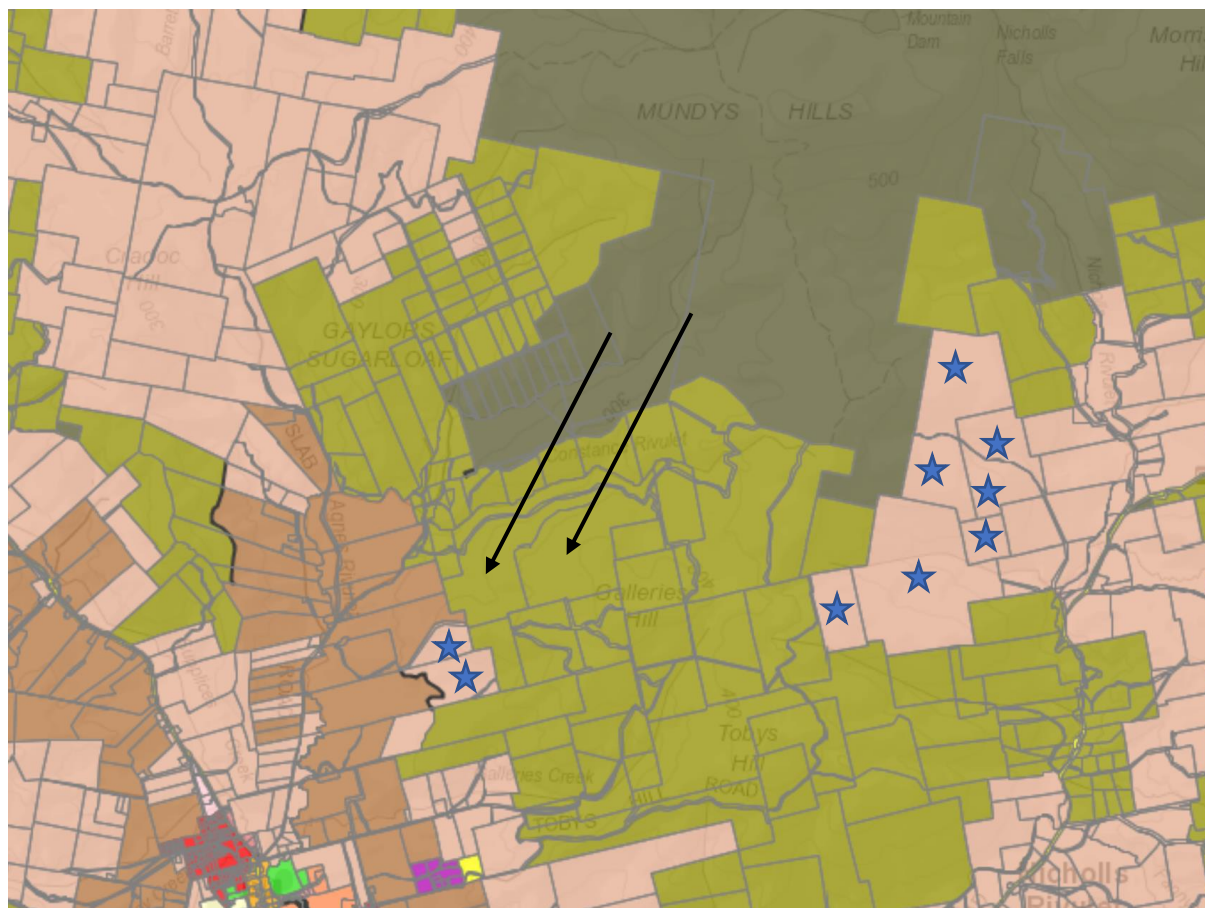


**Figure 3.** The subject site 50 Constance Road shown outlined. The subject is site is currently zoned Rural Resource. The above mapping shows the extent of Rural Resource zoned land (beige) that has a wide extent of native vegetation cover but often includes large cleared areas. Environmental Living zoned properties (green) are typically 100% covered with native vegetation and in predominantly elevated settings on skyline areas while land managed by Council and Parks and Wildlife is zoned Environmental Management (aqua). There are also small areas of land zoned Significant Agriculture (brown) that is restricted to primarily cleared properties that shown indications of agricultural use such as orcharding Source: TheLIST, sourced 22 March 2022, no nominated scale.



