
**HUON VALLEY LPS- APPLICATION OF RURAL LIVING ZONE (RLZ) TO THE IPS ENVIRONMENTAL
LIVING ZONE**

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1. Differences in the application of RLZ between the exhibited and recommended draft LPS

The application of the Rural Living Zone (RLZ) in the draft Huon Valley LPS has been substantially changed in response to the representations received during the public exhibition period.

A common response of the Huon Valley Council to representations objecting to the application of the Landscape Conservation Zone (LCZ) has been the transition of groups of properties to the Rural Living Zone (RLZ). Based on the information supplied in the 35F report at least 450 titles have been transitioned from LCZ to RLZ. The additional application of RLZ in the draft LPS has occurred in seven localities where there is existing RLZ in the IPS; Franklin (57 titles), Grove (46 titles), Glaziers Bay (43 titles), Mountain River (20 titles), Southport/Hastings (16 titles), Judbury (9 titles) and Dover (2 titles). A further six localities which did not have any RLZ in the IPS or original draft LPS now have been recommended to be RLZ; Surges Bay (76 titles), Police Point/Brooks Bay (75 titles), Pelverata (53 titles), Petcheys Bay/Wattle Grove (32 titles), Nicholls Rivulet (21 titles) and Ida Bay (13 titles). Currently there is no publicly available mapping of these changes so the relationship of these new RLZ properties to other land uses, existing RLZ and code overlays is difficult to assess.

The Council has not provided a revised decision pathway in relation to the re assignment of these LCZ titles to RLZ. A decision tree for rezoning RLZ land was provided by AK consulting as part of the original LPS process. This document concludes with a final step (No. 14) for "JH" to provide a spreadsheet of specific lots/areas for change. Issues to be considered in the providing any recommendations for change where:

- Existing pattern and density of development within area
- Regional land use strategy
- Local land use strategy
- Hazards eg. Flooding, bushfire etc.
- Infrastructure eg. Sewage, footpaths etc
- Services eg. Distance to schools, bus, doctor etc.

To my knowledge the spreadsheet concerned has not been made publicly available and presumably was completed and acted on prior to the original LPS exhibition.

The 35F report provides responses as to the merit of representations that have requested a change of zoning from LCZ to other zonings. In the majority of cases the council has agreed to a change of zoning with RLZ being the most frequently recommended zone. A common explanation for the transition to RLZ has been:

"... The planning authority reassessed the application of the Landscape Conservation Zone and the Rural Living Zone and determined for most of these lots, their characteristics are akin to a Rural Living in terms of lot size and density. This is consistent with RLZ2 that provides for the Rural Living Zone to be applied to land if it is in the Environmental Living Zone in an interim planning scheme and the primary strategic intention is for

residential use and development within a rural setting and a similar minimum allowable lot size is being applied.

Moreover, it was determined that the area's landscape values could be maintained under the Rural Living Zone provisions, given the limited types and intensities of uses allowable, the limit no permit required and permitted uses, together with the zone purpose statements identifying, existing natural and landscape values to be retained and consideration of scale and intensity of use (in the context of amenity) being required. "

This supporting statement provides a number of insights into the process of changing the zoning;

- A reassessment process was initiated at the whole LPS level looking at the application of the LCZ and RLZ.
- Areas that were currently Environmental Living and had lot sizes and densities that were similar to RLZ were considered for transition.
- The Guidelines for application for RLZ were considered and in particular RLZ2 with transitioned titles meeting three requirements; (i) they were currently zoned Environmental Living, (ii) the "primary strategic intention" supported their transition, and (iii) a similar minimum lot size could be applied.
- In addition, there was consideration of the landscape values of the areas with the provisions of RLZ considered appropriate to the retention of these values.

Overall, the statement supporting the change gives little insight into the complexity of the process required to re-assign previous Environmental Living Zone properties to the LPS zoning. There are several guideline provisions that need to be met. When considering the application of LCZ versus RLZ both sets of relevant guidelines need to be assessed.

Significantly there is recognition that the original application of LCZ was predicated on the existence of landscape values in each of the areas considered for change.

2. The Zone Application Guidelines-RLZ

RLZ1 of the guidelines allows the RLZ to be applied to areas "...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..." but not if RLZ4 applies.

RLZ2 prohibits the application of the RLZ to areas not currently in RLZ unless:

- (a) consistent with the relevant regional land use strategy, or supported by more detailed local strategic analysis consistent with the relevant regional land use strategy and endorsed by the relevant council; or
- (b) the land is within the Environmental Living Zone in an interim planning scheme and the primary strategic intention is for residential use.....

