

Summary

Huon Valley Local Provisions Schedule Planning Submission relating to land at 6730 Channel Highway, Deep Bay 7112 (PID 5859180) CT:38700/1; CT:387001/2; CT: 37083/1; CT:37083/2

Current Zoning: Rural Resource:

Proposed Zoning: Rural:

Requested Zoning: Rural living CT:38700/1;(7.65 Ha) CT:387001/2; (7.45 Ha)
CT:37083/2; (5.65 Ha)

Low density residential. CT: 37083/1 (1.76Ha) dissected by Sky farm Road resulting in 2 residual lots of approx. 1 Ha and 7000sqm.

The farm (site) consists of 4 titles with a combined total area of approximately 22.5 Ha. Since purchasing the farm (site) in November 1981, (41 years ago or thereabouts) it has been used for cattle breeding and grazing. The land has a land capability of class 4, 5 and 6 and recent soil analysis demonstrates the land remains deficient in the following elements: calcium, phosphorous, magnesium, potassium, Boron, manganese and zinc. This is despite forty years of harrowing, fertilizer application including, lime, kelpomix combined with trace elements and reducing the size of the herd from 24 breeding cows to 12.

In its current form, the farm is unsustainable in terms of supporting a family. It has only been able to keep operating because of a former 'off farm' two income family who value the rural lifestyle. Whilst initially purchased with a view to being "our superannuation", we now are loathe to leave. However, the property requires 2 people to maintain it in its current state, and in the absence of one or other of us, or where one person was incapacitated, the property would fall into disrepair. Consequently, we need to consider our future options and farm succession.

The reality is the farm(site) is too small to be profitable and it is not suitable for intensive farming as demonstrated by the land capability classification. The only way the property can survive and continue to reflect the rural lifestyle and ambience of the Valley is to rezone much of the farm (site) to rural living. This would assist with succession planning and enable our children to construct dwellings on established titles with some massaging of the boundaries. This would allow the creation of hobby farms with residential amenity and the input of further capital into the land with the potential to establish small 'paddock to plate' or cottage industry endeavours.

Recently nearby a vineyard has been established on what was a small grazing farm which had formerly been a small orchard which supported more than one family. As the farm was subjected to the cyclical changes and vagaries of 'the market', latterly the farm could only be maintained as a rural lifestyle farm by the owner working in outside employment.

If and when successful, the vineyard will bring employment and other tourist opportunities for local residents expanding the other cottage industries currently in the area such as a Pottery, Yoga studio, Air B N B Tranquil Point, alpaca farm with associated goods, blueberry farm, and Wood Mill to name a few.

The rise and fall of the fortunes of 'the Valley' are affected by overseas markets, wars and political nuances and is well documented. This is and has been the story across the Valley since settlement. (See: living history museum, the Trove and "A history of the Huon and Far South Volume 1: Before the Orchards Grew, 2004, Richie Wooley and Wayne Smith, commissioned by the Huon Valley Council)

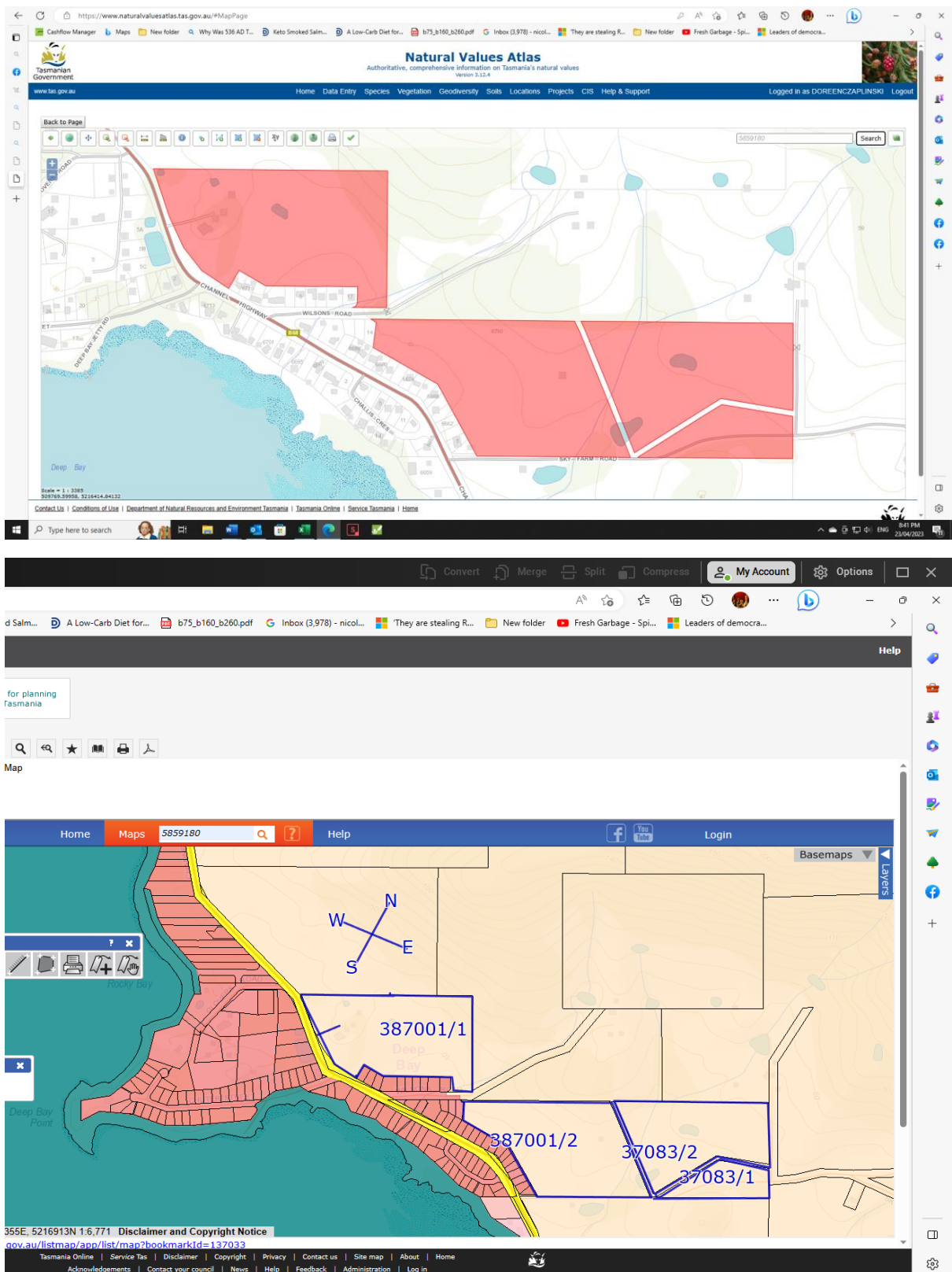


Fig 1

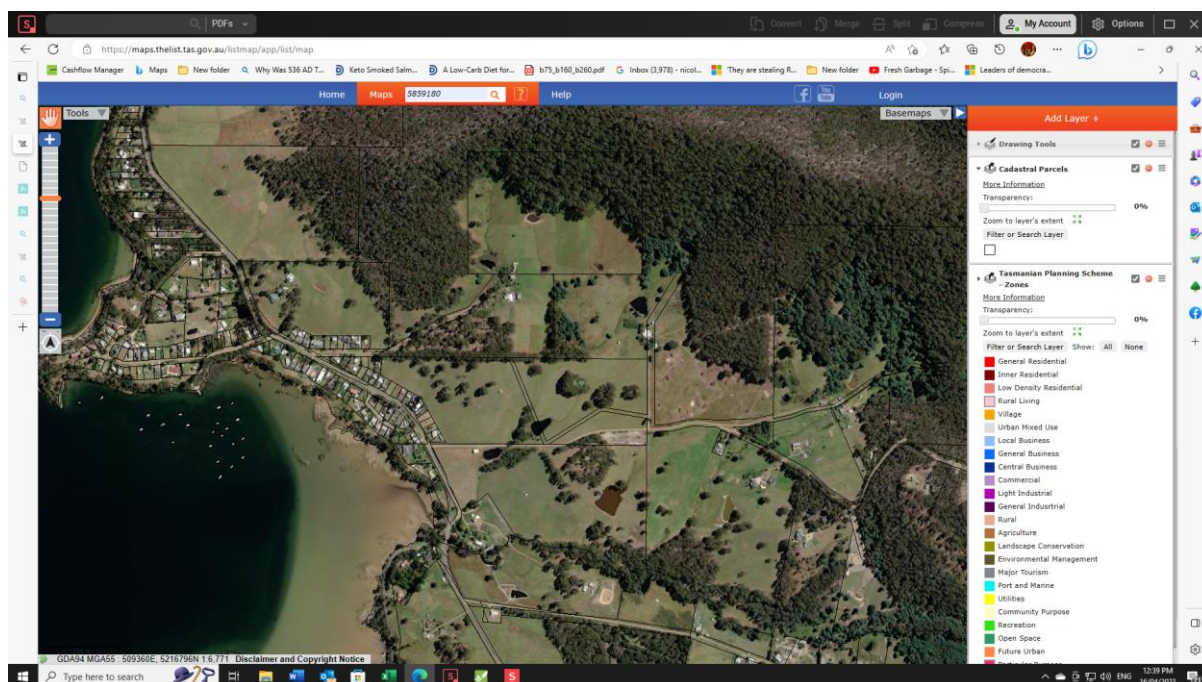


Fig 2

You can see our farm is bounded by small blocks (26) and across the road there are 116 properties extending along the Channel Highway from Sky Farm Road around the point to just before Rocky Bay Road, totalling 142 properties mostly small sizes: a substantial Settlement.

