

**From:** Danielle Gray  
**Sent:** Wed, 16 Mar 2022 11:25:31 +1100  
**To:** Information Management  
**Cc:** sea.produce  
**Subject:** draft LPS representation 46 Percy Street Port Huon  
**Attachments:** HVC draft LPS representation 46 Percy Street Port Huon Gray Planning on behalf of Milverton 10.03.2022.pdf

To the attention of the General Manager

Dear Sir

Please find attached a representation from Gray Planning on behalf of Mr Steven Milverton that objects to the proposed Rural zoning of 46 Percy Street at Port Huon under the draft LPS for the Huon Valley Council municipality.

If you wish to discuss, please contact the undersigned.

Regards  
Danielle

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11 March 2022

General Manager  
Huon Valley Council  
PO Box 210  
Huonville TAS 7109

Dear Sir,

**Representation for advertised draft Local Provision Schedule (LPS) documents, Huon Valley Council with respect to proposed zoning of 46 Percy Street, Port Huon.**

Gray Planning has been engaged by Mr Steven Milverton who is the owner of 46 Percy Street at Port Huon to submit a representation that objects to the proposed Rural zoning as proposed in the zone mapping provided as part of the draft LPS documentations currently being advertised by Huon Valley Council.

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

Commentary against the TPC's Section 8A Guideline No.1 LPS zone and Code application guidelines is provided within this representation as well as commentary on land characteristics, property constraints, land capability and agricultural potential mapping criteria.

The application of Rural zoning to the subject site at 46 Percy Street currently used for the purposes of a dwelling that is located in the south west corner of the subject site within the property, has closely adjacent residential use and development and is of a very small size unable to realistically support any primary industry or agricultural use is considered inappropriate and is not in accordance with the recommended application of the Rural zone as outlined in the TPC's Section 8A Guideline No.1 LPS zone and Code application guidelines.

On that basis, this representation opposes the proposed Rural zoning of the subject site as proposed under the advertised draft LPS documentation. Instead, it is considered the subject site is more appropriately zoned as Rural Living Area B, in line with immediately adjacent properties.



### The subject site

The subject site is 46 Percy Street at Port Huon and is currently wholly zoned Rural Resource zone under the *Huon Valley Interim Planning Scheme 2015* as shown overleaf in Figure 2.

The subject site measures marginally over 4 hectares in total area. The subject site has frontage onto Percy Street to its western frontage boundary.

The subject site has vehicular access only from Percy Street which currently services the existing dwelling at the property.



**Figure 1.** 46 Percy Street outlined. The property contains a single dwelling (orange arrowed) and outbuildings and contains pasture. Source: TheLIST, sourced 10 March 2022, no nominated scale.

Adjoining properties to the immediate north and to the east of 46 Percy Street are also zoned Rural Resource while properties to the south are zoned a combination of either Rural Living (Area B) or General Residential as shown in Figure 2 of this report.

The subject site is directly adjacent to other properties on all of its boundaries containing residential development in the form of a single dwelling.

There is currently no agricultural use of the subject site and there has been no history of any use other than residential.

There is no apparent agricultural use of any adjacent or nearby neighbouring properties.