### Proposed zoning under the draft Huon Valley LPS

The advertised draft LPS for Huon Valley Council shows the subject site to be rezoned from Rural Resource to Landscape Conservation.



**Figure.3.** Proposed draft LPS zoning of the subject site (the two titles that make up the subject site shown marked) to be rezoned to Landscape Conservation. Source: TheList, sourced 22 March 2022, no nominated scale.

The above mapping shows a large number of properties in the surrounding area that surround the subject site are proposed to be rezoned from the current rural zoning (Rural Resource) to Landscape Conservation (green).

However, there are also a large number of properties of varying lots sizes that appear on aerial photography mapping on The List to have 100% tree cover that are proposed to retain their rural zoning and have a proposed zoning of Rural applied under the draft LPS. These properties are considered to have common characteristics to the subject site and are marked in the above map.



**Council's rationale for rezoning to Landscape Conservation as per their supporting LPS document dated November 2021.**

The supporting document was reviewed by Gray Planning as part of the background review undertaken to prepare this representation.

Comments are made against of the Landscape Conservation zone application guideline comments from Council as follows:

**Table 12**

<b>Zone Application Guidelines</b>	<b>Comments</b>
<p><b>LCZ 1</b></p> <p><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>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.</p> <p>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.</p> <p>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.</p>

**Response to Council comments:**

In the absence of any landscape values assessment undertaken by Council as part of their background assessment, it is considered that there is no information that supports the subject site as having any particular or identified landscape value.

The LCZ 1 guidelines states that the Landscape conservation zone should be applied to land with:

- Landscape values identified for protection and conservation; or
- Important scenic values.

The subject site, along with every other property proposed to be zoned Landscape Conservation in the Huon Valley council municipal area, has not been identified in any studies or assessment that have identified scenic or landscape values. The blanket application of the zone through the identification of 80% vegetation cover per se does not confirm the presence of any specific landscape or scenic values. Council have stated that '*a significant portion of properties selected are located on vegetated scenic hill slopes*' but have not undertaken any visual or scenic analysis to back this statement.





Council further states that such areas have been spared from historical clearing, however Gray Planning has been engaged to assist other similarly affected property owners who have properties that do contain such historical clearing that is being used for intensive animal husbandry.

It is considered that Council have not undertaken any meaningful assessment and have not identified any values beyond looking at property size and vegetation cover.

Even with vegetation cover, many properties proposed to retain their rural zoning across to the LPS clearly have more than 80% vegetation cover – see Figure 3.

As already noted in this representation against Figure 2, the majority of the subject site is not located within the skyline and is not considered to form part of a significant and prominent ridgeline.

It is considered that Council have failed to make a reasonable assessment against LCZ1 and have not justified the rezoning of properties to Landscape Conservation.

<p><b>LCZ 2</b>  <i>The <b>Landscape</b> Conservation Zone may be applied to:</i></p> <ul style="list-style-type: none"> <li><i>(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;</i></li> <li><i>(b) land that has significant constraints on development through the application of the Natural Assets Code or Scenic Protection Code; or</i></li> <li><i>(c) land within an interim planning scheme Environmental Living Zone and the primary intention is for the protection and conservation of <b>landscape</b> values.</i></li> </ul>	<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 between them that allow for species dispersion.</p>
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### **Response to Council comments:**

The Council comment admits to data being deficient in areas with limited access or that are remote with respect to threatened species. There is no Council assessment of identification of threatened vegetation communities, consideration of Tas Veg 4.0 mapping or assessment of whether existing overlays that will trigger the Natural Assets Code are justified based on vegetation and values present.

It is considered that where Council admits to there being insufficient data, properties should not be rezoned to Landscape Conservation. In the case of the draft LPS where there is no



data, analysis or studies that identify any environmental, natural or landscape values to support this rezoning.