Similarly, RLZ4 prohibits the application of RLZ to land that:

- (c) 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

3. The Zone Application Guidelines-LCZ

Under LCZ1 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.

LCZ2 gives additional guidance on the suitability of LCZ in circumstances where there may be some uncertainty in relation to the appropriate zone to apply. It identifies circumstances where this zone may be applied:

- (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.

Finally, LCZ4 prohibits the application of LCZ to:

- (a) land where the priority is for residential use and development (see Rural Living Zone)

An explanatory note in the LCZ guidance gives additional information on the application of this zone, stating: *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.*

4. Relevant considerations in the application of RLZ or LCZ

1. The first consideration in deciding on a zone for a title is the relevance of guidelines that **prohibit the application of zones**.
 - 1.1. RLZ should **not be applied** to land not currently zoned RLZ **unless** it is consistent with the relevant land use strategy, or the primary strategic intention for the area is residential use and development. *Relevant information to inform this process would be the Southern Tasmanian Regional Land Use Strategy (STRLUS) and the incorporated Huon Valley Land Use and Development Strategy (HVLUDS).*
 - 1.2. RLZ should **not be applied** to areas that contain important landscape values **unless** they can be appropriately managed by the operation and application of the relevant codes (primarily the Natural assets code).
 - 1.3. LCZ should **not be applied** to land where the priority is for residential use and development. *Relevant information to inform this process would be the Southern Tasmanian Regional Land Use Strategy (STRLUS) and the incorporated Huon Valley Land Use Strategy (HVLUDS).*
2. The second step on deciding on a zone is the relevance of the guidelines that **require the application of a zone**.

- 2.1. RLZ **should be applied** to residential areas with larger lots where there is a mix between residential and rural activities **unless** the land contains important landscape values that **could not be managed** through application of relevant codes.
- 2.2. LCZ **should be applied** to land with landscape values that are identified for protection and conservation **where** some small-scale use and development may be appropriate.
3. The third step in deciding on a zone is the relevance of guidelines that **may allow the application of zones**.

RLZ has no qualifying guidelines other than the differentiation of categories based on minimum lot sizes.

- 3.3. LCZ **may be applied** to large areas of bushland or native vegetation that contains threatened native vegetation communities, threatened species or areas of local or regional important native vegetation.

Relevant information to inform this process would be TasVeg, the NVA and REM modelling and on ground surveys.

- 3.4. LCZ **may be applied** to a group of titles with landscape values that are less than the allowable minimum lot size for the zone.
- 3.5. LCZ **may be applied** to land that has significant constraints on development through the Natural Assets Code or Scenic Protection Code.
Relevant information to inform this process would be the extent of the Natural Assets Code or Scenic Protection Code.
- 3.6. LCZ **may be applied** to land that is in the IPS as Environmental Living and the primary intention is the protection and conservation of landscape values.

5. A decision tree for application of RLZ or LCZ from the Environmental Living Zone

Note: relevant considerations from the preceding section are shown in brackets at the end of each step.

- A. Is the land in an area where the priority intention is for residential use and development? (1.3)
Yes: **Not LCZ**, go to B
No: go to E
- B. Is the land in an area where the strategic intention for RLZ is consistent with STRLUS and HVLUDS? (1.1, 2.1)
Yes: Go to C.
No: **Not RLZ**, go to E
- C. Are there important landscape values present and if so, could they be managed through the application of relevant codes? (1.2)
Yes: Go to D
No: **Not RLZ**, go to E
- D. Would codes such as the Scenic Overlay or Natural Assets Code significantly constrain residential use? (3.5)
Yes: go to E
No: **RLZ** (but see section 7 re other constraints identified in the HVLUDS)
- E. Is the primary strategic intention for the land the protection and conservation of landscape values (i.e. Private Reserve/Conservation Covenant) (3.6)

Yes: **LCZ**

No: Go to F

- F. Are significant landscape values present and if so, would some small-scale use and development be appropriate? (2.2)

Yes: **LCZ**

No: Go to G

- G. Does the land on its own or in combination with neighbouring titles have a large area of bushland or native vegetation that contains threatened vegetation, threatened species, locally or regionally important vegetation? or;

Does the land have significant constraint on development due to the presence of the Natural Assets Code or Scenic Protection Code? (3.3, 3.4, 3.5)

Yes: **probably LCZ**

No: Consider surrounding zones and apply appropriate zoning

6. Strategic application of the Rural Living Zone in STRLUS

At the strategic planning level regulation over use and development is used to maximise benefits to the individual and community. Whether residential or other development is subject, or likely to be subject, to constraints through natural hazard, protection of agricultural land or retention and protection of landscape values is an important consideration in landscape planning. Appropriate application of zoning at the planning level reduces economic and environmental risk to the community and to the landowner. Planning control should endeavour to ensure that use and development is appropriately located, designed, serviced, and constructed to reduce both economic risk, risk to human life and property, and cost to the community.