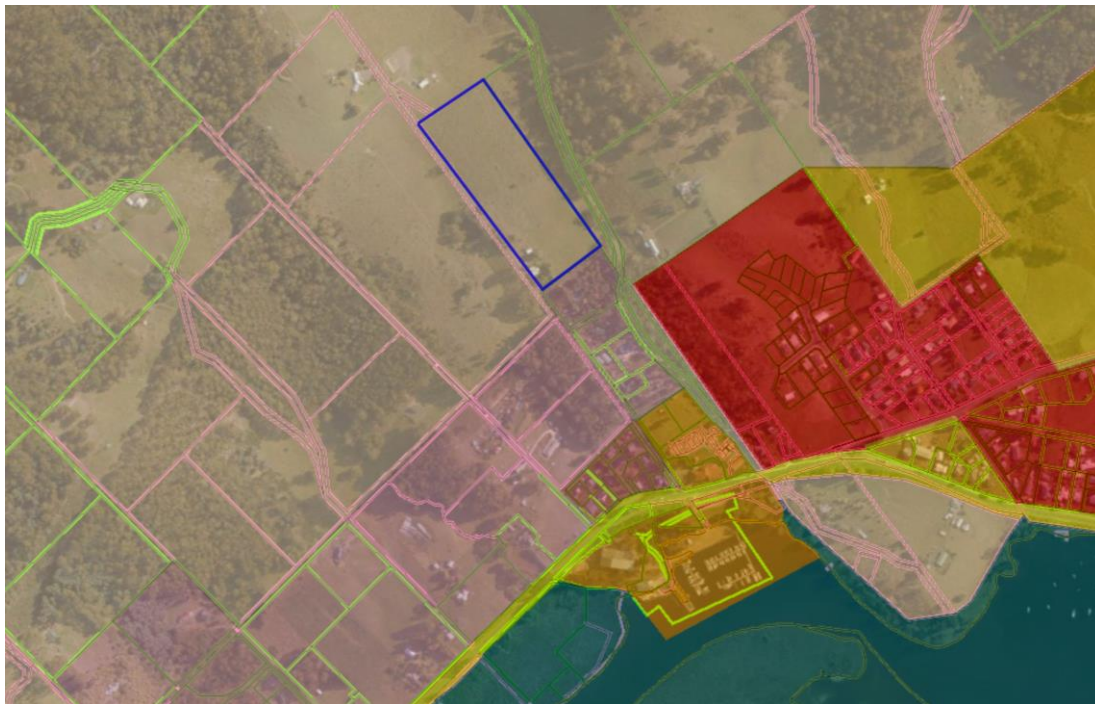
### Current zoning

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

This zoning is applied to surrounding properties to the north, west and east where typically exceed 5 hectares in total site area.

The majority of these properties contain a single dwelling. Many also have substantial areas of native vegetation cover. None have any discernible agricultural use apparent.

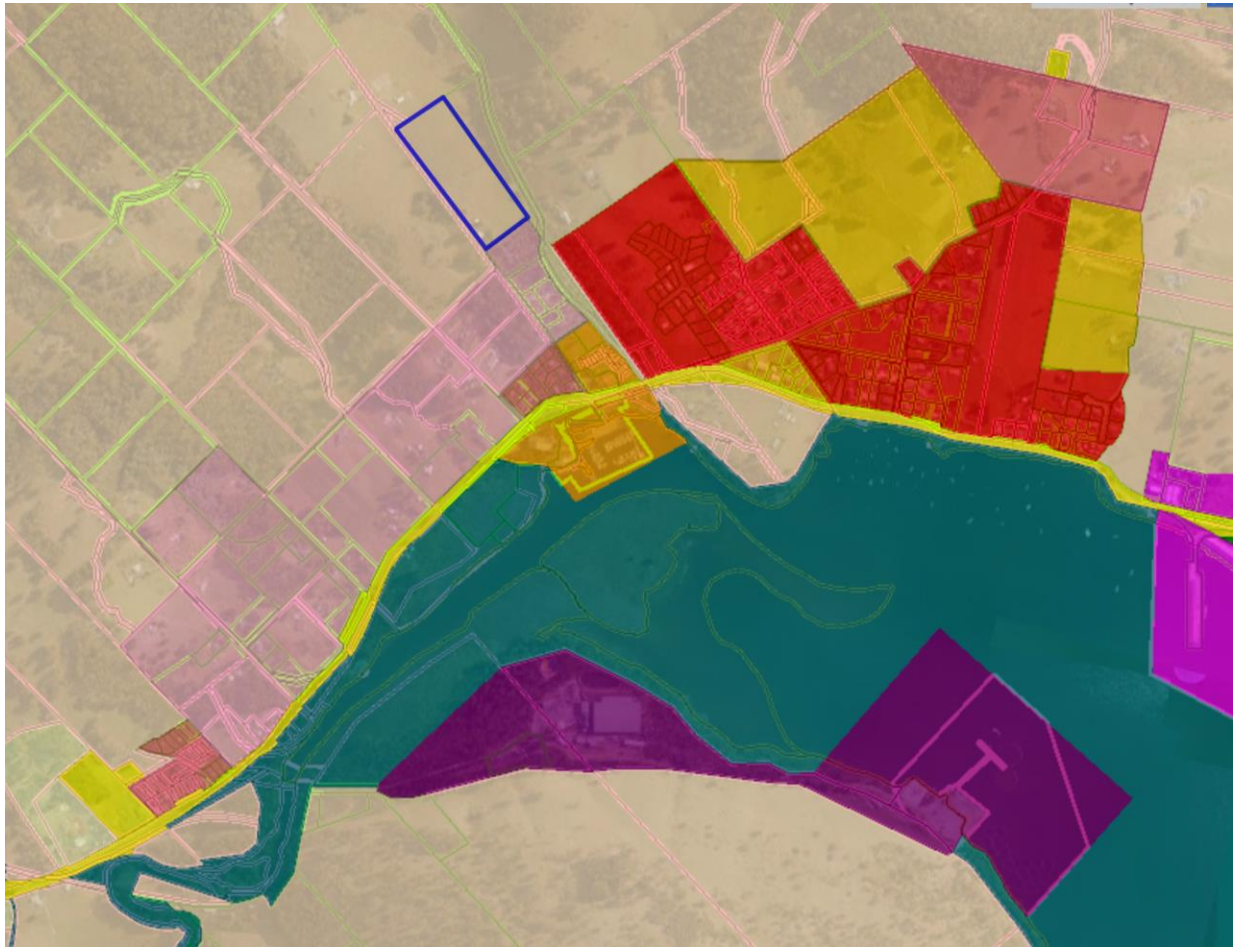
It is unclear why the Rural Resource zoning has been applied by Council to the subject site neighbouring land when there is no clear pattern of land characteristics obviously conducive to agricultural use because of tree cover, residential use, smaller lot size, adjacent residential use, adjacent Residential zoning or topography.