<p><b>LCZ 3</b>  <i>The <b>Landscape</b> Conservation Zone may be applied to a group of titles with <b>landscape</b> values that are less than the allowable minimum lot size for the zone.</i></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</li> </ul>
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	<p>Management or Environmental Living properties intended to transfer to LCZ.</p> <ul style="list-style-type: none"> <li>• If less than three adjoining properties, the total area of these properties is at least 20 ha.</li> </ul>
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### **Response to Council comments:**

There has been no landscape analysis undertaken by Council as part of their LPS preparation. There has been no scenic analysis undertaken by Council to identify any scenic values, important viewfields or important landscape features that contribute to scenic values.

In the absence of any landscape or scenic analysis undertaken by Council, it cannot be confirmed by Council that the subject site has any particular landscape values. Likewise, the absence of any landscape analysis means that the subject site as well as others to be rezoned to Landscape Conservation have no known and documented scenic values.

The subject site when looking at contours and elevation data from TheList, is located in a hillside area as opposed to being located on any prominent ridgeline and sits below the 440m highest elevation skyline area, as confirmed against Figure 2.

There are no planning scheme definitions for either 'skyline' or 'ridgeline'.

The Minister's Urban Skylines and Hillfaces Committee (2000) defined the skyline as "the silhouettes of hills and ridge lines against the sky" and hillfaces as "the sides of hills and include those ridgelines below the skyline".



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When considering the above definition, the subject site is on a 'hillface' but is not considered to be on a ridgeline and more than 50% of the subject site sits at an elevation nearly 150m below the highest 440m elevation to the south of the subject site.

Without any documented analysis of landscape values and absence of any known landscape values afforded to the subject site, it is considered unreasonable and inappropriate for the subject site to be rezoned to a zone that prioritises "*protection, conservation and management of landscape values*".

<p><b>LCZ 4</b>  <i>The Landscape Conservation Zone should not be applied to:</i>  <i>(a) land where the priority is for residential use and development (see Rural Living Zone); or</i>  <i>(b) State-reserved land (see Environmental Management Zone).</i></p>	<p>Formally reserved state land was removed from the property selection.</p>
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#### **Response to Council comments:**

The subject site is not prioritised for residential use and is not state reserved land.

#### *Endorsed Council documents*

The following endorsed Council documents have been taken into account in relation to preparation of the draft LPS.

<u>Appendix 33</u>	2016	<i>Huon Valley NRM Strategy (17.058.16)</i>
<u>Appendix 48</u>	2018	<i>Huon Valley Weed Management Strategy (2018-2023)</i>

#### **Response:**

The above confirms that the background research from Council involves consideration of the Huon Valley NRM Strategy and a Weed Management Strategy.

The NRM Strategy was reviewed and there is no consideration of the identification of landscape or scenic values in the municipal area.

The municipal Weed Management Strategy is considered irrelevant to identifying particular natural or environmental values of properties proposed to be rezoned by Council.

As already noted, there has been no landscape analysis undertaken by Council, no scenic values analysis and no analysis on identifying prominent ridgelines or skyline areas in the Huon Valley municipality including those of particular scenic value.






In the absence of Council identifying any known particular environmental values, no known or identified landscape or scenic values and no identified threatened species or species habitat, it is considered there is no justification at all for the rezoning to Landscape Conservation.

### Application of the Section 8A Guideline No.1 LPS zone and Code application guidelines with respect to the subject site and proposed zoning under the LPS

The proposed zoning of the subject site to be rezoned to Landscape Conservation is considered to be contrary to many guidelines contained in the Tasmanian Planning Commission's Section 8A Guideline No.1 LPS zone and Code application guidelines.

These guidelines outline the following recommendations for land to be zoned Landscape Conservation:

<b>22.0</b> <b>Landscape Conservation Zone</b>  Red 150, Green 146, Blue 0	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.	LCZ 1 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.  LCZ 2 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.
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Zone	Zone Purpose	Zone Application Guidelines
		LCZ 3 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.  LCZ 4 The Landscape Conservation Zone should not be applied to: (a) land where the priority is for residential use and development (see Rural Living Zone); or (b) State-reserved land (see Environmental Management Zone).  <i>Note: The Landscape Conservation Zone is not a replacement zone for the Environmental Living Zone in interim planning schemes. There are key policy differences between the two zones. The Landscape Conservation Zone is not a large lot residential zone, in areas characterised by native vegetation cover and other landscape values. Instead, the Landscape Conservation Zone provides a clear priority for the protection of landscape values and for complementary use or development, with residential use largely being discretionary.</i>  <i>Together the Landscape Conservation Zone and the Environmental Management Zone, provide a suite of environmental zones to manage use and development in natural areas.</i>