The *Land Use Planning and Approvals Act 1993* (LUPPA) sets out the criteria that are to be met in an LPS in Section 34(2) and references land use strategies in 34(2)(e) in stating that the planning instrument;

as far as practicable, is consistent with the regional land use strategy, if any, for the regional area in which is situated the land to which the relevant planning instrument relates;

Section 5A of LUPPA sets out the requirements and standards for a regional land use strategy and specifically includes local land use strategies in 5A (5);

A regional land use strategy may incorporate or refer to any document prepared, by a planning authority in respect of a municipal area to which the regional land use strategy relates, for the purposes of reflecting the application of the regional land use strategy to the municipal area.

Chapter 19 of the Southern Tasmanian Region Land Use Strategy (Settlement and Residential Development) outlines the relevant strategic directions for residential development for Southern Councils. The STRLUS incorporates the HVLUDS in the first paragraph of section 19.5 Regional Settlement Strategy:

The move towards a more structured approach to residential growth has already occurred with the development of the existing sub-regional and municipal level settlement strategies (Joint Land Use Planning Initiative, Vision East and Huon Valley Land Use & Development Strategy).

The overall strategic policy for Southern Tasmania is the consolidation of residential growth into a “compact network of settlements” with new residential areas restricted to identified Major District Centres and Townships. In the Huon Valley Council area these are Huonville and Cygnet with all other settlements having

a consolidation strategy. STRLUS recognizes the need to encourage residential use within identified settlements by restricting residential expansion outside these areas. It specifically states that success of the strategy is dependent on (among other things);

Control of low density, rural and environmental living opportunities outside of the Urban Growth Boundary, particularly where within 'commutable' distance.

The STRLUS Settlement and Residential Development Regional Policies provide advice on the application of RLZ in SRD1.3;

SRD 1.3 Support the consolidation of existing settlements by restricting the application of the Rural Living Zone:

- 1. to existing rural living communities; or*
- 2. for the purposes of preparing a Local Provision Schedule, to land within an existing Environmental Living Zone in an interim planning scheme if consistent with the purpose of the Rural Living Zone.*

The primary purpose of the Rural Living Zone is “To provide for residential use or development in a rural setting.....”

7. Strategic application of the Rural Living Zone in HVLUDS

The HVLUDS recognises that expanding residential use in rural areas is likely to undermine the primary strategy of consolidation and phased extension of existing residential areas in proximity to the five major settlements. This consolidation strategy maximises the use of land as a resource as well as providing several other community and environmental benefits (see pp102 & 107 of HVLUDS and Section 3.2 of the Background Analysis for the Huonville & Ranelagh Master Plan 2019).

HVLUDS provides a recommended approach to zoning outside of identified settlements with a three-tiered approach. The first tier provides several criteria for the allocation of RLZ. These criteria restrict the application of RLZ to land that:

- Is highly to medium fettered for agricultural use;
- Is in proximity to a major town (i.e. within 10km);
- Has conditions for on-site servicing (i.e. soil type);
- Is desirable for residential living (i.e. no south facing slopes);
- Can ensure compliance with bushfire protection measures;
- Is not located directly adjacent to noxious activities or state forest;
- Will not create conflict with the maintenance of threatened vegetation communities, threatened flora or habitat for threatened species; and
- Is not heavily at risk through landslip, erosion, flooding and storm surge.

In the context of the HVLUDS “major town” would be equivalent to “Major Settlements” which are identified as Huonville, Cygnet, Franklin, Geeveston and Dover.

For new RLZ lots to be created in the Huon Valley at a minimum there would need to be an investigation into the level of congruence between the lots considered for rezoning and the criteria in the HVLUDS.

In relation to the fettering of agricultural land a state-wide analysis has been produced and then applied at the Council level as part of the LPS process, for the application of LCZ to have occurred in the exhibited LPS the lots would have already passed this test.

It is not a difficult task to determine whether a lot is within 10km of a Major town (presumably by road) or adjacent to noxious activities or state forest. These are basic mapping exercises.

The criteria in relation to on-site servicing (most in relation to sewage treatment and stormwater management) are less straightforward and will be related to soil type, size of the lots, topography, and proximity to waterways and council infrastructure. Under the SPP's the conditions for sub-division in RLZ require that each lot in RLZ A & B should be connected to a reticulated sewerage system or:

.....be capable of accommodating an on-site wastewater treatment system adequate for the future use and development of the land.

