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Sent: Tue, 31 May 2022 14:23:26 +1000
To: hvc@huonvalley.tas.gov.au
Cc: "Deb van Velzen" <debvanv66@gmail.com>; "Martin Riddle and Deb van Velzen" <mriddle@iinet.net.au>
Subject: Attention: General Manager, Draft LPS - 48 Old Road, Franklin
Attachments: LPS Submission 48 Old Rd.pdf

Attention: General Manager
Reference: Draft Huon Valley Local Provisions Schedule
Subject Area: 48 Old Road, Franklin, TAS 7113

For your consideration, we attach a representation on the Draft Local Provisions Schedule.

Regards,

Martin Riddle and Deb van Velzen
48 Old Road
Franklin
TAS 7113
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Representation to the Huon Valley Local Provisions Schedule – Change of Zone for 48 Old Rd., Franklin from Rural to Rural Living B and Landscape Conservation

Purpose

This representation seeks to have 48 Old Rd., Franklin (CT 137432/2), currently zoned Rural, rezoned to a split zoning of Rural Living B and Landscape Conservation.

Subject Area

48 Old Rd is a long, narrow title of 6.89ha that sits just to the west of the township of Franklin. It stretches for a distance of 850m up the hillside and is 125m at its widest diminishing to a point on New Road. The property faces north-north-east and fronts Old Road for much of its length.

The property is not a remote rural property. The eastern boundary of the property is about 400m from the Post Office and Palais Theatre in the centre of Franklin on the Huon Highway. It is less than 150m from properties zoned Village along Old Road towards Franklin. It shares boundaries with a property zoned Rural Living B and it runs parallel with an existing cluster of 22 other properties zoned Rural Living B along Old Road to the south. The property immediately to the north (43 New Road) is currently zoned Rural, however, the owners of that property have advised they will be submitting a representation requesting a change to a more appropriate zoning.

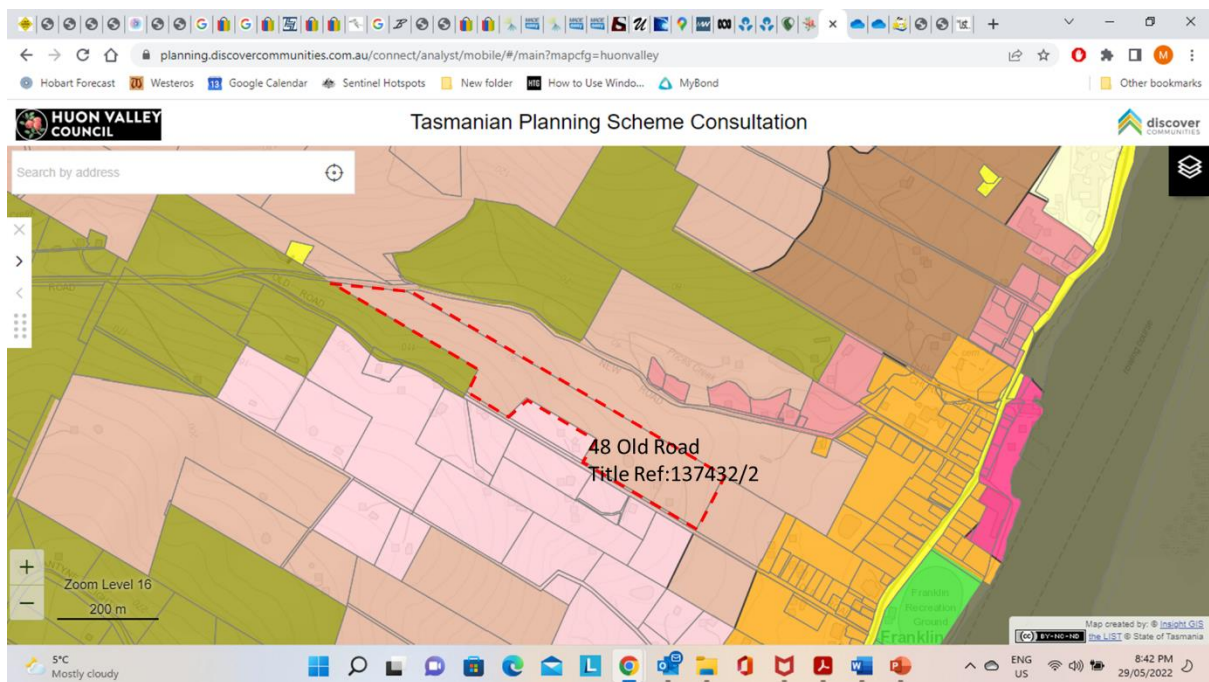


Fig. 1. The subject property (48 Old Rd, Franklin, 137432/2) boundary highlighted red/dashes