Comments firstly have been made against each of the following purpose statements for the Landscape Conservation zone:

*The purpose of the Landscape Conservation Zone is:*

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

Comment:

The subject site has no known landscape values. The subject site is located on a hillside but is not located on a prominent ridgeline or within the highest elevation peak in the surrounding area.

The Council have not undertaken any landscape analysis as part of their supporting documents for the draft LPS. In the absence of any identification of any noted landscape characteristics and features, their associated values and where these are located in the municipal area, land should not be rezoned across from a rural zone to the new Landscape Conservation zone.

*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.*

Comment:

The subject site has no known landscape values. The subject site is located on a hillside but is not located on a prominent ridgeline or skyline area.

The Council have not undertaken any landscape analysis as part of their supporting documents for the draft LPS. In the absence of any identification of any noted landscape values and where these are located, land with no identified values should not be rezoned across from a rural zone to the new Landscape Conservation zone.

The owners have stated the subject site has been previously used for forestry use in the previous 50 years and the owners have a current application for a Private Timber Reserve on the property to continue this historical use.



Comments have been made against each of the following zone application guidelines for the Landscape Conservation zone:

*LCZ 1 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.*

Comment:

The subject site has not been identified as having any landscape values. In fact, there has been no municipal analysis or study that identifies any areas with landscape values for protection and conservation within the Huon Valley municipal area.

While the subject site currently has more 80% site native vegetation coverage which is a threshold identified by Council in their supporting report and used as justifying application of the Landscape Conservation zone, the property has been historically used for forestry in the last 50 years and has an application pending for a Private Timber Reserve to continue that historical use. Where applied against an approved PTR (which would be exempt from planning approval), this may lead to the subject having less than 80% vegetation cover.

The Council have not identified any important scenic values or undertaken any such studies that identify what scenic values apply to the municipal area and where such values are evident.

In the absence of any known or identified values, it is considered inappropriate and unreasonable to rezone the subject site to Landscape Conservation.

*LCZ 2 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;*

Comment:

The subject site has no threatened native vegetation communities as confirmed by ecologist Mark Wapstra in 2012 to the owners when undertaking an assessment of the subject site.





*(b) land that has significant constraints on development through the application of the Natural Assets Code or Scenic Protection Code; or*

Comment:

The subject site has been historically approved for a single dwelling and associated development.

The subject site has no identified significant constraints on development.

*(c) land within an interim planning scheme Environmental Living Zone and the primary intention is for the protection and conservation of landscape values.*

Comment:

The subject site is currently zoned Rural Resource.

Council have not undertaken any study identifying landscape or scenic values or characteristics in the municipality and therefore it is considered cannot apply Landscape Conservation zoning to land not already zoned Environmental Living and with no known or identified values.

*LCZ 3 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.*

Comment:

The subject site is around 125 hectares in area but has no known or identified landscape values in the absence of any such study undertaken by Council. The subject site sits on a hillface and sits entirely below the most elevated peak in the surrounding area at 440m elevation.

*LCZ 4 The Landscape Conservation Zone should not be applied to:*

- (a) land where the priority is for residential use and development (see Rural Living Zone); or*
- (b) State-reserved land (see Environmental Management Zone).*

Comment:

This guideline is not applicable to the subject site as the property is neither prioritised for residential use and development and is not state reserve land.

The subject site has had residential use recently approved by Council but the owners have confirmed the site has been primarily used for forestry purposes since the mid 20<sup>th</sup> century, a use that the current owners have applied to the Forest Practices Authority to continue



under the current Rural Resource zoning which allows such land use as a No Permit Required activity.