CT:37083/1 (1.76Ha) is a small block, and furthest part of our property dissected by Sky Farm Road, which enters from the Channel Highway. The road has been in existence for over 100 years and extends for about 5 kilometres. Since the development of Sky Farm Road, the Council has always maintained the road. Council workers and vehicles regularly crossed CT37083/2 to reach a small quarry on the neighbouring property to obtain road metal for local road development and maintenance. (See photograph) Notwithstanding, it only recently came to, our attention, from Council, that not all of Sky Farm Road is a public road. The length of road from the Channel Highway to the end of our property is apparently a **User Road or Way**. The public road begins with a T- junction at the end of our property which branches left to the next farmhouse, and ahead for another 5 kilometres passing around twenty visible houses that are built reasonably close to the road. (Fig 6 purple denotes beginning of the public road)

- The dissection of the title CT37083/1 by the **User Road**, (maintained and used by Council) is the only access to the gazetted Sky Farm Road. This has created a situation where there are essentially two blocks (within 1 title) which are too small to meet any of the criteria under the rural zone or the rural living zone. Figs1,2,3,4,5. The zoning of CT:37083/1 to low density residential is consistent with graduation from the properties that abut CT: 38700/1 and CT:38700/2 and the Deep Bay locality generally. On the other hand, there are two RLZ(A) blocks at the southern end of Deep Bay that are also smaller in size than is standard RLZ(A), so perhaps RLZ(A) is a possibility.

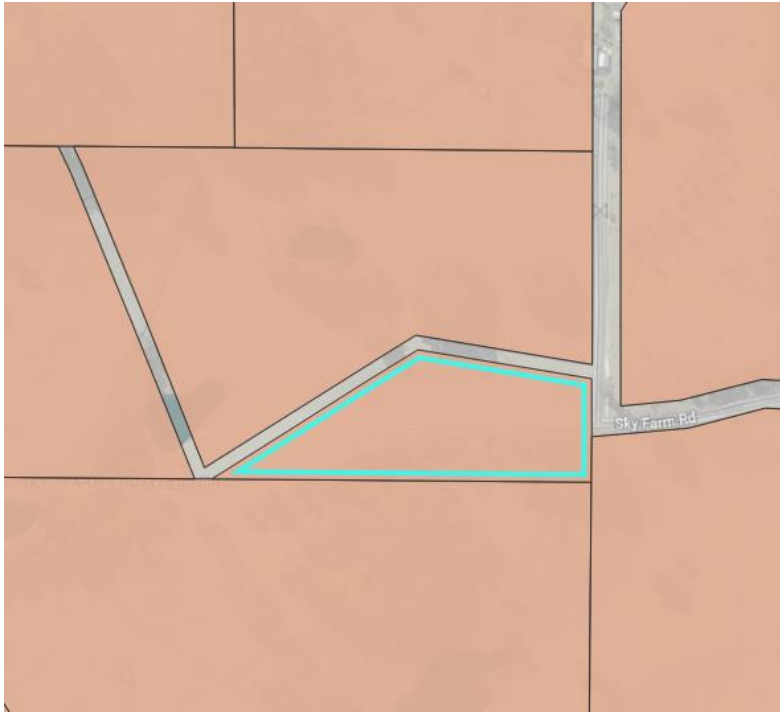
There are a number of elements present which indicate that the land is better suited to be zoned as low density residential. The smallest area (7000sqm) has light bush regrowth at one end and the majority is cleared with emerging weeds that we are controlling. There is a small water hole within the lightly bushed area which has never held water due to its position and the trees on the neighbouring property. It would be possible to run a pipe across or under the road from the spring fed dam across the road, however, that is potentially a complex process in terms of the legalities of doing this.

Council has already attempted to stop us from renovating this previously cleared land, despite the presence of noxious weeds such as gorse and ragwort, by stopping the workmen performing their duties and failing to advise us of their actions. On questioning, the planners apparently did not know who the owners were! They told us there was a biodiversity overlay applied to the land. They had failed to advise us about the overlay, and we did not know that overlays

existed anywhere. They also said that Sky Farm is not a Road under the Roads and Jetties Act and therefore the fence bounding the road was not a boundary fence. This notion was challenged in writing by us, and we ensured that we took appropriate photographs. The land was cleared. (See attached council letters) Unfortunately there is some discontinuity in the correspondence as on two occasions I had to travel to Scotland for some weeks to care for an elderly aunt. We believe the correspondence shows we received misinformation further compounded by omission of fact. The planner failed to advise us that the User Road was clearly covered by the Boundary Fences Act. Further the demand for monies for a planning permit under the first detailed circumstances in unconscionable, and extraordinarily unhelpful.

The Council actions and the advice from a local surveyor which essentially said there was no way the Council would approve a boundary adjustment for the smaller block even if we did not create an additional title led us to believe that reasonable assessment and decisions could not possibly be achieved. When we learned about the LPS recently we were not reassured that Planners would assess objectively, especially after hearing examples of situations where expert opinions were requested and subsequently rejected and our opinion has remained unchanged. It is our view, that if the building of a dwelling is discretionary within a zone, it will either refused or made to be so costly that it is unaffordable. In the rural zone, the building of a dwelling is discretionary, however, people need to live in houses even if they work on the land. If the Rural zone made the building of a dwelling permitted this would not negatively affect the intent of the rural zone. Indeed, it may strengthen rural / agricultural development as landowners would be confident in their purpose and banks would be prepared to lend money secure in the purpose of the land. Country folk are disadvantaged by the current zoning as it is near nigh impossible to get a proper housing loan from a financial institution where the building of a dwelling is not a permitted feature of the zone. Changing zoning to a lower amenity means the loss of land value with all the associated concomitant problems and issues.

Fig3

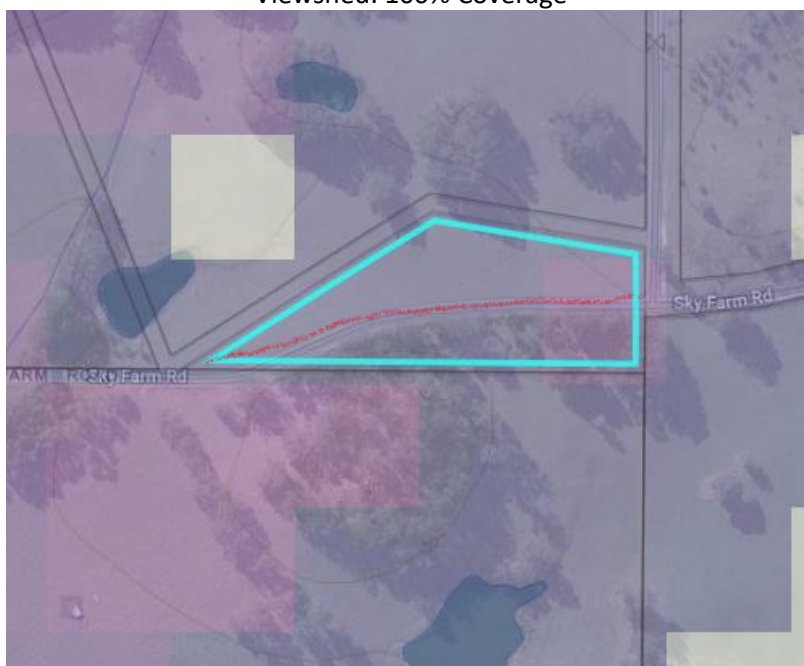
Owner / Representor: George & Doreen Czaplinski			Location address: 6730 Channel Highway Deep Bay 7112		
CT	PID	Area Size	IPS	Council LPS (Post 35F)	Requested Zone/s
37083/1	5859180	1.76 ha	26.0 Rural Resource	Rural	Preference 1: low density residential Preference 2: Split Rural Living Zone/ low density residential
<p>Location of title.</p> 					

LEGEND

General Residential	Light Industrial	Community Purpose
Low Density Residential	General Industrial	Recreation
Rural Living	Rural	Open Space
Village	Agriculture	Future Urban
Local Business	Landscape Conservation	Particular Purpose
General Business	Environmental Management	Split*

**Light Blue Border shows owner's land in question.

Viewshed: 100% Coverage



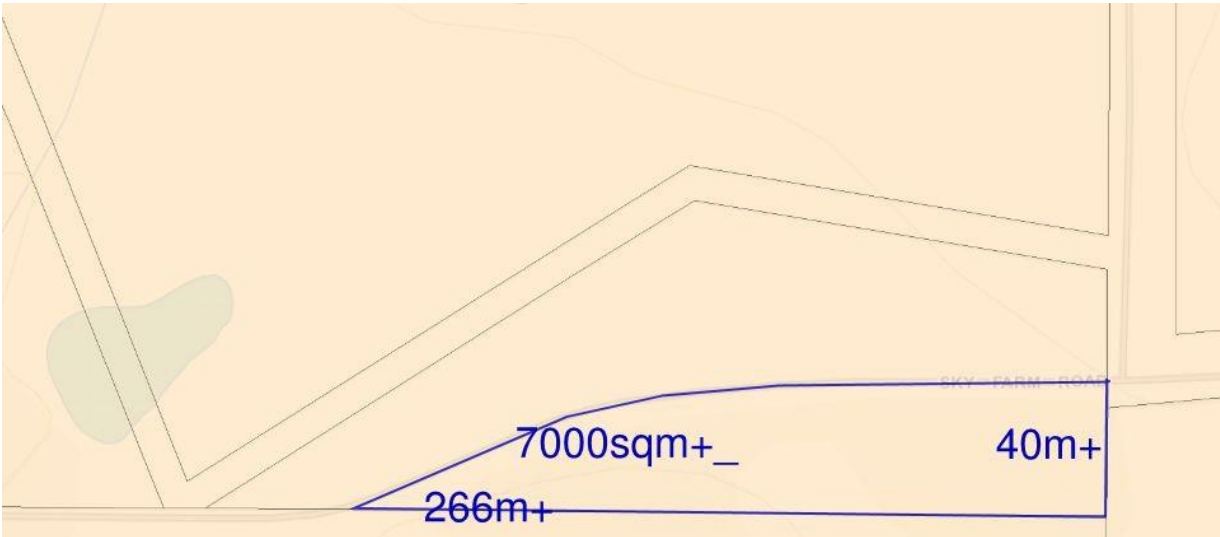
Huon Valley Zoning Association's Viewshed Map:

LEGEND		
HVZA-ViewShed	8 - 10	18 - 20
No. of Viewpoints	10 - 13	20 - 23
< 3	13 - 15	> 23
3 - 5	15 - 18	HVC-LCZ-Post35F
5 - 8		VIEWShed
		Landscape Conservation
		Landscape Conservation Split Zone

*Light Blue Border shows owner's land in question.