**Figure 2.** The subject site 46 Percy Street outlined. The subject is site is currently zoned Rural Resource. The above aerial mapping shows south and south west are zoned Rural Living (pink) while to the south east there is the General Residential zone (red shading). Source: TheLIST, sourced 10 March 2022, no nominated scale.







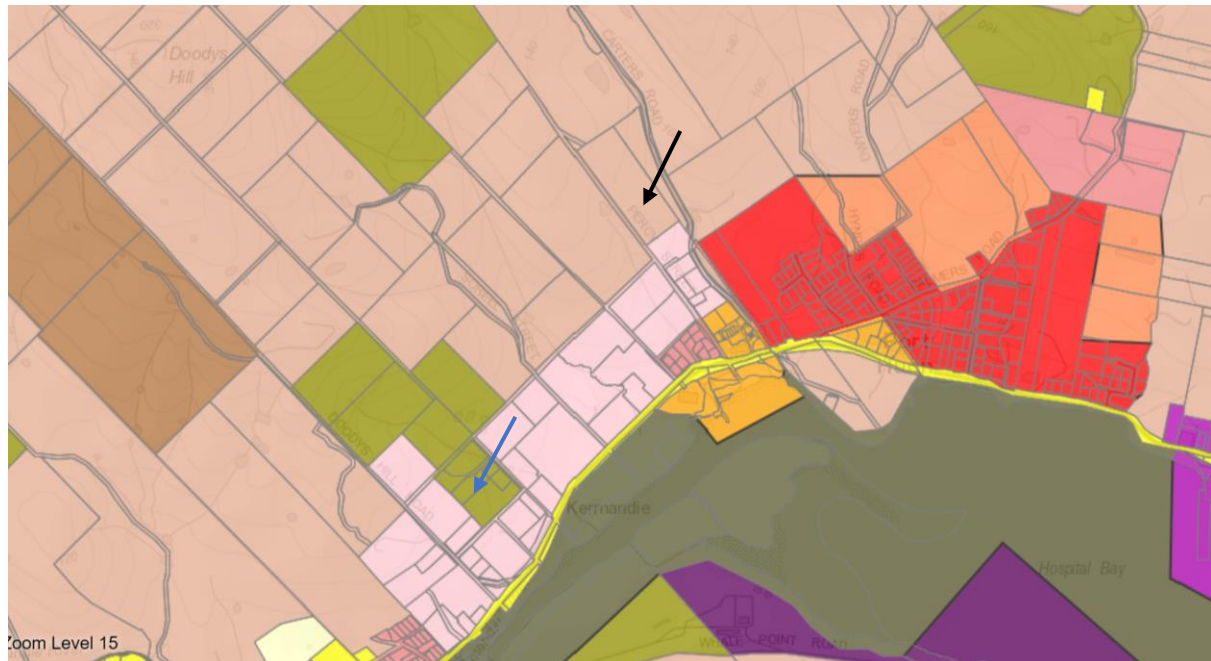
**Figure 3.** The subject site 46 Percy Street outlined. Rural Resource zoning has been applied around the Port Huon township despite many properties having no obvious agricultural potential or any such use. The Rural Living zone has been applied to lots typically 1 hectare and smaller in the western area of the township. There is a large area of Particular Purpose zone 1 (yellow) east of the subject site that presumably has been set aside for future residential expansion of the township. Source: TheLIST, sourced 10 March 2022, no nominated scale.