*Note: The Landscape Conservation Zone is not a replacement zone for the Environmental Living Zone in interim planning schemes. There are key policy differences between the two zones. The Landscape Conservation Zone is not a large lot residential zone, in areas characterised by native vegetation cover and other landscape values. Instead, the Landscape Conservation Zone provides a clear priority for the protection of landscape values and for complementary use or development, with residential use largely being discretionary. Together the Landscape Conservation Zone and the Environmental Management Zone, provide a suite of environmental zones to manage use and development in natural areas.*

Comment:

This note under the Section No 1 8A Guidelines notes that the Landscape Conservation zone provides a clear priority for the management of landscape values.

In the absence of Council having undertaken any assessment or study identifying landscape, natural or scenic values within the municipality, it is questioned how this zoning can be applied.

It is considered that the proposed zoning is incompatible with the historical forestry land use of the subject site.

Table 22.2 of the State Planning Provisions for the Landscape Conservation zone confirms that many Resource Development uses are at best, discretionary.

It is noted that forestry which is defined as 'Forestry Plantation' land use (which the most recent use of the property) is Prohibited.

The application of the Landscape Conservation zone is considered in conflict with the viability of the owners undertaking forestry operations and will also jeopardise their application for a Private Timber Reserve.

Of most concern is the significantly more limited extent of use classes that can be considered in the Landscape Conservation zone compared to those that can be considered in the Rural Resource zone.

Of particular concern is the priority of Landscape Conservation which focusses solely on the protection, conservation and management of landscape values. This is not conducive to, or will facilitate the ongoing selected forestry of a property that has a history of such use and is one of the primary purposes the owners purchased their property nearly 30 years ago.

As previously discussed in this representation, there are no landscape values identified for the Huon Valley Council municipal area at all. There have been no studies undertaken such as a landscape analysis by a suitably qualified and experienced person such as a landscape architect or similar.



The only strategies relied upon are Council reports comprising a Weed Management Strategy and an NRM Strategy, neither of which make any particular reference to, or identification of landscape or scenic values in the municipal area.

It would appear that most properties have been identified as being candidates for the Landscape Conservation zone as a result of having 'large areas' of vegetation cover of a figure of at least 80% coverage and also currently being zoned Environmental Living. The subject site along with many neighbouring properties to be rezoned are currently zoned Rural Resource.

There is also concern that there are equally as many fully vegetated properties with similar characteristics to the subject site that are proposed to retain their rural zoning as they move across to the Huon Valley LPS. This lack of consistency in the application of zones under the LPS is unreasonable.

Taking into account the proposed zoning of the subject site and surrounding properties, there are no clear parameters or documented values that Council has relied upon to justify the rezoning to Landscape Conservation as opposed to other similar properties in close proximity to the subject site retaining their Rural zoning.

There is concern about the narrow criteria for justification of the application of Landscape Conservation by Council that have not been applied consistently throughout the municipal area that can be summarised as being:

- 'large' areas of land; and
- Land that has more than 80% coverage of native vegetation regardless of existing use or any evidence of historical use.

It is further considered that such a narrow set of criteria that primarily appears to relate to vegetation cover (in some but not all cases) does not justify the rezoning of properties in the municipal area when the objective of the proposed Landscape Conservation zone is *"To provide for the protection, conservation and management of landscape values."*

In the absence of any such values having been determined by Council, the Landscape Conservation zone should not be applied.


Many such properties in the municipal area to be effectively rezoned from their current rural zoning to the Landscape Conservation zone will lose the ability for subdivision, have significantly reduced development opportunities and may lose the ability to continue to undertake historical land use activities including cropping, agriculture, forestry and intensive animal husbandry.

It is considered that such a drastic change in the planning objectives for affected land should not occur where Council have failed to undertake any assessment of values directly linked to the proposed zoning.