*** The HVZA-Viewshed indicates how visible parts of the subject title is from a viewshed based off of verified scenic road corridors. The colour shade represents how many viewpoints can see a portion of land. Further, explanation is to be provided to the TPC by HVZA. 37083/1

Fig 4 The red line roughly depicts the user road



37083/2

Owner / Representor: George & Doreen Czaplinski			Location address: 6730 Channel Highway Deep Bay 7112		
CT	PID	Area Size	IPS	Council LPS (Post 35F)	Requested Zone/s
37083/2	5859180	5.68 ha	26.0 Rural Resource	Rural	Preference 1: Rural Living Zone Preference 2: Split Rural Zone and low density residential

Location of title.

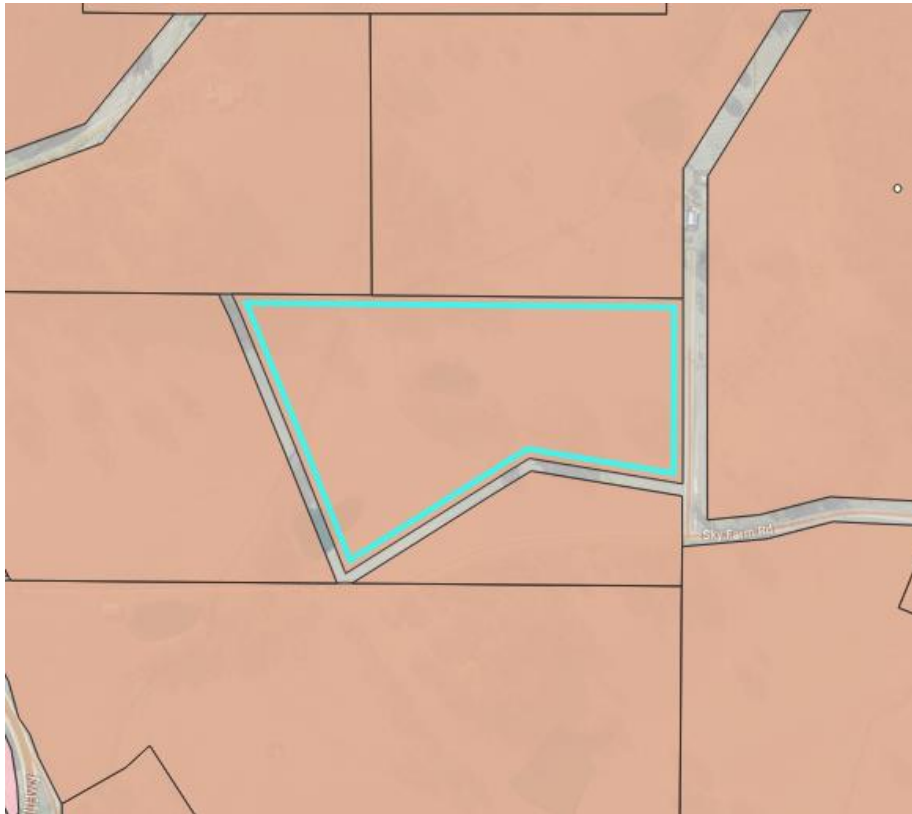
















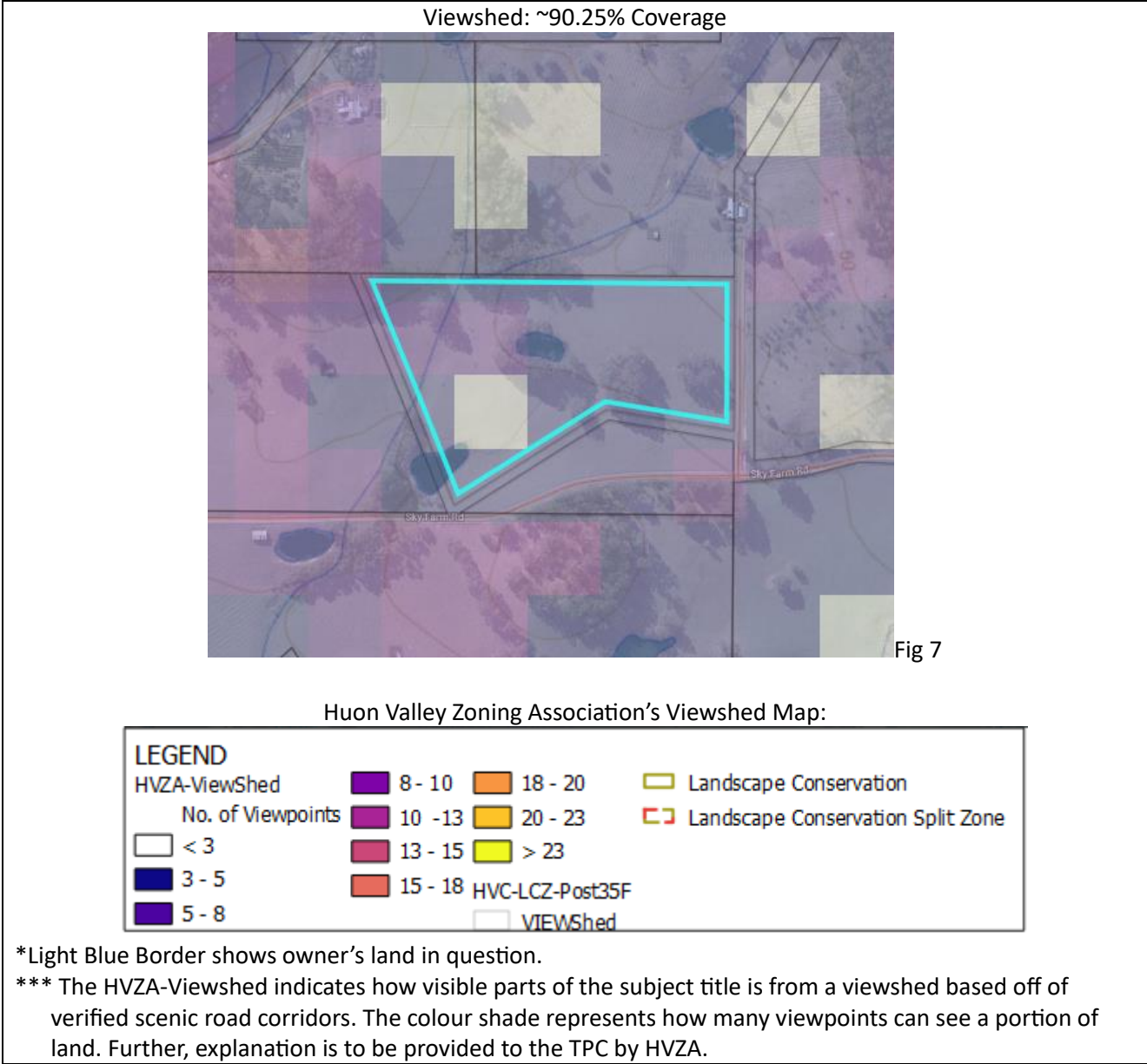


Fig 6

LEGEND		
	General Residential	 Light Industrial
	Low Density Residential	 General Industrial
	Rural Living	 Community Purpose
	Village	 Recreation
	Local Business	 Open Space
	General Business	 Agriculture
		 Landscape Conservation
		 Future Urban
		 Particular Purpose
		 Split*

**Light Blue Border shows owner's land in question.

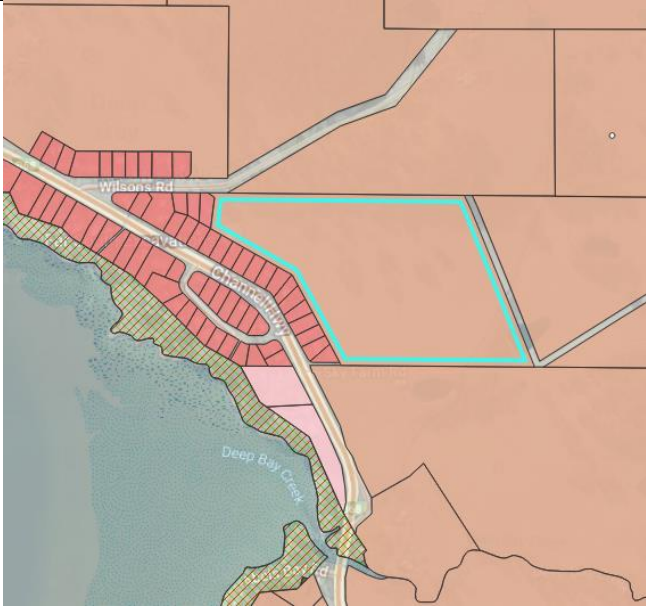


CT:37083/2 is 5.68Ha of gently sloping land, 1.5 dams and a couple of shelter belts for the cattle. The top dam is spring fed and supplies water, by gravity, to all the cattle troughs and garden tanks across the whole property. It formerly supplied water for the toilet but this is no longer necessary as we have sufficient fresh water tanks on the property. Many years ago, we reworked the land and planted turnips in an attempt to sweeten the soil followed by resowing different types of grass. This was very labour intensive and costly as we had to use petrol pump to irrigate. But more than the cost was the effect on the whole of farm water supply. There was an insufficient head of water to fill the cattle troughs.