It is considered that Rural Living zone provides a good buffer between General Residential and future urban zoned land (PPZ1) to recognise existing residential land in very close proximity to the Village zoned town centre and with no obvious agricultural potential in the township while not necessarily opening up that land to further subdivision or higher density residential development.



### Proposed zoning under the draft Huon Valley LPS

The advertised draft LPS for Huon Valley Council shows the subject site to be zoned to Rural, apparently on a 'like for like' basis. The Rural zone has been generally applied to properties throughout the area generally already zoned Rural Resource as shown below in Figure 4.



**Figure.4.** Proposed draft LPS zoning of the subject site (shown arrowed) to be zoned to Rural (light brown).. There has been a reduction in the number of properties zoned Rural Living with several properties proposed to be rezoned to Landscape Conservation (blue arrowed) Source: TheList, sourced 8 March 2022, no nominated scale.

The above mapping shows that new zones to be introduced in close proximity to the Port Huon town ship include Agriculture (dark brown) and also Landscape Conservation (green) where previously these properties have been zoned Rural Resource.

It is considered that for many urban zoned properties of the Future Urban, General Residential and Low Density Residential zoning, there is no buffer between these higher density residential zones to Rural zoned land. It is considered that this is where a proposed Rural Living zoning should be considered, particularly where such properties already contain residential use and development and have characteristics that make them highly unlikely to have any agricultural potential.

Council's rationale for zoning Rural is unclear as there are no consistent or obvious characteristics that apply to land proposed to be zoned Rural other than most properties are already zoned Rural Resource.

The subject site at 46 Percy Street has multiple obvious constraints and contains a dwelling, is directly adjacent to other residential use and residential zoned land and also is of small size.



It is considered inappropriate that the subject site will continue to be covered by a zone that essentially facilitates agricultural use despite the site not having any obvious potential to do so and being clearly constrained.

### Land Capability of the subject site

The subject site is mapped as classification number 5 in terms of Land Capability by DPIPW as shown below in Figure 5:



**Figure 5.** 46 Percy Street. The subject site is brown (5) (Land Capability map DPIPW). Source: TheLIST, sourced 10 March 2022, no nominated scale.

### CLASS 5

This land is unsuitable for cropping, although some areas on easier slopes may be cultivated for pasture establishment or renewal and occasional fodder crops may be possible. The land may have slight to moderate limitations for pastoral use. The effects of limitations on the grazing potential may be reduced by applying appropriate soil conservation measures and land management practices.


It is considered that the subject site should not be zoned Rural, based on its low capability to sustain even grazing and unsuitability for cropping coupled with existing residential use and other constraints such as its small size and proximity to residential zones land and uses.



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

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

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

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

Comments have been made against each of the following purpose statements for the Rural zone:

*The purpose of the Rural Zone is:*

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

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

Comment:

The subject site has a land capability classification of 5. This classification concludes the land in question is unsuitable for cropping but may have some pastoral use. The subject site is 4 hectares and contains an existing dwelling. It is considered that any pastoral use would be very limited owing to the site area and the existing residential use.



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

Comment:

The subject site is not in a rural location. It is on the immediate edge of the Port Huon township and immediately adjacent to land zoned Rural Living. It is 80m from land zoned General Residential, 360m of Future Urban PPZ1) zoned land and 270m from Village zoned land containing the Port Huon central township area.