The following Section 8A guidelines outline the following recommendations for land to be zoned Rural:

<b>20.0</b> <b>Rural Zone</b>  Red 228, Green 172, Blue 144	The purpose of the Rural Zone is: 20.1.1 To provide for a range of use or development in a rural location: (a) where agricultural use is limited or marginal due to topographical, environmental or other site or regional characteristics; (b) that requires a rural location for operational reasons; (c) is compatible with agricultural use if occurring on agricultural land; (d) minimises adverse impacts on surrounding uses. 20.1.2 To minimise conversion of agricultural land for non-agricultural use. 20.1.3 To ensure that use or development is of a scale and intensity that is appropriate for a rural location and	RZ 1 The Rural Zone should be applied to land in non-urban areas with limited or no potential for agriculture as a consequence of topographical, environmental or other characteristics of the area, and which is not more appropriately included within the Landscape Conservation Zone or Environmental Management Zone for the protection of specific values. RZ 2 The Rural Zone should only be applied after considering whether the land is suitable for the Agriculture Zone in accordance with the 'Land Potentially Suitable for Agriculture Zone' layer published on the LIST. RZ 3 The Rural Zone may be applied to land identified in the 'Land Potentially Suitable for Agriculture Zone' layer, if: (a) it can be demonstrated that the land has limited or no potential for agricultural use and is not integral to the management of a larger farm holding that will be within the Agriculture Zone; (b) it can be demonstrated that there are significant constraints to agricultural use occurring on the land; (c) the land is identified for the protection of a strategically important naturally occurring resource which is more appropriately located in the Rural Zone and is supported by strategic analysis;
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Zone	Zone Purpose	Zone Application Guidelines
	does not compromise the function of surrounding settlements.	(d) the land is identified for a strategically important use or development that is more appropriately located in the Rural Zone and is supported by strategic analysis; or (e) it can be demonstrated, by strategic analysis, that the Rural Zone is otherwise more appropriate for the land.

Comments firstly have been made against each of the following purpose statements for the Rural zone with respect to the characteristics of the subject site:

*The purpose of the Rural Zone is:*

*20.1.1 To provide for a range of use or development in a rural location:*

Comment:

The subject site is considered very large in area with varied gradients, excellent road access, adjacent to agricultural land and is located in a rural area.

The characteristics of the subject site make it a site with potential for a range of use and development.

*(a) where agricultural use is limited or marginal due to topographical, environmental or other site or regional characteristics;*

Comment:

The subject site has very limited potential for general agricultural use owing to its undulating gradients and extent of vegetation cover.



*(b) that requires a rural location for operational reasons;*

Comment:

The subject site is in a rural locality and adjacent to agricultural land.

*(c) is compatible with agricultural use if occurring on agricultural land;*

Comment:

Selected forestry under an approved Forest Practices Plan would have no impact on any adjacent or nearby agricultural use.

*(d) minimises adverse impacts on surrounding uses.*

Comment:

Surrounding uses are varied and include rural residential, vacant, grazing and orchards. Use of the subject site for selected forestry under an approved Forest Practices Plan would be unlikely to have adverse impact on surrounding use.

*20.1.2 To minimise conversion of agricultural land for non-agricultural use.*

Comment:

The subject site is not considered to be 'agricultural land'.

*20.1.3 To ensure that use or development is of a scale and intensity that is appropriate for a rural location and does not compromise the function of surrounding settlements.*

Comment:

The use of the subject site for selected forestry under an approved Forest Practices Plan would have no impact on the settlement of Cygnet which is located a considerable distance away.



Comments have also been made against each of the following zone application guidelines for the Rural zone:

*RZ 1 The Rural Zone should be applied to land in non-urban areas with limited or no potential for agriculture as a consequence of topographical, environmental or other characteristics of the area, and which is not more appropriately included within the Landscape Conservation Zone or Environmental Management Zone for the protection of specific values.*

Comment:

The subject site is in a rural area with limited agricultural potential due to topographical (varied and undulating gradients) and environmental (native vegetation cover) characteristics.

*RZ 2 The Rural Zone should only be applied after considering whether the land is suitable for the Agriculture Zone in accordance with the 'Land Potentially Suitable for Agriculture Zone' layer published on the LIST.*

Comment:

The subject site is confirmed as not being suitable for the Agriculture zone in this layer from The List.

*RZ 3 The Rural Zone may be applied to land identified in the 'Land Potentially Suitable for Agriculture Zone' layer, if:*

*(a) it can be demonstrated that the land has limited or no potential for agricultural use and is not integral to the management of a larger farm holding that will be within the Agriculture Zone;*

Comment:

The subject site has limited potential for agricultural use owing to its varied gradients and extent of vegetation cover and is not integral to any larger farm holding. The subject site is not identified as being 'Land Potentially Suitable for Agriculture Zone' later on The List.



