

From: "Diana Lubimowski" <diana.lubi@gmail.com>
Sent: Tue, 24 May 2022 14:50:34 +1000
To: "Huon Valley Council" <hvc@huonvalley.tas.gov.au>
Subject: Submission - Draft Huon Valley Local Provisions Schedule - Diana Lubimowski
Attachments: Submission Draft HV LPS Diana Lubimowski 240522 signed.pdf

The General Manager

Huon Valley Council

40 Main Street

Huonville Tas 7109

Re: Draft Huon Valley Local Provisions Schedule

Please find attached a submission supporting my objection to the proposed zoning over my property at:

Address: 48 Flakemores Road Eggs and Bacon Bay

Title Reference 8131/18

Property ID: 7511903

Existing Zoning Huon Valley Interim Planning Scheme 2015: Low Density Residential (LDR)

Proposed Zoning Draft Huon Valley LPS: Landscape Conservation (LCZ)

Please provide me with a confirmation of receipt of the representation by return email.

Best regards,

Diana Lubimowski

0418 765 090

The General Manager,
Huon Valley Council
40 Main Street,
Huonville, Tas 7109

RE: Draft Huon Valley Local Provisions Schedule

Address: **48 Flakemores Road Eggs & Bacon Bay**

Title Reference: **8131/18**

Property ID: **7511903**

Existing Zoning Huon Valley Interim Planning Scheme 2015: **Low-Density Residential (LDR)**

Proposed Zoning Draft Huon Valley LPS: **Landscape Conservation (LCZ)**

Thank you for the opportunity to make a representation.

I am the owner of the above property at Lot 18, 48 Flakemores Road, Eggs & Bacon Bay and I wish to object to the proposed zoning over my property of Landscape Conservation (LCZ).

I also request that my representation be considered at a public hearing as provided by the Land Use Planning and Approvals Act 1993 (the Act).

Residential block

My property is an existing residential block in a predominantly Low-Density Residential Zone (LDR), with Bushfire-prone and Biodiversity overlays. My property is a relatively small lot (4609 sqm), is currently undeveloped and does contain native vegetation, which has been subject to fire hazard clearing of bracken undertaken as per Council notices and requirements.

Planning decision overturned in 2015/16

Importantly, my property had previously been proposed for Environmental Management zoning (EMZ) under the Huon Valley Interim Planning Scheme 2015. However, that zoning was *overturned*, in April 2016, after public consultation representation and hearings pursuant to Section 30K of the Act, when the Tasmanian Planning Commission directed Council to *urgently amend* under Section 30A of the Act, the zoning from Environmental Management to *Low Density Residential*.

While I understand the potentially greater range of uses that are possible under the proposed LCZ (as compared to EMZ), inconsistency and errors have again been applied to my property, with additional uncertainty as to what may occur over time in terms of building on it. My land was previously demonstrated as unsuitable for EMZ and has not been demonstrated as being suitable for LCZ.

Landscape Conservation Zone effect on buildability

The impost of an LCZ zone over my property would make it virtually unbuildable.

While the provisions or constraints of LCZ on a 20ha block may still allow some choice or flexibility in siting of a building (to appropriately meet requirements for sustainability, solar access, budget, privacy, vegetation/landscape, etc), the application of LCZ to my 4609 sqm property is restrictive, with unacceptable limitations:

- *My block varies in width, from approx 30m (northern boundary) to 59m (southern boundary) and in length from 102m (perpendicular eastern boundary) to 110m western boundary).*
- *A minimal “buildable” dimension, of 6m in width, cannot be achieved until a distance of approx 62m from the northern boundary, under Acceptable Criteria of LCZ.*
- *With frontage at the northern access road, the building area under Acceptable Criteria of LCZ is reduced to an awkward, triangular area of approximately 212 sqm.*
- *Or, if access could be achieved via the southern boundary (unconfirmed), an awkward, triangular building area of approximately 400 sqm might be deemed as potentially “acceptable” under LCZ, regardless of concerns and priorities regarding sustainability, solar access, budget, privacy or vegetation/landscape, etc.*
- *Further, potentially incompatible and/or irreconcilable constraints due to conflicting requirements of Bushfire and Priority Vegetation overlays and/or assessment.*

Mapping error?