The property is predominantly former orchard (now cleared pasture) with a balance of bush and regrowth forest to the west (approx. 2.4ha). The eastern part of the property is cleared (4.5ha) and is a combination of grazing pasture and landscaped garden. The land slopes upwards moderately from east to west along its length and with moderate to steep slopes in the bush land. The orchard was cleared by the current owners in the 1990s and has since been managed as a 'Lifestyle' or 'Domestic-scale' property (Tempest and Ketelaar, 2018 - Decision Tree and Guidelines for Mapping the Agriculture and Rural Zones).

The property has a single residence and sheds. The property has a septic waste-water treatment system and is not connected to mains water or sewerage. There is a small rain-fed dam on the land.

Proposed Zoning

A split zoning is proposed with the eastern/lower part of the property to be zoned Rural Living B and the western/upper part of the property to be zoned Landscape Conservation.

The proposed boundary between the two zones is a line from the eastern-most corner of Title Ref: 230456/1 to the southern-most corner of Title Ref: 144704/4. The line is illustrated as a blue/dashed line on Fig.2. The proposed Landscape Conservation Zone is highlighted in blue and is contiguous with land already zoned Landscape Conservation in the Draft LPS.

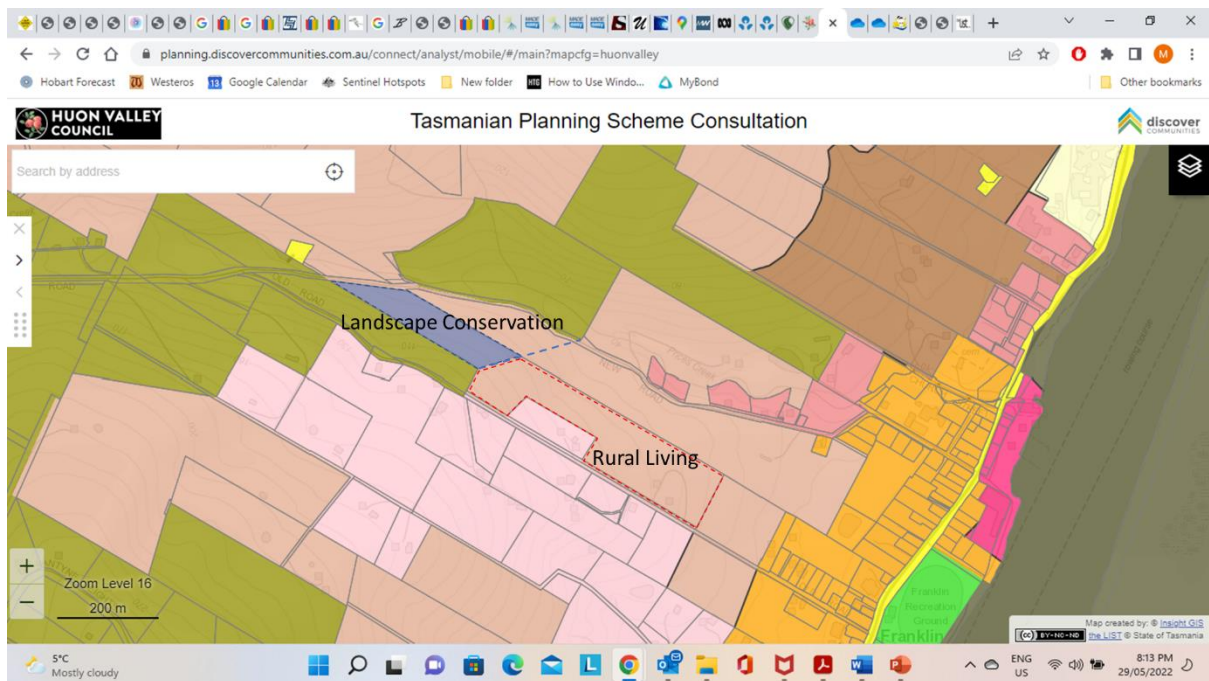


Fig. 2 Proposed split zoning, Landscape Conservation zone highlighted in blue with the balance of the property zoned Rural Living B; properties shaded pink immediately to the south are zoned Rural Living B.