*(b) it can be demonstrated that there are significant constraints to agricultural use occurring on the land;*

Comment:

The subject site has an undulating topography and tree cover throughout its site area. It is not considered a likely or ideal candidate for agricultural use as a result.

*(c) the land is identified for the protection of a strategically important naturally occurring resource which is more appropriately located in the Rural Zone and is supported by strategic analysis;*

Comment:

The subject site is not known to be identified for the protection of any strategically important naturally occurring resource.

*(d) the land is identified for a strategically important use or development that is more appropriately located in the Rural Zone and is supported by strategic analysis; or*

Comment:

The subject site is not known to be identified for a strategically important use or development.

*(e) it can be demonstrated, by strategic analysis, that the Rural Zone is otherwise more appropriate for the land.*

Comment:

The subject site has no known or documented landscape values.

A natural values assessment of the subject site commissioned by the current owner and prepared by ECOTas in December 2020 confirms the subject site contains no threatened vegetation communities and advice was provided to the owners in 2012 by ecologist Mark Wapstra that selected forest could be undertaken without impact on any natural values.

The subject site has no identified landscape or scenic values and coupled with advice from an ecologist in the last 10 years that limited forestry could take place without impact on environmental values, it is considered that the Rural zone is more appropriate for the subject site than its proposed Landscape Conservation zoning which focusses primarily on landscape values conservation, management and protection.





**Forestry as a Primary Production use under the Southern Tasmanian Regional Land Use Strategy**

Under 3.3 of the Southern Tasmanian Regional Land Use Strategy, forestry is noted as being one of the industries with the highest proportion of jobs in the Greater Hobart area which are in the Agriculture, Forestry and Fishing industries.

Section 3.3 further states:

*“The forest industry has been a major economic driver within the region as well. Although due to global market conditions and the value of the Australia dollar, the current high volume, low value production of woodchips is likely to have a lessening role with greater emphasis placed on lower volume, higher value specialty timbers in the future.”* (page 12)

Under Section 5 of the STRLUS, with respect to environmental values it is noted:

*“A pro-active planning approach to the recognition and protection of biodiversity values, habitat, and native vegetation is needed. This will only occur if recognised natural values such as threatened vegetation communities, threatened species sites and habitat, EPBC listed ecological communities and biodiversity vegetation corridors are taken into account in the planning of urban growth and land use zoning. While some Councils have undertaken specific projects to provide more spatially detailed data than currently available TasVeg and NVA data and data held with the Forest Practices Authority and Forestry Tasmania, this is not consistent across the region and is sometimes beyond the resources of particular local governments. While the Conservation Information System currently being developed by DPIPWEE will assist with the consideration and identification of biodiversity values, there is still a need to develop consistent and accurate spatial data for use in the land use planning process.”* (page 23-24)

The above comment in the STRLUS encapsulates one of the grounds of objection contained in this representation and that is that Council are proposing to rezone properties without having undertaken any assessment on values. The lack of assessment as part of the LPS process is inconsistent with the above and it is considered that rezoning as part of the LPS without any such data is an unreasonable method of managing the land use process and application of land use zoning.

Under Part 16 of the STRLUS with respect to Productive Resources, it is noted that:

*“Primary industry generates a significant amount of wealth for the Tasmanian economy through agriculture, mineral resource extraction, forestry and aquaculture.”* (page 63)

On page 64 of the STRLUS it is noted that:

*“Forestry has been, and is still, a significant industry for the region, predominantly occurring across the Derwent Valley, Central Highlands, and Huon Valley municipal areas, although all non-urban municipalities in the region have some level of forestry. Whilst much forestry activity exists outside of the jurisdiction of the Land Use Planning and Approvals Act 1993, the activities of the forestry industry nevertheless have some land use planning implications and impacts on other use and development. The forestry industry is currently in a state of flux and its future is a highly politicised issue. The land use planning system needs to ensure it can accommodate future directions in regard to those parts of the industry that do fall*



*under its jurisdiction, for example; the establishment of new value-adding timber product manufacturing facilities.” (page 64)*

Council’s application of the Landscape Conservation zone to properties with more than 80% vegetation cover as one of the primary criteria, without any assessment of any natural or landscape values, will result in large areas of land that have the potential to be reasonably and sustainably used for the forestry industry to become effectively locked up and unable to accommodate any such use. This is because forestry is Prohibited in the Landscape Conservation.