A deep channel runs vertically down the paddock past the first dam and skirting the second dam. In winter this runs like a stream and access to CT:38700/2 is by a covered culvert used by farm animals and vehicles. Most of our paddocks have wallaby fencing which we have erected over the years. There is a large hayshed / work shed on this title.

CT: 387001/2 has a number of constraints in terms of farming. There are two waterways. In winter drainage is an issue as historically (before we purchased the property), water from Wilson's Road had been redirected under the road onto our property instead of flowing down its water course as depicted in the Waterway overlay. This stopped the flooding of 3 residential properties, and in doing so moved the problem onto CT:387001/2. A channel had been dug across the paddock into a Council easement which the Council has unfortunately failed to maintain. Further it appears the Council failed to ensure, that during the building processes on the blocks abutting our property, the water easement through the blocks was satisfactorily maintained and free from miscellaneous garden structures and clutter. This situation affects 5 of the blocks. The rest of the land is gently undulating with magnificent views.

Ct 387001/2 which adjoins CT:37083/1 and Ct:37083/2 (Fig1; Fig 3; Fig 8) is separated from 387001/1 by Wilson’s Road. More importantly the title CT:387001/2 is bounded by 19 blocks each approximating 18 m wide by 60 m in length. (720 sqm). These blocks front onto the Channel Highway and have electricity, postal service, and garbage collection. (The garbage collection service is a reasonably recent service provided subsequent to the closing of the Cygnet Tip which is now a Waste Transfer Station) There is no water or sewage services provided to any of these blocks.

Owner / Represantor: George & Doreen Czaplinski			Location address: 6730 Channel Highway Deep Bay 7112		
CT	PID	Area Size	IPS	Council LPS (Post 35F)	Requested Zone/s
38700/2	5859180	7.45 ha	26.0 Rural Resource	Rural	Preference 1: Rural Living Zone Preference 2: Split Rural Zone and Rural Living Zone
<div>  <div>Fig8.</div> <div> <div>LEGEND</div> <div> <div> <div>General Residential</div> <div>Low Density Residential</div> <div>Rural Living</div> <div>Village</div> <div>Local Business</div> <div>General Business</div> </div> <div> <div>Light Industrial</div> <div>General Industrial</div> <div>Rural</div> <div>Agriculture</div> <div>Landscape Conservation</div> <div>Environmental Management</div> </div> <div> <div>Community Purpose</div> <div>Recreation</div> <div>Open Space</div> <div>Future Urban</div> <div>Particular Purpose</div> <div>Split*</div> </div> </div> </div> </div>					
<div> <div>*Split Zones please consult Draft-HVC-LPS data Appendix 61 and later 35F documentation.</div> <div>**Light Blue Border shows owner’s land in question.</div> <div>Viewshed: 100% Coverage</div> </div>					

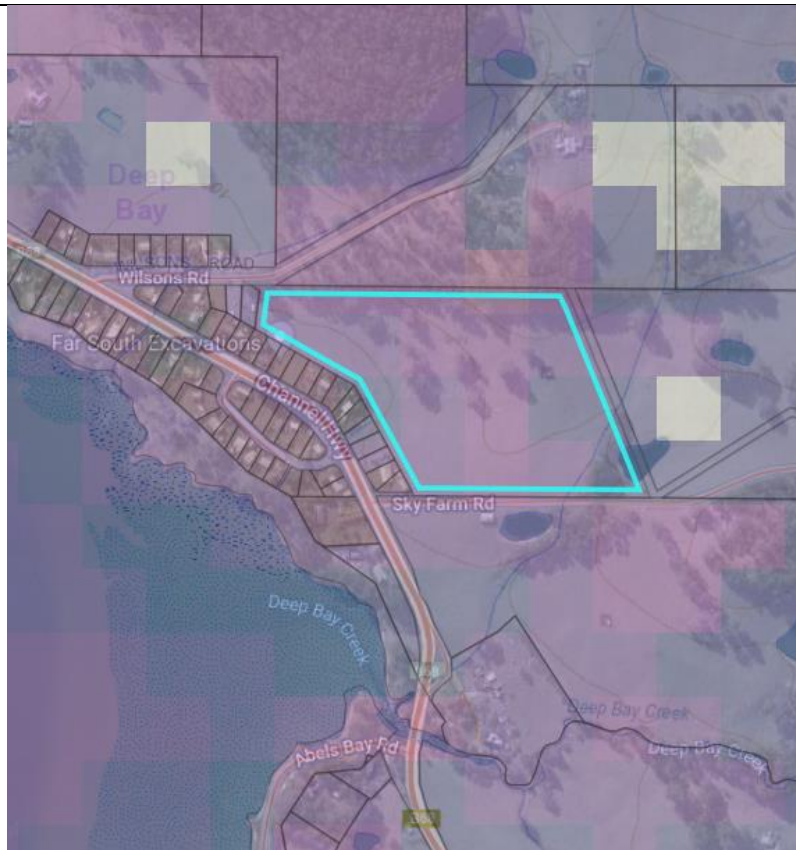


Fig 9

Huon Valley Zoning Association's Viewshed Map:

*Light Blue Border shows owner's land in question.

*** The HVZA-Viewshed indicates how visible parts of the subject title is from a viewshed based off verified scenic road corridors. The colour shade represents how many viewpoints can see a portion of land. Further, explanation is to be provided to the TPC by HVZA.

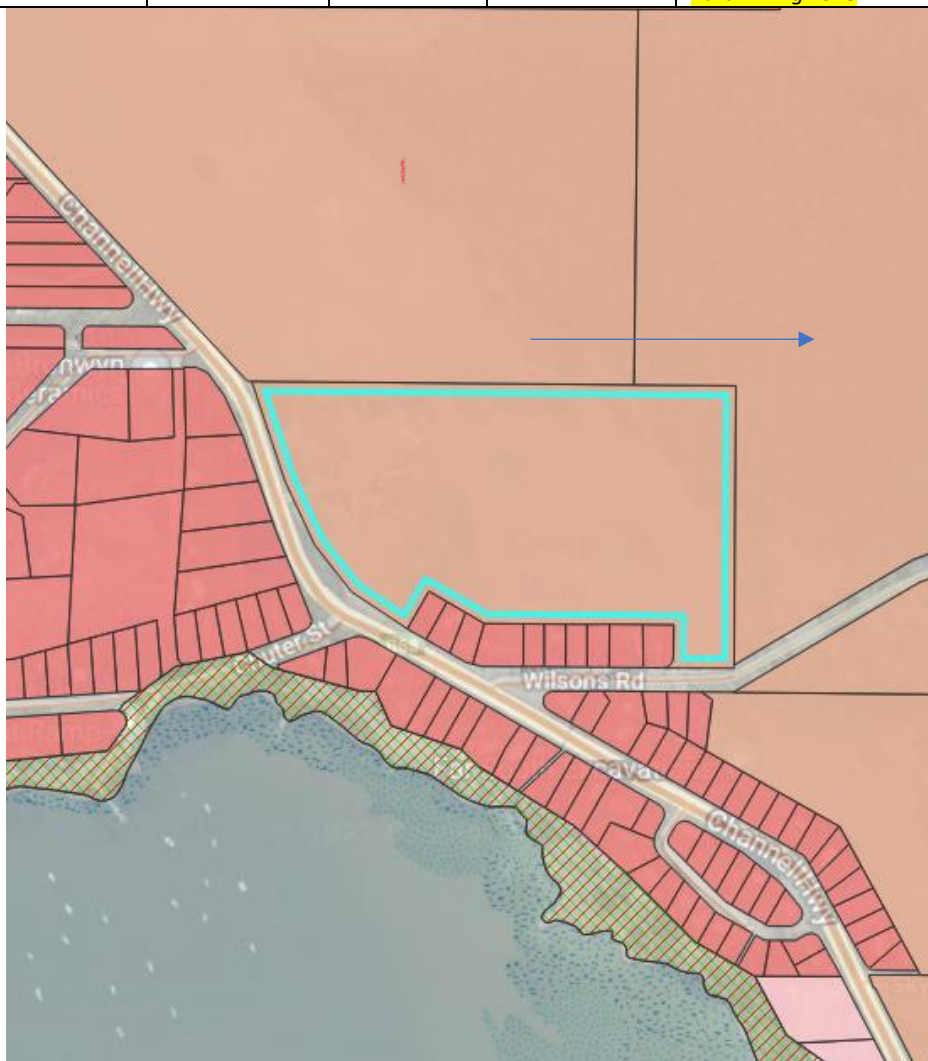
The title cuts across the middle of the lower dam.