If the land on the neighbouring property (43 New Road; Title Reference 144704/1) to the north and west of this line is also zoned Landscape Conservation this will create a continuous band of properties zoned Landscape Conservation and will contribute to protecting important rural views as seen from the Franklin Foreshore.

The eastern/lower part of the property which is proposed to be zoned as Rural Living B is contiguous with a cluster of 22 existing small Rural Living B properties between Old Road and Temperance Lane. and therefore would be considered an established Rural Living Area according to the procedure of Tempest and Ketelaar (2018).

Summary of process for arriving at this rezoning

The following steps were taken to arrive at the appropriate zoning for this land.

1. Determine the existing character and use of the property - the property has all the characteristics of an established Rural Living Area (Tempest and Ketelaar, 2018, Appendix 3).

2. Comparative assessment of the Zone Purposes for Rural and Rural Living Zones to determine which zoning will allow the zone purpose to be achieved to the greatest extent possible – the close proximity of the land to high density residential areas (Franklin Village Zone) and existing Rural Living properties would create use conflict if the land was used for many of the Permitted Uses in the Rural Zone. Zoning as Rural Living allows the zone purpose to be achieved to a far greater extent than if zoned as Rural.
3. Determine whether the Zone Application Guidelines for Rural Living apply to the land – assessment against the Zone Application Guidelines indicates the land should be re-zoned as Rural Living B if it can be shown that the rezoning is consistent with the relevant regional land use strategy (STRULUS).
4. Determine whether rezoning to Rural Living B is consistent with the relevant regional land use strategy (STRULUS) – assessment against STRULUS (19 Settlement and Residential Development, 19.7 Regional Policies, SRD 1.3) demonstrates that rezoning to Rural Living is consistent with the relevant regional land use strategy.

Details of process for arriving at this zoning

1. Determine the existing character and use of the property

The procedure of Tempest and Ketelaar (2018, Appendix 3) indicates the property has all the characteristics of an established Rural Living Area:

- Potential Land Use: ‘Domestic-scale’ characteristics
- Definition: Little or no use for agriculture
- Resources: Generally 1-8 ha in area; Land Capability variable; water for irrigation unlikely
- Connectivity: Moderate to significant Constraints; Residence on the title; Residences in close proximity; Little or no connectivity to unconstrained titles
- Objectives for Planning: Provide opportunities for rural residential lifestyle choice without risking loss of the agricultural resource; may contribute to buffering at the rural/residential interface

Tempest and Ketelaar (2018) conclude that for such properties:

“If the title is part of a cluster of lots with ‘domestic-scale’ characteristics where potential is negligible, the land area is in effect already converted and would be considered an established Rural Living area”

The property is part of a cluster of 22 properties that are already zoned as Rural Living B. The property has therefore already effectively been converted from rural use and would be considered an established rural living area.

2. Comparative assessment of the Zone Purposes for Rural and Rural Living Zones to determine which zoning will allow the zone purpose to be achieved to the greatest extent possible

As per 3.4 of the Guidelines ‘the primary objective in applying a zone should be to achieve the zone purpose to the greatest extent possible’. This objective is met by the proposed changes.

The Rural Zone is not appropriate for this property. The purpose of the Rural Zone is to provide for a range of use or development in a rural location, and to ensure that use or development does not compromise the function of surrounding settlements. Many of the Permitted Uses in the Rural Zone would create significant use conflict and ensuing loss of amenity to nearby residential areas because of the close proximity of the property to the Village Zone of Franklin. Resource Development,

Resource Processing, Processing materials from Extractive Industry and Storage (contractors yard, freezing and cooling storage, grain storage, liquid, solid or gas fuel depot and woodyard) are all Permitted Uses in the Rural Zone. The Rural Zone includes no Use Standards to limit the hours of operation of the Permitted Uses.

Rural use would have impact on nearby sensitive use. Land zoned Village is within 150 metres and the property lies within a community of 22 properties zoned Rural Living. These properties would be affected by sprays, noise, smells and movement from agricultural activity. Applying the Rural Zone to this property therefore has the potential to create significant conflict with nearby residential areas and does little to achieve the Zone Purpose.