The RLZ B minimum lot size is 2ha and RLZ C is 5ha, hence it would be necessary to assess all lots less than 5ha in an area proposed for RLZ for their capability to accommodate on-site wastewater treatment for all future use and development (including visitor accommodation).

Assessment of the potential to comply with bushfire protection measures will be based on lot size topography and vegetation both on the lot and in the immediate vicinity. Key considerations will be vegetation cover, slope and aspect as well as constraints on development from other potential fettering conditions (codes and overlays such as landslip, waterway and coastal protection zones and natural values protection). An additional consideration when applying RLZ to new areas is the relative level of risk of bushfire identified in the Southern Fire Management Area Bushfire Risk Management Plan 2021. A precautionary approach would be to restrict residential development in areas identified as having high or extreme bushfire risk. Many rural and residential areas in the Huon Valley are at high risk of being heavily impacted by a bushfire. This may be because of their proximity to bushfire-prone vegetation, a single access road, or access roads being within bushfire-prone vegetation. Any assessment of additional residential areas should include;

- the level of potential bushfire hazard based on the existing landscape conditions
- the suitability of the road network to provide a means of access and egress given the potential bushfire hazard of the area
- the potential for the existing identified "safer places" to provide protection for the current and forecast population of the area
- distance and access constraints to current and potential evacuation centers

Assessment of potential conflict with the maintenance of threatened vegetation communities, threatened flora or habitat for threatened species is a more difficult process. The NVA provides a report on the known and potential presence of threatened vegetation communities (based on TasVeg mapping), threatened species or threatened flora as well as a modelled maps of the core habitat for threatened species. For threatened vegetation communities the source of the mapping is often derived from aerial photography with only some areas and communities being ground truthed (often via rapid assessment from nearby roads). The extent and condition of the vegetation community is rarely detailed unless a previous development application has triggered an on-site survey. Even in these cases the results of a ground survey are only rarely recorded on the TasVeg mapping platform. It is common for on ground surveys to find inconsistencies in the mapped and actual vegetation communities present and their spatial extent. In the case of threatened

vegetation communities, they are often present when not mapped, particularly when they are in smaller stands (0.5-1ha). Application of the RLZ zone therefore should be dependant on at least a ground based rapid assessment of mapped versus extant vegetation communities. Similarly, assessment of the presence of threatened species and threatened flora would require a target investigation at the appropriate time of year and with expertise in survey methods.

Finally, the level of risk through landslip, erosion, flooding and storm surge can initially be assessed through current mapping which is expressed in hazard risk bands available via ListMap. Generally, these risk bands are expressed as low, medium and high with the potential for mitigation by development control differing according to the level of hazard.

In the case of landslide hazard a comprehensive mapping program with the four levels of hazard (Low, Medium, Medium Active and High) have been identified state-wide. In the Huon Valley there are only two risk bands present: Low and Medium.

On lots with a Low risk of landslide the guidelines state that:

Where broader planning considerations support the development of the area, the low band should not inhibit use or development.

However:

Residential and other use, and occasional or temporary use may be required to meet additional development standards to ensure the form of the development does not contribute to a landslide occurring.

Vulnerable and hazardous uses, the proposal should demonstrate that the risk associated with the development's exposure is tolerable through the completion of a Landslide Risk Report

On lots with a Medium landslide risk the strategic planning approach should be:

Where there is no compelling reason to include land identified in this band for development, it should be zoned for open space, rural, or environmental purposes.

Compelling reasons may include that it is an existing residential area and further development will be infill. Alternatively, a landslide risk assessment may be required to demonstrate that a proposed zoning is reasonable and avoids areas of high or very high risk.

The assessment of landslide risk should be a high priority when considering the application of the RLZ to new areas at the strategic planning level. The presence of mapped low landslide hazards on a significant proportion of a lot would indicate a need for further investigation including a Landslide Risk Report as two of the permitted uses in this zone are vulnerable uses, residential and visitor accommodation. In the case of a lot having significant areas of Medium landslide risk there would need to be a primary strategic intention for the application of the zoning and a landslide risk report may be required prior to the application of the zone.

8. Concluding remarks

Based on the LPS guidelines, the STRLUS and the HVLUDS the application of RLZ in the recommended LPS is unlikely in many cases to be consistent with the requirements of 34(2)(e) of the Act.

The reasoning and procedures used to zone or rezone these lots is unclear with no information supplied to justify the changes either in relation to specific lots or areas. Given the inconsistency between the recommended zoning in the draft LPS and 35(F) report and the regional and local strategic policies a clear case needs to be provided to justify the application of this zone prior to their approval by the Commission.