As these titles collectively about 19 or so low residential blocks, we believe that rural living zoning is the most appropriate zoning for CT38700/2; Ct 37983/2 and for CT 37983/1 split zone rural living zone and low density residential. This could be achieved by boundary adjustments as follows separating the block that is dissected from the farm by Sky Farm Road. This would mean a CT 37983/1 would finish at Sky farm road fence. By adjusting boundaries between these 3 blocks which total 14.10 Ha it could be possible to create 3 rural living zone C titles if one of the titles was allowed to slightly smaller than 5 Ha and within the 20% acceptable limit.

Unless a spot zone rural living A, was created for the block separated by Sky Farm Road which would be 30 % smaller than the performance standard which states no more than 20% smaller than the applicable lot size, it would need to be zoned low density living which is consistent with the properties about our land and close to our land.

These changes would create a smooth flow from existing zones abutting our property on Sky Farm Road and the other adjacent properties which are zoned rural.

Owner / Representor: George & Doreen Czaplinski			Location address: 6730 Channel Highway Deep Bay 7112		
CT	PID	Area Size	IPS	Council LPS (Post 35F)	Requested Zone/s
38700/1	5859180	7.65 ha	26.0 Rural Resource	Rural	Preference 1: Rural Living Zone Preference 2: Split Rural Zone and Rural Living Zone



LEGEND

■ General Residential	■ Light Industrial	■ Community Purpose
■ Low Density Residential	■ General Industrial	■ Recreation
■ Rural Living	■ Rural	■ Open Space
■ Village	■ Agriculture	■ Future Urban
■ Local Business	■ Landscape Conservation	■ Particular Purpose
■ General Business	■ Environmental Management	■ Split*

*Split Zones please consult Draft-HVC-LPS data Appendix 61 and later 35F documentation.

**Light Blue Border shows owner's land in question.

Viewshed: ~92.76% Coverage



Huon Valley Zoning Association's Viewshed Map:

*Light Blue Border shows owner's land in question.

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Property Description Title 387001/1 (house paddock) 7.6 Ha

This title is one of 4 that comprises our farm “Karyngal” at 6730 Channel Highway Deep Bay. It is 7.65 Ha of class 4 land that is unsuitable for intensive farming. It is gently undulating (4-degree slope) and has two small water holes that are used to provide water to the cattle. They also provide additional water sources in the event of fire.

There is one house and a number of outbuildings on this title, including green house, hay shed, and equipment shed. Due to the detrimental impact of an increasing wallaby, kangaroo, and possum population a decision was made to construct wallaby proof fences. This has partly stopped the ingress of these of wildlife onto our property, however, they enter from neighbouring properties, up the drive way, whilst some of the larger grey kangaroos can jump the fences.

There is a small, wooded area at the northern end of the property which is used to shelter the cattle and what we consider a pretty background and privacy. Scattered stands of trees have been planted across the years.

The south end part of the title is surrounded by 10 low density residential properties, which nearly all have dwellings and outbuildings on them.

As previously stated, we use the property to breed cows and calves. We grow our own vegetable and endeavour to live a reasonably self-sufficient lifestyle.

Current use of title Breeding cows and calves. Red line shows boundary fence. You can see that trees are on the neighbour’s side of the fence.





The current classification of rural resource to Rural Zone is not like for like.

The titles do not meet the Councils proposed new rural zoning as it is more restrictive and does not allow for the development of small properties, or dwellings for people to live. The latter is fundamental to life on the land. The rural classification is subordinate to the low-density classification. Whilst there seems to be a great deal of emphasis placed upon reducing neighbourly conflict, to my mind that view is promulgated by people who do not understand rural living, camaraderie or communities of mutual help.

The Rural living zone is much more applicable to the title of CT 13700/1.

Zone application guidelines

RLZ 1 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.

However, RLZ 2 states "The Rural Living Zone should not be applied to land that is not currently within an interim planning scheme Rural Living Zone. "

It is our contention that this is an unfair criterion given that there was no consultation or advisement that property classifications were changing. It is not possible to challenge a classification if you don't know about it. A further compounding factor was the amalgamation of Councils in the Huon that led to a great deal of confusion about processes, rules, and regulations. This resulted in a general lack of agency and empowerment in a formerly orderly and cohesive municipality that had operated successfully since the advent of what was the first council in 1854 when,

"... In 1856 land holders and householders met to elect Trustees for the
"superintending, providing for and effectuating the construction, repair and
maintenance of the roads in the district".

Notwithstanding the above, it is our belief that CT:13700/1 along with CT:38700/1; CT:387001/2.

CT: 37083/1; and (CT:37083/2 split zoning) meets the criteria to be zoned as rural living because it clearly meets the following criteria as outlined in Guidelines No 1 The Local provisions Schedule (LPS) zone and code application (June 2018): ... The purpose of the Rural Living Zone is:

11.1.1 To provide for residential use or development in a rural setting where:

(a) services are limited; or

(b) existing natural and landscape values are to be retained.

11.1.2 To provide for compatible agricultural use and development that does not adversely impact on residential amenity.

11.1.3 To provide for other use or development that does not cause an unreasonable loss of amenity, through noise, scale, intensity, traffic generation and movement, or other off-site impacts.

11.1.4 To provide for Visitor Accommodation that is compatible with residential character.

In support of this statement, I refer to the number of low residential properties abutting our land and reiterate that:

“The purpose of the Low-Density Residential Zone is to:

- 10.1.1 provide for residential use and development in residential areas where there are infrastructure or environmental constraints that limit the density, location, or form of development.
- 10.1.2 To provide for non-residential use that does not cause an unreasonable loss of amenity, through scale, intensity, noise, traffic generation and movement, or other off-site impacts.”

Low residential zoning and rural living zoning clearly exist in providing a harmonious landscape and amenity. The low-density blocks surrounding our property are approximately 720sqm (40 x 18).

It is my understanding that Deep Bay was formerly classified as Village Zone. To me this seems the most appropriate classification given that it has been a settlement since the establishment of Cygnet along with Rocky Bay, Gardeners Bay and Garden Island Creek which had one of the busiest moorings in the Valley. Each of these areas had their own schools, post office and halls at various time. In particular Deep Bay still has a variety of commercial businesses that operate such as Yoga studio, bed and breakfast, Art Studio to name a few. It seems to me that by calling it low residential we are losing the history and qualities that make this side of the Huon Valley Unique reducing it to a homogeneity resembling outer suburbia.

VZ 1 states that ...” The Village Zone should be applied to land within rural settlements where the Urban Mixed-Use Zone is not suitable and there is an unstructured mix of residential, commercial activities and community services and there is a strategic intention to maintain this mix.

VZ 2 The Village Zone may be applied to land where the full range of reticulated infrastructure services are or are not available.

This above describes absolutely the overarching situation at Deep Bay.

On 8 Jul. 2020 4:54 pm, Morgwn Hyde <mhyde@huonvalley.tas.gov.au> wrote:

On 8 Jul. 2020 4:54 pm, Morgwn Hyde <mhyde@huonvalley.tas.gov.au> wrote:

Dear Ms Czaplinski,

In order for Council to determine whether the clearance of vegetation is exempt from requiring a planning permit, the clearance will need to be considered against Part B Clause 6.3 (Vegetation planting, clearing or modification) of the Huon Valley Interim Planning Scheme 2015.

Accordingly, while you have a valid argument that the clearance of vegetation within 1m of a title boundary – *for the purpose of erecting or maintaining a boundary fence* – meets the exemption 6.3.2 (j), the remainder of the clearance that does not meet the exemption will require the submission of an application for a discretionary planning permit; if the works have already been undertaken, retrospective planning approval will be required.

In order for Council to undertake an assessment of an application for a discretionary planning permit, you will need to submit the following:

- Signed Development Application Form,
- Fees for a discretionary planning application, <https://www.huonvalley.tas.gov.au/payments/schedule-of-fees/>
- Complete copy of the Certificate of Title, with all associated documents, i.e., title page, Folio Plan and Schedule of Easements (with the search dated being no older than three months from the time of lodgment),
- Site analysis (drawn to scale and prepared by a suitable qualified person) detailing the location of the vegetation clearance on the site. In accordance with Part B.8 – Clause 8.1.3 of the Scheme, the plans must be to a quality that facilitates an understanding of the works by the general public during the advertising period and demonstrates compliance with the relevant Planning Scheme provisions that apply to the works.
- Specific issues that will need to be addressed are:
 - Part D Clause 26.4.3 (Design) of the Rural Resource Zone – Performance Criteria P1 (c) (i)
 - Part E Clause 10.7.1 (Buildings and Works) of the Biodiversity Code – Performance Criteria P1

Further details on the Huon Valley Interim Planning Scheme 2015 can be found here:

<https://www.ipan.tas.gov.au/pages/plan/book.aspx?exhibit=huoips>

Unfortunately, while Council cannot offer definitive advice until a development application has been submitted and assessed, I trust the above advice assists you in considering your options.

Regards,

Morgwn Hyde
Planning Officer

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Fax. 03 6264 0399
40 Main Street, Huonville
PO Box 210, Huonville TAS 7109
mhyde@huonvalley.tas.gov.au
www.huonvalley.tas.gov.au



From: doreenczaplinski@hotmail.com <doreenczaplinski@hotmail.com>

Sent: Thursday, 9 July 2020 4:07 PM

To: Morgwn Hyde <mhyde@huonvalley.tas.gov.au>

Subject: Re: HVC Planning response: vegetation clearance at 6730 Channel Highway, Deep Bay (CT-37083/1)

Thank you for your email in regard to the above found in my spam folder.