Zone Purpose	Whether applying the zone would 'achieve the zone purpose to the greatest extent possible'
<p>20.0 Rural Zone - The purpose of the Rural Zone is:</p> <p>20.1.1 To provide for a range of use or development in a rural location:</p> <p>(a) where agricultural use is limited or marginal due to topographical, environmental or other site or regional characteristics;</p> <p>(b) that requires a rural location for operational reasons;</p> <p>(c) is compatible with agricultural use if occurring on agricultural land;</p> <p>(d) minimises adverse impacts on surrounding uses.</p>	<p>Applying the Rural Zone to this property would do little to achieve the zone purpose.</p> <p>The Rural Zone has no Use Standards to limit the hours of operation of the Permitted Uses. Many of the Permitted Activities in the Rural Zone, if undertaken on the property, would create significant loss of amenity for nearby high-density residential areas because of the proximity of the property to the Village Zone of Franklin.</p>
<p>Rural Living Zone - The purpose of the Rural Living Zone is:</p> <p>11.1.1 To provide for residential use or development in a rural setting where:</p> <p>(a) services are limited; or</p> <p>(b) existing natural and landscape values are to be retained.</p> <p>11.1.2 To provide for compatible agricultural use and development that does not adversely impact on residential amenity.</p> <p>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.</p> <p>11.1.4 To provide for Visitor Accommodation that is compatible with residential character.</p>	<p>Applying the Rural Living Zone to the property would achieve the zone purpose to a very significant extent.</p> <p>It would provide for residential use and/or development in a rural setting where services are limited, and existing natural and landscape values are to be retained.</p> <p>It would provide for compatible agricultural use and development without adversely impacting on residential amenity because the Permitted Uses in the Rural Living Zone are limited to low impact activities and the Discretionary Uses are all compatible with being undertaken in reasonable proximity to residential areas.</p> <p>It would provide for other use or development without causing an unreasonable loss of amenity, through noise, scale, intensity, traffic generation and movement, or other off site impacts, because the Discretionary Uses have Use Standards limiting hours of operation so they do not cause unreasonable loss of amenity to adjacent sensitive uses (such as residential).</p>

3. Determine whether the Zone Application Guidelines for Rural Living apply to the land

The following assessment against the Zone Application Guidelines shows that the guidelines support rezoning to Rural Living B if it can be shown the rezoning is consistent with the relevant regional land use strategy (STRULUS). Consistency with STRULUS is tested in the next section.

Zone Application Guidelines	Assessment of the property against the Rural Living Zone application guidelines
RLZ 1 The Rural Living Zone should be applied to:	RLZ 1 supports application of the Rural Living Zone (RLZ 1.a)
(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; or	Meets Guidelines. The existing use is a mix between residential and very low order rural activity (Domestic-scale). According to the procedure of Tempest and Ketelaar (2018) the property is in effect already converted and would be considered an established Rural Living area.
(b) land that is currently a Rural Living Zone within an interim planning scheme or a section 29 planning scheme, unless RLZ 4 below applies	Not applicable. The property is not currently in a Rural Living Zone in the interim planning scheme.
RLZ 2 The Rural Living Zone should not be applied to land that is not currently within an interim planning scheme Rural Living Zone, unless:	RLZ 2 supports application of the Rural Living Zone (RLZ 2.a)
(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	Meets Guidelines. Zoning as Rural Living is consistent with STRULUS, 19.7 Regional Policies SRD 1.3. (see next section: Assessment Against STRULUS).
(b) the land is within 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, such as, applying the Rural Living Zone D where the minimum lot size is 10 ha or greater.	Not applicable. The property is not currently in the Environmental Living Zone in the interim planning scheme.
RLZ 3 The differentiation between Rural Living Zone A, Rural Living Zone B, Rural Living Zone C or Rural Living Zone D should be based on :	RLZ 3 supports application of Rural Living Zone B (RLZ 3.a)
(a) a reflection of the existing pattern and density of development within the rural living area; or	Meets Guidelines. The land should be zoned Rural Living Zone B. This would reflect the existing pattern and density of development because 22 properties nearby and adjacent are zoned Rural Living B in the LPS.
(b) further strategic justification to support the chosen minimum lot sizes consistent with the relevant regional land use strategy, or	Not applicable The differentiation is a reflection of the existing pattern and density of development within the

