

From: "Joel Smith" <joel.smith2425@gmail.com>
Sent: Tue, 31 May 2022 11:43:42 +1000
To: "Huon Valley Council" <hvc@huonvalley.tas.gov.au>
Cc: "Daniel Webb" <djwebb1990@gmail.com>
Subject: Draft Huon Valley Local Provisions Schedule - Representation for 407 Cloverside Road, Lucaston
Attachments: FINAL - Representation on Proposed Rezoning of 407 Cloverside Road, Lucaston.docx

ATTN: General Manager

Please find attached our submission in relation to the proposed rezoning of our property.

Please confirm receipt of this representation.

King Regards,

Joel Smith
0410 552 515

31 May 2022

The General Manager
Huron Valley Council
40 Main Street
Huronville TAS 7109

RE: Representation for the Huon Valley Council's proposed zoning of 407 Cloverside Road, Lucaston.

Dear Councillors,

This representation is made in accordance with s 35E of the *Land Use Planning and Approvals Act 1993* (LUPAA) and is in relation to the Huon Valley draft Local Provision Schedule (LPS), specifically the proposal to zone 407 Cloverside Rd, Lucaston ('the Property') to Landscape Conservation (LCZ).

It is submitted that decision to zone the Property in the LCZ is wrong, and the draft LPS should be amended to zone the Property as **Rural**.

The following paragraphs outline why the proposed LCZ is incorrect and why Rural zoning is the only appropriate option.

1.1 Proposed LPS Zoning

1.1 LCZ has been proposed for the Property as visible in the LPS zoning map provided by the Huon Valley Council (see Appendix 1).

2. Proposed zoning and LPS inconsistent with s 32(2)(f) of LUPAA

2.1 Section 32(2)(f) of LUPAA states that an LPS must not contain a provision that is inconsistent with section 11 or 12 of the Act.

2.2 Section 12 of LUPAA states that:

(1) Subject to subsections (5), (6) and (7), nothing in a provision of a planning scheme, or of the Tasmanian Planning Scheme, in relation to a municipal area is to be taken (including by virtue of requiring a permit to be obtained) to –

(a) prevent the continuance of the use, of any land, in the municipal area, upon which buildings or works are not erected, for the purposes for which the land was being lawfully used immediately before the provision came into effect; or

(b) prevent –

(i) the use, of any building in the municipal area that was erected before that provision came into effect in relation to the municipal area, for any purpose for which the building was lawfully being used immediately before the provision came into effect in relation to the municipal area; or

(ii) the maintenance or repair of such a building; or

(c) prevent the use, of any works constructed in the municipal area before the provision came into effect in relation to the municipal area, for any purpose for which the works were being lawfully used immediately before the provision came into effect in relation to the municipal area; or

(d) prevent the use of any building, or works, in the municipal area, for any purpose for which it or they were being lawfully erected, or carried out, immediately before the provision came into effect in relation to the municipal area; or

(e) require the removal or alteration of any lawfully constructed buildings, or works, in the municipal area.

2.3 The Property is currently zoned 'Rural Resource' under the Huon Valley Interim Planning Scheme 2015 (HVIPS). This zoning allows for a range of uses outlined fully in Appendix 2. The owners of the Property currently, and have for several years, undertaken activities which fall in the 'No permit required' category. Specifically, resource development activities including crop production, tree farming and bee keeping activities have taken place over the past two years.

2.4 The draft LPS currently contains provisions which zone the Property as LCZ. The State Planning Provisions (SPP) use table for LCZ (Appendix 3) specifies that all resource development activities will either be prohibited or listed in the 'Discretionary' use category.

2.5 By zoning the Property as LZC and enforcing the use table listed in the SPP, the draft LPS would prevent the continuance of the use of the land and buildings for lawful activities currently being undertaken in compliance with the HVIPS, by either prohibiting the resource development activities outlined above or by requiring a permit to be obtained for them.

2.6 The draft LPS therefore contains provisions which would be in breach of sections 12 and 32(2)(f) LUPAA.

2.7 To ensure compliance with LUPAA, the draft LPS must be amended, and the Property must be zoned Rural.

3. Proposed zoning inconsistent with LPS Guideline No.1, LCZ 2 (b) – Threatened native vegetation and native species not on the property

3.1 The LPS guidelines set out the circumstances under which a the LCZ should be applied, including for the protection of native vegetation and species. According to the LPS supporting report, these are the reasons that LCZ have been applied to the Property and are based on various models compiled by the State Government or other entities.