As required under the Section 8A guidelines for the application of zones and Codes, there are criteria which must be considered when applying zones.

When it comes to the Landscape Conservation, Council have instead opted for an alternative set of criteria that consider lot size and extent of vegetation tree cover only. This simplistic approach when applying the Landscape Conservation particularly to current rural zoned properties is not in accordance with Guideline No 1 (Section 8a).

Regional policies for primary resources under the STRLUS was considered as part of assessment of the rezoning of the subject site.

PR5 of the STRLUS seeks to support the forestry industry.

PR5.1 and 5.2 require working forests are zoned Rural Resource:

*PR 5.1 Ensure working forests, including State Forests and Private Timber Reserves (for commercial forestry), are zoned Rural Resource.*

*PR 5.2 Recognise the Forest Practices System as appropriate to evaluate the clearance and conversion of native vegetation for commercial forestry purposes.*

The owners of the subject site are currently in the process of applying for a Private timber Reserve with the FPA. In the event the subject site is zoned Landscape Conservation, this process would automatically become unable to be considered due to a land use zoning conflict, despite the rezoning to Landscape Conservation having been undertaken without any assessment of any values that the subject site and surrounding area may/may not have.

It is considered that the proposed rezoning will result in an industry that has very high economic and employment in the municipal area being ruled out in an ad hoc and widespread manner without any background assessments being undertaken by Council that justify the zoning.

Zoning large areas of land to Landscape Conservation may result in the forestry industry being prohibited in extensive areas of the municipality where on the ground, it would otherwise be considered appropriate in certain areas given actual values and characteristics.

On that basis, on a municipal scale, it is considered that any rezoning to Landscape Conservation should be undertaken only on a considered and factual basis where values are known, understood and accordingly mapped.

In the absence of any such assessment, rezoning is considered inappropriate.



The failure of Council to undertake any assessment or adequately consider the guidelines and criteria in Guideline No 1 should result in the Tasmanian Planning Commission proceeding on a like for like basis when it comes to the application of zones, rather than rezoning without necessary background assessments being undertaken to justify zoning, particularly where rezoning is proposed to occur as part of the LPS process.

### **Aerial imagery to show previous clearing within the subject site**

Aerial imagery has been provided as part of Appendix A that shows the subject site with significant thinning of vegetation evident in the mid to late 20<sup>th</sup> century.

### **Request for the proposed rezoning to be reconsidered by Council and the TPC**

The owner is requesting that the proposed zoning of the subject site to Landscape Conservation be reconsidered in context of the issues outlined in this representation.

The current and proposed application of the Landscape Conservation zone is considered inappropriate when assessed against the Section 8A Guideline No.1 LPS zone and Code application guidelines with respect to the subject site characteristics and the absence of any assessment by Council that identifies values or particular environmental attributes as outlined in this representation.

It is considered that the Tasmanian Planning Commission instead consider a 'like for like' zoning of Rural for the subject site at 50 Constance Road which is compatible with the historical forestry land use of the subject site, its lack of any identified values, its hillside setting (as opposed to a ridgeline or skyline setting), and being immediately adjacent to Rural zoned land which has been widely applied in the surrounding area to properties with similar characteristics including use, tree over, application of overlays, topography, size and gradient.



Should you wish to discuss this representation, I may be contacted on 0439 342 696.

Yours faithfully



Danielle Gray B.Env.Des. MTP. MPIA

Principal Consultant, Gray Planning

On behalf of Elaine and Peter Smith, owners 50 Constance Road



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**Appendix A – historical impage of the subject site**



**January 1966 (thinned and cleared areas within the subject site arrowed).**

Source: TheList, sourced 30 March 2022

(see zoom in overleaf)



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**Zoom in of January 1966 aerial image from The List**



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