supported by more detailed local strategic analysis consistent with the relevant regional land use strategy and endorsed by the relevant council.	rural living area so further strategic justification is not required.
RLZ 4 The Rural Living Zone should not be applied to land that:	RLZ 4 provides no reasons for not applying Rural Living Zone
(a) is suitable and targeted for future greenfield urban development;	Not applicable. The land is not suitable or targeted for future greenfield urban development; such development would be contrary to STRULUS which has a 'Low/Consolidation' growth strategy/scenario for Franklin
(b) contains important landscape values that are identified for protection and conservation, such as bushland areas, large areas of native vegetation, or areas of important scenic values (see Landscape Conservation Zone), unless the values can be appropriately managed through the application and operation of the relevant codes; or	Not applicable. A split-zoning is proposed with Landscape Conservation Zoning to be applied to a small area of regenerating bushland in the western/upper part of the property.
(c) is identified in the 'Land Potentially Suitable for Agriculture Zone' available on the LIST (see Agriculture Zone), unless the Rural Living Zone can be justified in accordance 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.	Not applicable. The land is identified on the LIST as Potentially Constrained (Criteria 3) which recognises land use conflicts created by proximity to residential development of adjoining land. The land is also Potentially Constrained on economic grounds as it meets Criteria 2A. The capital value exceeds \$50,000/ha which was identified as a potential economic constraint for purchasing and amalgamating the land with neighbouring agricultural land.

4. Determine whether rezoning to Rural Living B is consistent with the relevant regional land use strategy (STRULUS)

The Southern Tasmania Regional Land Use Strategy (STRULUS) is:

“the central document within the Land Use Planning Framework for Southern Tasmania. The Strategy is intended to guide land use, development, and infrastructure investment decision across the region by State and Local Government, and infrastructure providers”.

“The Strategy comprises three key components: The Vision, The Strategic Directions, and the Regional Policies. The Regional Policies outline how the Strategic Directions will be achieved, and the Strategic Directions, being the broad policy statements outline how the Vision will be attained.”

The Regional Policies of STRULUS are therefore the key strategies for assessing whether the Rural Living Zone should be applied to the land. The relevant part of STRULUS is The Tasmanian Planning Scheme Addendum, 19 Settlement and Residential Development, 19.7 Regional Policies, SRD 1.3.

Relevant Regional Policies of STRULUS	Assessment for RLZ 2.a. – Is zoning the land as Rural Living consistent with the relevant regional land use strategy?
<p>SRD 1.3 Support the consolidation of existing settlements by restricting the application of the Rural Living Zone:</p> <ol style="list-style-type: none"> 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. 	<p>Rezoning to Rural Living is consistent with this land use strategy.</p> <p>The land is already part of an existing rural living community. Applying the procedure of Tempest and Ketelaar (2018) the property is in effect already converted and would be considered an established Rural Living area. The land is not in an existing Environmental Living Zone in the interim planning scheme.</p>
<p>Land not currently zoned for rural living or environmental living communities may only be zoned for such use where one or more of the following applies:</p>	<p>More than one of the policy conditions are met.</p> <p>The following STRULUS policy conditions are all met: SRD 1.3(a), (a.i), (a.ii), (c.i) to (c.vii).</p>
<p>a. Recognition of existing rural living communities, regardless of current zoning. Where not currently explicitly zoned for such use, existing communities may be rezoned to Rural Living provided:</p>	<p>This policy condition applies and is met.</p> <p>The land is in an existing rural living community. Applying the procedure of Tempest and Ketelaar (2018) the property is in effect already converted and would be considered an established Rural Living area. The land is not currently explicitly zoned for Rural Living use.</p>
<p>(i) the area of the community is either substantial in size or adjoins a settlement and will not be required for any other settlement purpose; and</p>	<p>This policy condition applies and is met.</p> <p>The existing rural living community is substantial in size. It consists of 22 properties zoned Rural Living B. The total combined area of these properties is approximately the same as the area zoned as Village in Franklin. The land shares boundaries with properties zoned Rural Living B. The land has not been identified in any land use strategy as required for any other settlement purpose.</p>
<p>(ii) only limited subdivision potential is created by rezoning.</p>	<p>This policy condition applies and is met.</p> <p>Rezoning to Rural Living B creates the potential for only two additional lots – therefore only very limited subdivision potential is created by rezoning.</p>
<p>b. Replacing land currently zoned for rural living purposes but undeveloped and better suited for alternative purposes (such as intensive agriculture) with other land better suited for rural living purposes, in accordance with the following:.....[sub clauses (i) to (v) not included here because the policy condition does not apply]</p>	<p>This policy condition does not apply.</p> <p>The rezoning does not replace land currently zoned for rural living</p>
<p>c. Rezoning areas that provide for the infill or consolidation of existing rural living communities, in accordance with the following:</p>	<p>These policy conditions apply and are met.</p>