I agree that part 6.3 .2(j) applies to the works. It is also my understanding that 6.3.2 (a)(i) ; 6.3.2(f) 6.3.2 (g) 6.3.2(i) also apply.

I also believe that a permit is not required under 6.4.2 (a) and 6.4.2(b). In particular in relation to 6.4.2 (b) the living fence was bounded by 2 wire fences. However, the living fence had become dangerous in the extreme. I do recall however you giving an explanation about a definition of boundary fence which I cant quite recall.

I note that work undertaken meets objective 3.0.6 and desired outcomes 3.0.6(a) 3.0.6(d) 3.0.6(h) . It also contributes to objective 3.0.5 and desired outcome 3.0.5(c) and eventually we hope 3.0.5 (a)(b)

Objective 3.0.6 is also met and in particular desired outcome 3.0.6(c).

It was certainly not our intention to ignore any laws. We have farmed our land for over 38 years, diligently, repairing fences and reducing the many weeds that infestate so much farmland these days.

We await your response.

Yours sincerely

Doreen & George Czaplinski

0481396393

P.S.

I will send photographs demonstrating the proximity of trees to the fence line and of noxious weeds on the block namely gorse. You will note that some of the gorse is dead. This is due to consistent clearing and spraying over the last 38 years.

From: Morgwn Hyde <mhyde@huonvalley.tas.gov.au>

Sent: Friday, 17 July 2020 3:49 PM

To: doreenczaplinski@hotmail.com

Cc: Hannah Bowling <hbowlng@huonvalley.tas.gov.au>; lground@huonvalley.tas.gov.au

Subject: RE: HVC Planning response: vegetation clearance at 6730 Channel Highway, Deep Bay (CT-37083/1)

Hi Doreen,

This is just to confirm that the clearance of vegetation is exempt from requiring a planning permit, pursuant to Clause 6.5 (Buildings and Works in the Rural Resource Zone or Significant Agricultural Zone) of the Huon Valley Interim Planning Scheme 2015. The exemption provides for clearance of vegetation to accommodate works that are directly associated with, and that are subservient to, an agricultural use.

However, it is worth noting that that the exemption has a sub-clause (6.5.1c) that states the exemption does not apply if there is a code in the planning scheme that expressly regulates impacts on biodiversity values.

The Biodiversity Code, which applies to a portion of the area where the clearance has occurred, has an exemption that provides for clearance and conversion or disturbance of an area no more than 750m². Given the extent of clearance and conversion that has occurred within the Biodiversity overlay is approximately 750m², it is considered that the exemption applies and you will not need to submit an application for a planning permit.

However, if there is any further clearance or conversion of vegetation within the area that is subject to the Biodiversity Code, it will be necessary to submit an application for a discretionary planning permit.

Regards,

Morgwn Hyde
Planning Officer

Tel. 03 6264 0379
Fax. 03 6264 0399
40 Main Street, Huonville
PO Box 210, Huonville TAS 7109
mhyde@huonvalley.tas.gov.au
www.huonvalley.tas.gov.au



From: Doreen Czaplinski
Sent: Saturday, 19 November 2022 2:57 PM
To: Morgwn Hyde <mhyde@huonvalley.tas.gov.au>
Cc: hvc@huonvalley.tas.gov.au
Subject: FW: HVC Planning response: vegetation clearance at 6730 Channel Highway, Deep Bay (CT-37083/1)

Dear Mr Hyde

In response to your letter dated 17 July 2020 where you advised and agreed that the cleared land was exempt from a planning permit but that any further clearing would require a planning permit under (6.5.1c).

On review further perusal of the Biodiversity code, I think your assessment is mistaken. The biodiversity exemptions in the Huon Valley Interim Planning Scheme, attached for your convenience with the appropriate parts applying to circumstances of our land bolded, are multiple as outlined below.

Huon Valley Interim Planning Scheme 2015 » Part E Codes » E10.0 Biodiversity Code » E10.4 Development Exempt from this Code

E10.4 Development Exempt from this Code

E10.4.1

The following development is exempt from this code:

- (a) (f) the removal or destruction of declared weeds or local environmental weeds;*
 - (k) (l) works for the purpose or erecting or maintaining a boundary fence within 4 m of a boundary line if within the Rural Resource or Significant Agricultural Zones; or*
 - (ii) within 2 m of a boundary line if in other zones;*
 - (m(n) clearance and conversion or disturbance of previously cleared agricultural land;*
 - (o) It is my contention that your proposed limitation of 750m² and submission of a planning application does not apply to our circumstance for the above reasons.*
- I I I therefore request a further letter from you stating that all of the above clauses that I have detailed apply to land in question and that the 750m² clause is not required. Consequently any future clearing of the land, meeting the above clauses I have highlighted will not require a planning application.

Thank you for your assistance.

Yours sincerely

Doreen & George Czaplinski

on Valley Interim Planning Scheme 2015 » Part E Codes » E10.0 Biodiversity Code » E10.4 Development Exempt from this
de

0.4 Development Exempt from this Code

0.4.1

the following development is exempt from this code:

clearance and conversion or disturbance associated with a Level 2 Activity under the Environmental Management and Pollution Control Act 1994;

forest operations, including clearing for agriculture, in accordance with a certified Forest Practices Plan;

fire hazard management works in accordance with a bushfire hazard management plan endorsed by the Tasmanian Fire Service, Forestry Tasmania or the Parks and Wildlife Service on land owned or administered by the Crown or Council;

fire hazard management works in accordance with the Fire Services Act 1979 or an abatement notice issued under the Local Government Act 1993;

fire hazard management works for an existing dwelling in accordance with a bushfire hazard management plan endorsed by an accredited person as defined under the Bushfire Prone Areas Code, wherein the extent of clearance and conversion and disturbance is the minimum necessary for adequate protection from bushfire;

the removal or destruction of declared weeds or local environmental weeds;

works considered necessary by an agency or council to remedy an unacceptable risk to public or private safety or to mitigate or prevent environmental harm;

works considered necessary by an agency or council for the protection of a water supply, watercourse, lake, wetland or tidal waters or coastal values as part of a management plan;

coastal protection works considered necessary by an agency or council that have been designed by a suitably qualified person;

works within 2 m of existing infrastructure including roads, tracks, footpaths, cycle paths, drains, sewers, pipelines and telecommunications facilities for the maintenance, repair, upgrading or replacement of such infrastructure;

works necessary to make safe power lines or for the maintenance, repair, upgrading or replacement of such infrastructure;

works for the purpose of erecting or maintaining a boundary fence:

within 4 m of a boundary line if within the Rural Resource or Significant Agricultural Zones; or

within 2 m of a boundary line if in other zones;

) clearance and conversion or disturbance of an area no more than 750 m²;

) **clearance and conversion or disturbance of previously cleared agricultural land;**

clearance and conversion or disturbance requiring assessment under the Environment Protection and Biodiversity Conservation Act 1999;

clearance and conversion or disturbance requiring assessment under the Forest Practices Act 1985, the Threatened Species Protection Act 1995 and/or the Nature Conservation Act 2002.

Dear Ms Czaplinski,

The two areas of the Planning Scheme that need to be considered in relation to clearing or modification of vegetation are:

1. Part B, Table 5.4 (Vegetation exemptions) of the Planning Scheme exemptions; and
2. Part E, Clause E10.4 (Development Exempt from this Code) of the Biodiversity Code.

In the first instance Council, as a Planning Authority, must determine whether the vegetation clearance it is exempt from requiring planning approval because the clearance satisfies the criteria listed under Part B, Table 5.4 (Vegetation exemptions) of the Planning Scheme.

Where the exemption is not met, Council must then determine whether a planning permit is required, not just in relation to an exemption under a specific Code, but in relation to the entirety of the works.

Accordingly, while there are various exemptions listed under Clause E10.4 (Development Exempt from this Code) of the Biodiversity Code, including the exemptions that you have listed, Council will firstly require the full details of the works / clearance proposed prior to providing you with advice about whether the clearance is consistent with those exemptions listed under Clause E10.4.

To that end, could please submit the following documentation:

- The location of the proposed vegetation clearance;
- The extent of the proposed vegetation clearance; and
- The reason for the vegetation clearance.

When this information has been submitted to Council, I'll be in a better position to provide you with a more definitive response to your query.

Regards,



Morgwn Hyde

Planning Officer - *Monday, Tuesday, Thursday, Friday*

Phone: 03 6264 0379

Email: mhyde@huonvalley.tas.gov.au

Huon Valley Council

40 Main Street, Huonville, Tas, 7109

www.huonvalley.tas.gov.au

Steve Solomon's Soil Analysis Service
PO Box 524, Exeter, TAS 7275 (03) 6330 1113 steve@stevesoil.com.au

CEC 9.9 TOC 11.75 pH 5.9 Organic Matter % 5.4

Element Current Level in kg/ha Target Level in kg/ha Deficit Quantity of element to add in kg/ha

PRESCRIPTION

Fertilizer to add

Name Czapinski
Sample A
Date of test 06/21/2019
Unit of Measure
☐ grams per 10 sq. metres
☐ kilograms per hectare

Element	Current Level in kg/ha	Target Level in kg/ha	Deficit	Quantity of element to add in kg/ha	Prescription	Unit of Measure
Sulfur S	22	100	78	63	70% elem. sulfates	500
Phosphorus P	92	200	108	65	Reactive Rock Phosphate	1,500
Calcium Ca	1909	3120	1216	(360)	As lime - Dolomite	1,500
Magnesium Mg	252	432	180	180	Dolomite	250
Potassium K	86	335	249	100	Potassium sulfate	10
Sodium Na						
Boron B	1.2	4.0	2.8	2.0	Soluble	60
Iron Fe	998	+150	-			
Manganese Mn	18	+100	82	20	Manganese sulfate	20
Copper Cu	10.6	17	7	-		
Zinc Zn	13.6	33	20	7	Zinc sulfate	20
Nitrogen N						
Micro-nutrient Elements	Kelp meal provides micro-nutrients and plant growth factors and regulators that create greater plant vigor. My usual home garden recommendation is to spread a dose once/year and also include kelp in any side dressing.					
Organic Matter	The best commercially produced compost for food gardening purposes is made by Horticultural Supplies, Brighton, and is called "Sea Greens". Many landscape yards supply it by the cubic metre.					