Adjoining land has been extensively fenced and cleared and/or demonstrates a mix of native vegetation with development, including structures, outbuildings and garden/exotic plantings. The adjoining lots to the east and west are similar sized parcels, each under different ownership.

Inconsistently, the eastern adjoining lot is both existing and proposed as LDR, while the western lot is existing as LDR and proposed as LCZ. Multiple titles, to the south, in different ownership are currently zoned and proposed to be LDR.

An examination of my property and the land adjoining it demonstrates that my property and each adjoining or proximate property are individually under 20ha and those adjacent to me have been fenced and extensively cleared and/or developed.

Clearly LCZ is not suitable for the site or consistent with the zone application guidelines (8A Guidelines issued by the State) and council has not provided any justification. Is the application of the LCZ a mapping error?

Furthermore, I query how the removal of the LDR zoning, in this instance, is not consistent with the Southern Tasmanian Regional Land Use Strategy or local development strategies.

Does not meet suitability selection criteria for LCZ

The Huon Valley Draft - LPS-supporting report (2.4.5.3 Application of the Landscape Conservation Zone, p39) states that:

“The Landscape Conservation Zone (LCZ) has been applied to most land currently zoned Environmental Living Zone in the Interim Planning Scheme and where appropriate some additional land previously zoned Rural Living, Rural Resources and Significant Agricultural under the Interim Planning Scheme, in accordance with the Zone Application Guidelines.”

- *My property is NOT currently zoned Environmental Living Zone, Rural Living, Rural Resources or Significant Agricultural under the Interim Planning Scheme.*
- *My property does not currently adjoin, or border Environmental Management or Environmental Living properties intended to transfer to LCZ under the Interim Planning Scheme.*

The selection of my land for LCZ is inappropriate, if based on a minimum native vegetation patch size of 20ha, aligning with the LCZ use standard 22.5.1 P1 minimum lot size of 20ha.

Additionally, my land *does not* meet the suitability selection criteria of LCZ 3, whereby 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:

- Three or more adjoining properties.
- Borders existing Environmental Management or Environmental Living properties intended to transfer to LCZ.
- If less than three adjoining properties, the total area of these properties is at least 20 ha.

Having regard to the above, the suitability selection criteria of LCZ properties *does not* apply because:

- *My property is only 4609 sqm, not 20ha.*
- *My land does not adjoin two or more suitable properties, to meet the requirement for three or more adjoining properties.*
- *Selection for LCZ zoning relying on less than three properties, including my land, cannot achieve 20ha total area.*
- *My land currently adjoins a road to the north and LDR properties on eastern, western and southern boundaries.*
- *The LPS indicates that only one adjoining property (the western adjoining property of 4618 sqm) is proposed to change to LCZ.*
- *The percentage cover of native vegetation on the adjoining western lot is significantly less than 80% used as the minimum coverage for selection as potential LCZ properties.*
- *Substantial clearing of vegetation has been undertaken on adjoining and nearby properties and selection criteria is inconsistent or inapplicable.*
- *Modelling was based on outdated, inconsistent or deficient data and limited sampling that is unsubstantiated.*

Priority Vegetation Report

The Priority Vegetation Report, specific to my land, indicates that the habitat is *unsubstantiated* and the relative importance of my land to survival of species is *not known, understood or verified*, including:

- Statutory recognition that species extinction is likely, however not all sites are important or occupied.
- NVA records combined with REM point-based modelling rules • Habitat-based models
- Reliability is variable.
- Management indications list: check species observation source; check data on habitat and local context; potentially require on-ground field verification.

While I understand the Huon Valley Natural Assets Code is based on the 'Regional Ecosystem Model' (with priority vegetation patches based on a range of criteria including: threat status, threatened species habitat, relative reservation, local scale fragmentation, and relative rarity), the basis of land conservation zoning and/or habitat/significance is unsubstantiated, and/or of reduced significance as a contiguous corridor due to non-suitability of adjoining & nearby properties.

Retain Low Density Residential Zoning

Referencing Section 35E of the Act, this representation seeks to retain the existing Low-Density Residential zoning of my property at Lot 18, 48 Flakemores Road, Eggs & Bacon Bay.