<p>(i) the land must predominantly share common boundaries with:</p> <ul style="list-style-type: none"> • existing Rural Living zoned land; or • rural living communities which comply with SRD 1.3(a); 	<p>This policy condition applies and is met. The land shares common boundaries with properties that have existing Rural Living zoning (62 Old Road and other properties on the south side of Old Road) and properties which comply with SRD 1.3(a) (43 New Road).</p>
<p>(ii) the amount of land rezoned to rural living must not constitute a significant increase in the immediate locality;</p>	<p>This policy condition applies and is met. The property is part of an existing large rural living community. Rezoning to rural living will reflect the current existing use of the property as rural living and will not constitute a significant increase in the immediate locality.</p>
<p>(iii) development and use of the land for rural living purposes will not increase the potential for land use conflict with other uses;</p>	<p>This policy condition applies and is met. Development and use of the land for rural living purposes will not increase the potential for land use conflict with other uses. Because the land is within an existing rural living community, rezoning to Rural Living will decrease the potential for land use conflict with other uses.</p>
<p>(iv) such areas are able to be integrated with the adjacent existing rural living area by connections for pedestrian and vehicular movement. If any new roads are possible, a structure plan will be required to show how the new area will integrate with the established Rural Living zoned area;</p>	<p>This policy condition applies and is met. The land is already being used as rural living and is already integrated with the existing rural living area. The land has a long frontage (approx. 350m) to an existing road (Old Road) and also to New Road (approx. 150m). No new roads are required to provide connections for pedestrian and/or vehicular movement</p>
<p>(v) the land rezoned to rural living use is not designated as Significant Agricultural Land on Map 5 of this Strategy;</p>	<p>This policy condition applies and is met. The scale of Map 5 printed in STRULUS does not provide sufficient detail to assess whether or not the land is designated as Significant Agricultural Land. The land is identified on the LIST as Potentially Constrained (Criteria 3) which recognises land use conflicts created by proximity to residential development of adjoining land. The land is also Potentially Constrained on economic grounds as it meets Criteria 2A. The capital value of the land exceeds \$50,000/ha which is a potential economic constraint for purchasing and amalgamating the land with neighbouring agricultural land.</p>
<p>(vi) the land rezoned to rural living use is not adjacent to the Urban Growth Boundary for Greater Hobart or identified for future urban growth; and</p>	<p>This policy condition applies and is met. The land is not adjacent to the Urban Growth Boundary for Greater Hobart or identified for future urban growth.</p>
<p>(vii) the management of risks and values on the land rezoned to rural living use is consistent with the policies in this Strategy.</p>	<p>This policy condition applies and is met. The management of risks and values on the land rezoned to rural living use is consistent with the policies in this Strategy and will be</p>

	done in accordance with all relevant Codes and Overlays.
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Assessment against STRULUS (19 Settlement and Residential Development, 19.7 Regional Policies, SRD 1.3) demonstrates that rezoning to Rural Living is consistent with the relevant regional land use strategy.

Final Statement

The proposed zone change fulfils the purpose of the Zone Application as provided in Section 8A Guidelines No. 1.

A split zoning of Rural Living B and Landscape Conservation fulfils the zone purposes to the greatest extent. Such zoning best provides for future likely use, provides reasonable sub-division potential, preserves heritage and character values, protects natural values and buffers rather than conflicts with nearby and adjacent sensitive (residential) use.

The rezoning of part of the property to Landscape Conservation takes a very conservative and cautious approach to protecting the landscape values of the property. The area of regrowth forest proposed for rezoning to Landscape Conservation is already identified and protected as 'Priority Vegetation Area' under the Natural Assets Code. The main advantage to rezoning of this part of the property to Landscape Conservation is that it creates a continuous band of properties with landscape protection. This provides a consistent approach and reduces the chance that the existing gap in the Landscape Conservation zone could be used as a precedent in future development applications. If the suggestion for split zoning is rejected, a simple rezoning to Rural Living B is requested.

It is submitted that the proposed change:

1. furthers the objectives contained in Schedule 1 of the Act (LUPAA, 1993) and is consistent with each State Policy;
2. is consistent with STRLUS;
3. creates no natural justice conflicts with neighbouring properties or Franklin generally; and
4. will have no impact on the implementation of the LPS as a whole.

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30/05/2022