Special Instructions:

Vegetable Gardeners

Pre-plant: thoroughly mix all ingredients in a plastic house-hold bucket. If chiselmeal is prescribed, put this material into the bucket first, this makes mixing easier. Then pour all ingredients from one bucket into another, back and forth eight times so that all is blended thoroughly. Spread uniformly. For home gardens, one batch in a bucket will be the correct amount for 10 square metres.

Digging before sowing each crop is not best practice in most garden soils. However, if the prescription calls for more than 1,000 gm of aglime or dolomite per 10 square metres, then dig in all ingredients 150 mm deep. Try to thoroughly blend throughout the soil. If the prescription calls for 1,000 gm of lime per 10 square metres or less, then this small quantity of lime and the other fertilizers as well may be spread on the surface and not dug in. Then spread compost; shallowly incorporate both materials with a hoe.

Side-dress: If growth slows mid-season or seems inadequate from the beginning, spread between half and all of the "ongoing" prescription listed on the back of this page on each 10 square metres but spread no more compost until next year.

Representation George and Doreen Czapinski 'Karyngal' 6730 Channel Highway, Deep Bay 7112
Property ID 5859180

Our concerns involve the application of several IPS layers added to our property which consists of 4 titles. We will address each of these titles separately as a number of different layers have been applied to various parts of each title. We are aware that many of the layers applied to titles have not been ground truthed and are derived from modelling. We have carefully examined each of the layers applied to each title and submit our understanding of the situation.

Title 38700/1 (house paddock) 7.6Ha On this title the IPS identified the following layers:

- Priority vegetation Area,

- Bushfire Prone Areas,
- Landslide Hazard Area
- Scenic Landscape Corridor,
- Waterway and Coastal Protection Areas

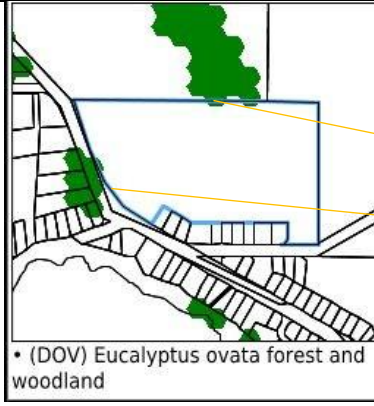
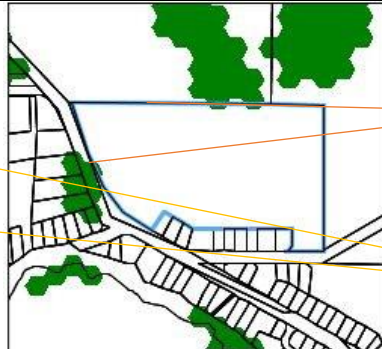
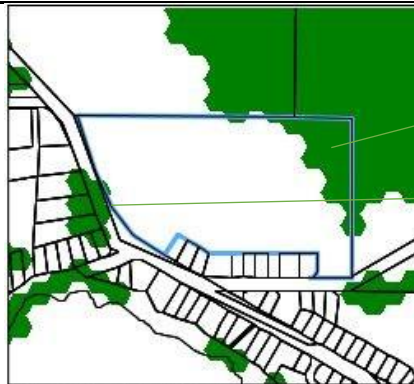
Priority Vegetation overlay to House paddock pics 1,2,3

We request that the Priority vegetation overlays be removed from the title 38700/1 because the areas depicted on picture 1 and 2 are not located on our property. There is no ovata forest in these locations nor have we ever seen, in the almost 40 years that we have been living here, a swift Parrot.

In picture 3 it is only the green triangular shaded part is on our property. The mapped TASVEG community is DOB, which has no threatened vegetation community status as per the Priority Vegetation Code criteria.

Our cattle forage here regularly and often calve here as it is warm and sheltered. We have never seen an Eastern Quoll or Tasmanian Devil on our property hence we would be pleased if you would remove the priority overlay from this title.

Priority Vegetation Overlay Title: 38700/1

Priority Vegetation Overlay Title: 38700/1				
<div>Title: 38700/1</div> <div>Threatened Vegetation Communities</div>		<div>Title: 38700/1</div> <div>Threatened Fauna and Significant Habitat</div>		<div>The green shaded areas pic1; Pic 2.</div> <div>are not located on our property.</div> <div>There are no eucalyptus Ovata trees in these locations which are on our neighbour's property.</div> <div>These trees are not Eucalyptus Ovata.</div> <div>We have never seen</div>
 <div>• (DOV) Eucalyptus ovata forest and woodland</div>		 <div>Threatened Fauna • swift parrot</div>		
<div>Pic 1 38700/1 The green shaded areas are not located on our property as we do not have any trees on our property at these locations.</div>		<div>Pic 2 38700/1 The green shaded areas are not located on our property. Further we have never seen a swift parrot on our property.</div>		
<div>Title: 38700/1</div> <div>Threatened Fauna and Significant Habitat</div>				
 <div>Threatened Fauna Habitat • eastern quoll • tasmanian devil</div>		<div>Pic 3 38700/1 The triangular green shaded area is located on our property. The other areas depicted by the arrows are not on our property. However, we have never seen an eastern quoll or Tasmanian devil on our property.</div>		

Landslide Hazard area Overlay Title 38700/1 (house paddock) 7.6Ha

We request that the landslide hazard area be removed from the title.

The land in question has a 4% slope. We have never encountered anything resembling land slide or tunnelling on this property. The landslide area depicted on the list maps is lightly forested, class 4 land which is rather stony. Again, we believe that the map is inaccurate.

Waterway and Coastal Protection Areas Overlay Title 38700/1 (house paddock) 7.6Ha

We request that the waterway and coastal protection overlay be removed from the title 38700/1 for the following reasons.

There is a waterway however it is not on this title 38700/1. The waterway runs down Wilsons Road and formerly across to PID 5860632, No 14 Wilsons Road. *Our land on title 38700/1 and Nos., 17, 15 and 13 Wilsons Road do not get any runoff from the waterway.* It is our view that the location of the waterway on the map is ill aligned. Indeed, the waterway flows across our title 38700/2. Anecdotally, we have been told that there is an easement at PID 2834690 No 6670 Channel highway, and on a copy of an old document (obtained 1983) a 6ft easement is noted at this location. The document appears to contain information from the title of M E Jackson who was a previous owner of our property. (See attachment 1) The easement has not been maintained and waterlogging is an issue for all the properties bordering our land. It appears the council has failed to ensure that proper drainage has been installed during the building process, causing quite a large problem for those property owners and for us and our cattle as in winter our land becomes a quagmire.

Title 38700/2 (hay paddock) 7.45Ha On this title the IPS identified the following layers:

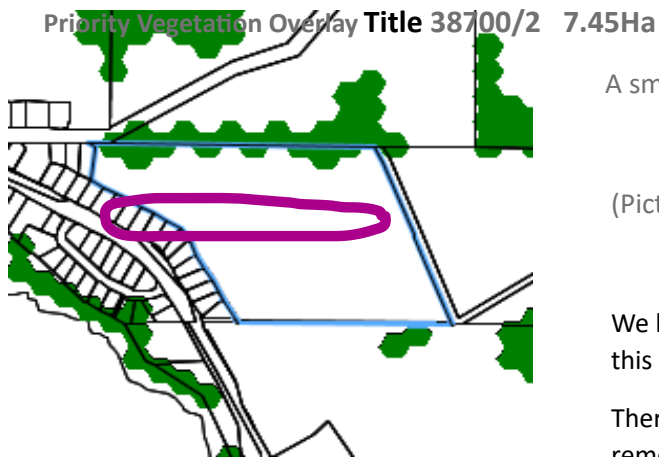
- Waterway and Coastal Protection
- Priority Vegetation Area
- Scenic Road Corridor
- Bushfire Prone Areas
- Landslip Hazard

Waterway and Coastal Protection Areas Overlay Title 38700/2 7.45Ha

There is a waterway on this title 38700/2. However, there are two separate waterways but only one is depicted on the map. Hence the mapping data is incorrect.

Landslide Hazard area Overlay Title 38700/2 7.45Ha

There is no evidence of landslip on this title or on the map. Therefore, we would like this overlay removed.



A small number of trees are on our side of the fence line.

(Picture 4 Purple circle.)

We have not seen any eastern quolls or Tasmanian Devils on this title.

Therefore, we would like this priority vegetation layer removed.