In support of this I draw your attention to the following:

- *The planning authority must apply the most appropriate zone according to the SPPs and the guidelines to meet its obligations under the Act.*
- *The purpose of the LCZ is to provide for the protection, conservation and management of landscape values, as well as to provide for complementary use or development which does not adversely impact on the protection and conservation and management of the landscape values. To meet this, an LCZ would make building on my property very difficult.*
- *Considerations relevant to determining whether the attributes to establish landscape values exist in relation to my land are inconsistent with the required selection criteria for LCZ properties and so the application of LCZ to my land is erroneous and inconsistent.*
- *As well as the provision of information about particular landscape values or attributes, consideration needs to be given to the particular local and site contexts and to demonstrate good strategic planning principles, including consistency, in determining the most appropriate zone to be applied to areas of vegetated land in private ownership. However, no relevant information has been provided to determine whether the attributes and landscape values exist in relation to my land and the zoning is therefore erroneous and inconsistent.*
- *The values that are identified in the LCZ can be managed or protected by the terms of the codes and that management or protection is not dependent on the zoning of the land for land use planning purposes to the exclusion of any other development which has been historically available for my property.*
- *Areas “identified” with conservation potential (including clusters or aggregate of many, smaller privately held areas in different or multiple ownership), must necessarily rely on continuity of, or contiguity, of landscape values and attributes to demonstrate suitability of zoning, therefore making my land unsuitable for LCZ.*
- *Where natural values might apply to a small portion of private land, it is not appropriate or necessary to apply the LCZ to one title or the area, if incompatible with the wider use of that land and context of generally LDR zoning.*

Denial of natural justice

I have owned this parcel of land since 1989. I have always been mindful of respecting and protecting its inherent natural values, with the intention of eventually building a sensitive, modest dwelling on it. A purpose that has always been permitted under the LDR zoning, and its appropriate environmental protections under the applicable codes.

The impost of an LCZ zone over my property will significantly disadvantage me. It will impact my choices and will carry a heavy cost burden in planning and building costs. More constraints and less flexibility will result in increased expenses, none the least through consultancy fees, legal fees and potentially costly delays in the event of objections, tribunals, etc.

Siting compromise is likely, due to LCZ's substantial setbacks and restrictions, and this will likely result in inefficiencies, with short- and long-term cost implications (eg. inability to adopt best-practice design principles around optimum building shape, orientation, energy efficiency, solar potential, siting of supplementary systems, such as wastewater, water tanks, etc.)

Uncertainty on how the Bushfire and Priority Vegetation overlays interact, raises questions around the BAL rating, and its potential to drive up costs in the choice of building materials.

There is also the insecurity of not knowing whether the development approval process would ultimately be successful, with the focus of LCZ on conservation of landscape values, and with dwellings being discretionary. If my LDR zoned land is rendered unbuildable as a result of a zoning change to LCZ, this would void it of its inherent value, as both a future home, and as an asset, causing unfair disadvantage and a denial of natural justice.

A proposal with such significant ramifications cannot rely on a desktop mapping exercise and based on aerial photography. A ground-truthed observation will evidence that this site is not suitable for zoning to LCZ, and that LDR is the most appropriate zoning, consistent with adjoining blocks and context.

In summary

- *My property must be zoned Low Density Residential Zone to maintain a consistent zoning approach and a regular LDR boundary.*
- *An amendment that assigns Low Density Residential Zone to my property under the LPS is the appropriate translation of the existing zoning.*
- *The adjacency and proximity of my property to other Low Density Residential Zone properties, and the absence or non-contiguity of natural assets values on fenced, and/or cleared adjoining blocks, with or without existing dwellings, demonstrates that my property is best suited to a Low-Density Residential Zone.*
- *My property is best suited to zoning as Low-Density Residential and LDR zoning is consistent with adjoining blocks and context.*

It would be appreciated if you could consider the matters raised in the submission and if you have any queries, please contact me on mobile 0418 765 090 or email diana.lubi@gmail.com.

Your sincerely,



Diana Lubimowski
10 Florabella Street
Warrimoo NSW 2774

24 May 2022