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

Comment:

The subject site has no current agriculture use and no known history of any agricultural use. Its land capability classification of 5 makes it unsuitable for any cropping.

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

Comment:

The subject site is immediately adjacent to residential land zoned Rural Living and 80m from General Residential zoned land. It is considered the subject site being zoned Rural Living would result in a buffer between residential zoned land and larger lots with a greater likelihood of agricultural or primary industry use.

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

Comment:

The subject site cannot reasonably be called agricultural land owing to its current residential use and development, small size, proximity to residential uses and low land capability (classification 5).

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

Comment:

The subject site is not considered to be in a rural location as it is located on the immediate fringe of the Port Huon township and directly adjacent to residential zoned land. The subject site is already used and developed for residential purposes which makes new agricultural use or development likely to result in land use conflict.



Comments have been made against each of the above guidelines with respect to the proposed zoning of the subject site to Rural:

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

Comment:

The subject site is the immediate fringe of an urban area, directly adjacent to a residential zone and has no potential for agriculture. The subject site has no topographical, environmental or other characteristics conducive to a Landscape Conservation or Environmental Management zone.

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

Comment:

The subject site is definitively unsuitable for an Agricultural zoning with respect to its small size and residential use as well as proximity to residential zoned land.



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

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

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

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

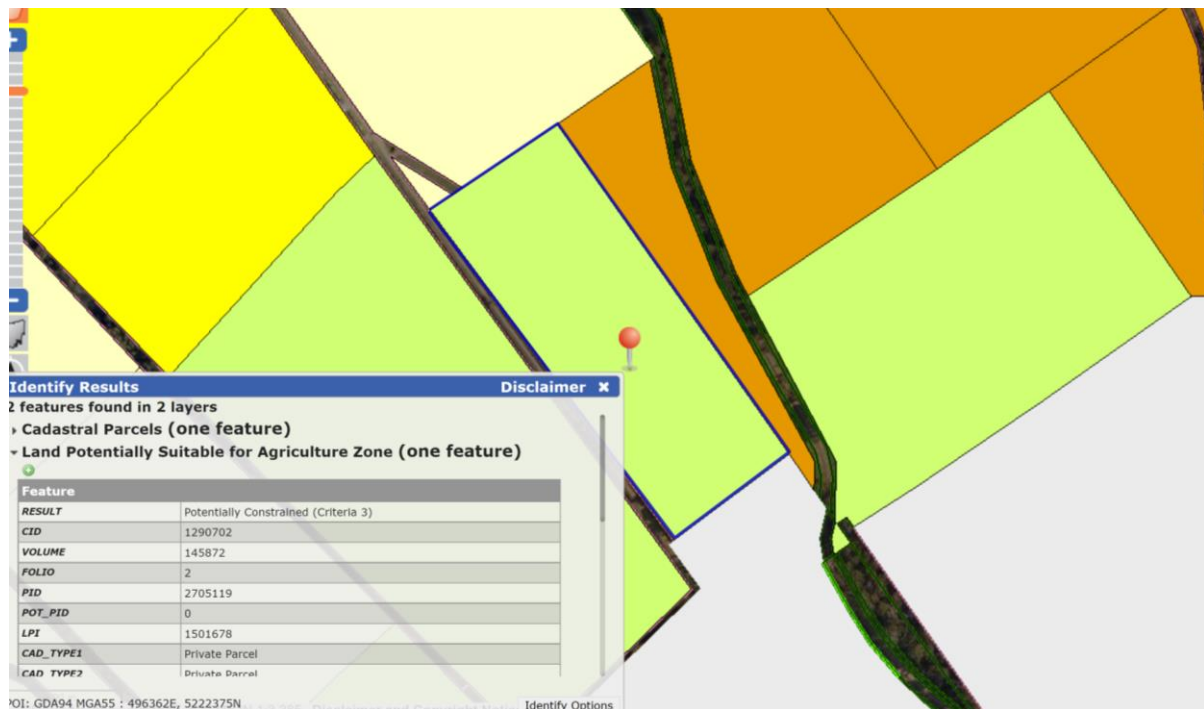
*(d) the land is identified for a strategically important use or development that is more appropriately located in the Rural Zone and is supported by strategic analysis; or (e) it can be demonstrated, by strategic analysis, that the Rural Zone is otherwise more appropriate for the land.*

Comment:

The subject site has not been identified as being land potentially suitable for Agriculture zone. This is discussed in more detail overleaf.