Threatened Fauna Habitat

- eastern quoll
- Tasmanian devil

Pic 4

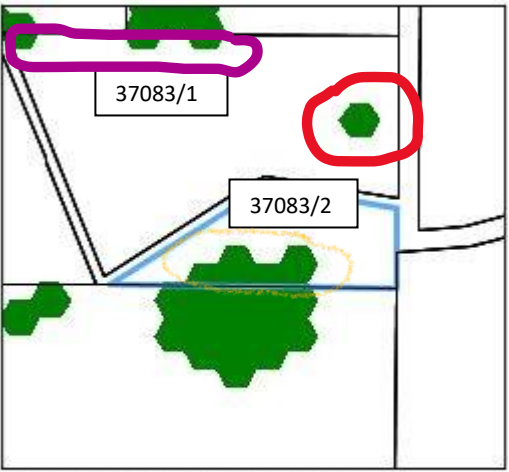
37083/1 5.8 Ha On this title the IPS identified the following layers:

- Priority Vegetation Area,
- Bushfire Prone Areas

37083/2 1.722 Ha On this title the IPS identified the following layers:

- Priority Vegetation layer Area,
- Bushfire Prone Areas,
- Waterway and Coastal Protection Areas

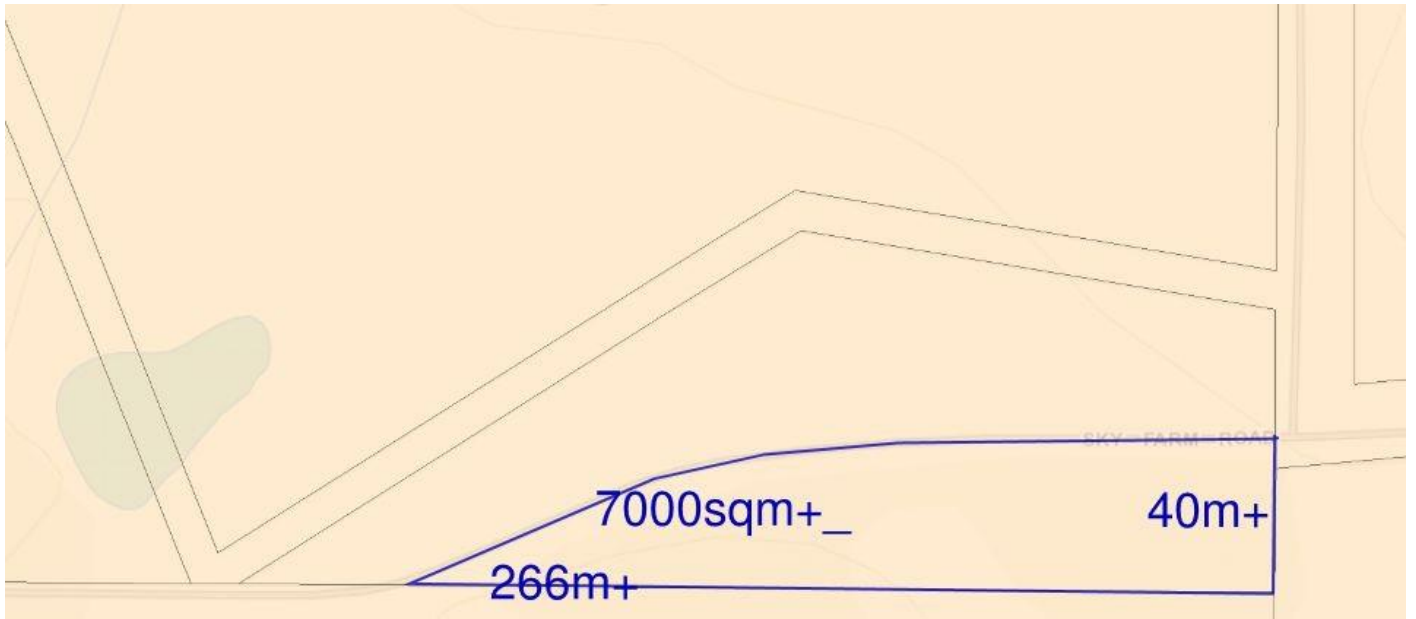
We request that the priority vegetation overlays are removed from both these titles.

 <p>37083/1</p> <p>37083/2</p> <p>Threatened Fauna Habitat</p> <ul style="list-style-type: none"> • eastern quoll • tasmanian devil 	<p>37083/1 5.8Ha A priority vegetation layer has been added to 3 areas of this title. One of the green shaded areas, encircled red, is located on our property. (Pic 5) This area of vegetation provides shelter for our cattle and is secondary vegetation.</p> <p>The other two green areas, encircled purple, are on the other side of our boundary fence, and not on our property. Indeed, as depicted I do not think they actually exist. None the less we have never seen an Eastern Quoll or Tasmanian devil on our property. Hence, we would like the priority vegetation layer removed.</p> <p>37083/2 1.722Ha The green area encircled yellow is an area of secondary vegetation which has been cleared several times to try and rid it of noxious weeds such as gorse and ragwort. It is located towards the narrow part of the block. Just beyond an old stone road that was used to access the quarry on the neighboring property. The quarry is no longer in use and is fenced off. There are no threatened species in this area, and we have never seen an Eastern Quoll or Tasmanian Devil on our property.</p>
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Pic 5 Priority Vegetation overlays applied to 37083/1- 5.8 Ha and 37083/2 - 1.722Ha

Waterway and Coastal Protection Areas Overlay Title 37083/1 5.8 Ha

There is a water way on this title, however, the location is incorrectly located on the map.



Gorse on block 37083/2



Sky farm User Road or Way looking towards Channel highway.



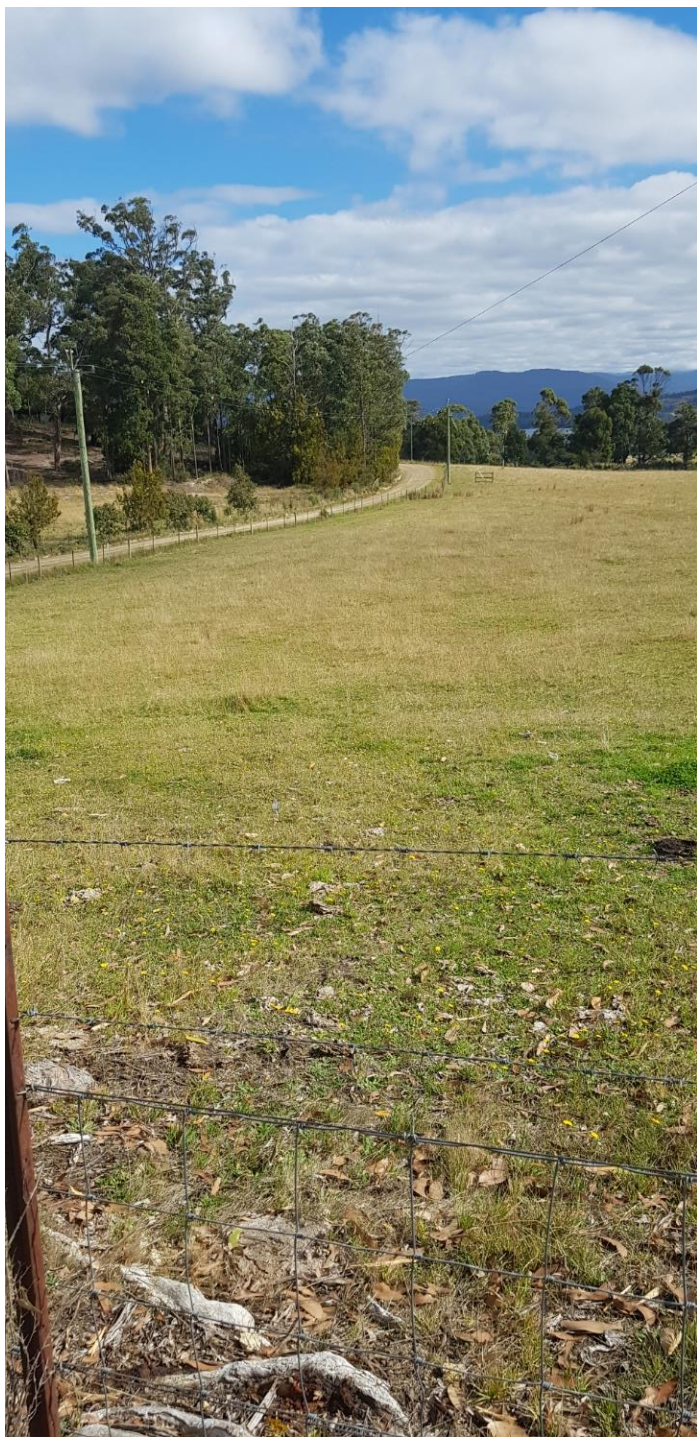
Boundary Gazetted Sky Farm Road looking towards Adamsons peakgoing up tp neighbours house



Boundary fence No trees Between CT: 37083/1 and neighbouring property.



Shelter belt Not a biodiversity feature



Looking towards Channel highway from Gazetted part of Sky Farm Road which abuts our property



View along block towards neighbours CT: 37083/2



View from Block dissected Sky Farm Road looking towards shelter trees.



View from Block dissected Sky Farm Road looking towards shelter trees.



Weeds and more weeds looking towards non-functioning waterhole.



Block dissected Sky Farm Road View from block looking towards neighbours note the number of houses in the distance.



Block dissected Sky Farm Road Hard pan road up to former quarry looking down block towards edge of farm.



Light bush in part with current biodiversity layer



Block dissected Sky Farm Road Hard pan road up to former quarry.



Block dissected Sky Farm Road showing old road to quarry.



Block dissected Sky Farm Road showing light regrowth bush with biodiversity overlay.