It is unclear if Council have specifically considered the subject site with respect to on ground features, use of the site and demonstrated constraints that appear to have been identified in the 'Land Potentially suitable for Agricultural zone' mapping which notes the site as being Potentially Constrained 3 (see overleaf Figure 6).





**Figure.6.** Mapping of the subject site as being Potentially Constrained 3. Source: TheList, sourced 10 March 2022, no nominated scale.

When reviewing the *Agricultural Land Mapping Project Background Report May 2017*, the subject site has been identified as Criteria 3 owing to its immediate proximity to land zoned Residential (in this case Rural Living) and associated likely land use conflicts created by proximity to residential development of adjoining land which causes agricultural use on the title to be seriously confined or restrained.

This report discusses: *'small titles with a high capital value per hectare can indicate that a high proportion of the value of the title relates to physical improvements such as buildings, structures and other fixtures. The high capital values can often indicate the presence of a dwelling on the title. The identification of such Agricultural Land Mapping Project Background Report 17 titles can also indicate the presence of 'residential nodes', or clusters of smaller titles that are largely residential in nature with the current rural zones'*. (page 16-17)

The subject site is considered to be one of these such smaller titles that is residential in nature yet in a current rural zone.

As a result of its Criteria 3 classification, the subject site is considered to be of the lowest level of agricultural potential identified by the above report.

As a result, it is considered the subject site should not have a Rural zoning.





**Growth Strategy**

The subject site is not within the Urban Growth Boundary but is directly adjacent to Residential zoned land within the Port Huon township.

Port Huon is not specifically mentioned in the Southern Tasmanian Regional Land Use Strategy (STRUS) as being a dormant or low growth area.

Port Huon is however, noted in the *Huon Valley Land Use and development Strategy* as being a 'Minor Settlement' as follows:

***Minor Settlements: Port Huon, Glen Huon, Judbury, Southport, Grove***

*Development within these minor settlements is constrained by limited servicing and consequential environmental impacts of development reliant on on-site disposal of effluent. While there is potential for an upgrade of infrastructure in the Port Huon settlement there are no plans for services being provided to the remaining settlements. Development in all cases is strictly on infill opportunities and in the absence of infrastructure, within the environmental constraints imposed by proximity to the coast, high tables, soil characteristics and the like. (page 42)*

**Comment:**

It is considered that rezoning the subject site to Rural Living B would not be in conflict with the above statement in the *Huon Valley Land Use and development Strategy* for the following reasons:

- The rezoning to Rural Living Area B would potentially only allow one additional new vacant lot. This would be considered a pattern of land settlement and a lot size consistent with surrounding properties;
- The lack of servicing would not present any obstacles as densification to that seen in nearby General Residential and Low Density Residential zones would not be able to be achieved;
- The Rural Living B zone would provide a buffer to nearby General Residential and directly adjacent Rural Living zoned land.
- It is considered that one additional lot would be an infill opportunity;
- A Rural Living zone would be reflective of the nil ability of the subject site for any agricultural use;
- A Rural Living zone would be reflective of the existing residential use of the subject site that is also adjacent to other properties with residential use and zoning.



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

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

The current and proposed application of the Rural zone is considered inappropriate when assessed against the Section 8A Guideline No.1 LPS zone and Code application guidelines with respect to the subject site characteristics and multiple constraints identified in this representation.

It is considered that the Tasmanian Planning Commission instead consider a zoning of Rural Living Area B for the subject site at 46 Percy Street which is compatible with immediately adjacent Residential zoned land.

Should you wish to discuss the above, I may be contacted on 0439 342 696.

Yours faithfully



Danielle Gray B.Env.Des. MTP. MPIA

Principal Consultant, Gray Planning

On behalf of Mr Steven Milverton, owner of 46 Percy Street, Port Huon