3.2 The priority vegetation report (PVR) attached to the LPS map (Appendix 4) provides an estimation of forested area on the Property and lists *Acacia delbata* forest and *Eucalyptus globulus* forests are present on the property. The PVR states that this estimation is not reliable.

3.3 The estimated forested areas displayed in the PVR are not accurate.

3.4 The assessment that the Property contains *Acacia delbata* forest and *Eucalyptus globulus* forests is not accurate. The forested areas on the property are comprised of *Eucalyptus obliqua* – a species that is not threatened and would not meet the LCZ threshold of being threatened native vegetation (Appendix 5).

3.5 The PVR also guesses that swift parrots reside on the property. The PVR states that this too is not a reliable estimate.

3.6 The owners of the property are familiar with the appearance and call of the swift parrot and have not once seen or heard one on the Property. This is consistent with there being no *Eucalyptus globulus* forests on the Property (the habitat of the swift parrot). There is no record of a swift parrot on or near the Property.

3.7 The data used to compile these reports and assess the natural values of the Property is clearly inaccurate and cannot be relied on to support rezoning to LCZ.

4. Proposed zoning inconsistent with LPS Guideline No.1, LCZ 2 (a) – Property does not contain a large area of native vegetation

4.1 The area of the Property that is not cleared is less than the Council’s stated threshold of 20ha and therefore does not contain ‘large areas of native vegetation’.

5. Proposed zoning inconsistent with LPS Guideline No.1, LCZ 4 (a) – LCZ should not be applied to the Property as it is primarily for residential use and development

5.1 The Property is a result of a subdivision of a larger block of land in approximately 2003. The land was subdivided for the express purpose of providing residential blocks in a rural setting. Since the subdivision of the original property, four additional dwellings have been constructed. Therefore, the property is primarily for residential use and development and LCZ should not be applied.

6. Proposed zoning inconsistent with LPS Guideline No.1, RZ 1-RZ 3 – Rural zoning more appropriate under LPS guidelines

6.1 The Property fits with the purpose of the Rural zone and should be zoned as such. The property meets the criteria of RZ 1, RZ 2 and RZ 3.

6.2 The property is in a non-urban area and has limited agricultural use due to the sharp slope of the land, alpine soil, and temperatures. It does not have environmental or other characteristics which make it more suitable to LCZ or EMZ.

6.3 Activities that take advantage of the agricultural uses of the land are already taking place, including vegetable cultivation, fruit and nut growing, and livestock rearing.

6.4 Although the land has some agricultural potential, it would not meet the requirements of the Agricultural Zone and is not integral to the management of a larger farm holding within an Agricultural Zone.

6.5 This is demonstrated by the history of the Property and surrounding properties. The area was once used for logging and cattle grazing but was ultimately deemed unsuitable for intensive commercial agricultural activities.

6.6 It can be demonstrated by strategic analysis that the Rural zoning is most appropriate.

7. Proposed zoning not a ‘like for like’ conversion

7.1 The proposed zoning is not a like for like conversion of zones from the HVICS 2015. The proposed zoning would introduce significant limitations on the activities able to be carried out at the Property and represents a substantial and unfair disadvantage to the owners of the Property.

8. Proposed zoning will cause financial harm

8.1 The proposed LCZ will restrict or prohibit existing uses of the land. It will make it more difficult to extend the existing dwelling and place new restrictions building height, colour and other features

that do not exist currently. This will result in a substantial devaluation of the property and amount to a significant financial loss for the owners of the Property.

9. Proposed zoning inconsistent with neighbouring properties

9.1 Properties adjoining the Property have correctly been proposed as Rural zones, and there are similar values and landscapes existing across the whole area. This disparity is unfair, not justified by any substantial differences in the properties, not justified by any of the zoning guidelines, and will result in 'spot-zoning' in the community. A group representation has been made to the council by neighbouring properties (see Appendix 6).

Regards,



Joel Smith
Land Owner
0410 552 515
joel.smith2425@gmail.com



Daniel Webb
Land Owner
0426 880 636
djwebb1990@gmail.com

31 May 2022

Appendix 1 – LPS Zoning Map Screenshot

Parcel Address	407 CLOVERSIDE RD
CT	139274/5
Tenure Type	Freehold Title
Locality	LUCASTON
Improvements	DWELLING
Area	93182.815

∨ Overlays

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

NOTE: Additional codes are not mapped and may be triggered based on description

∨ Links

[Priority Veg Report](#)

∨ Zones 1 ⋮

LPS_NO : Huon Valley Local Provisions Schedule

ZONE_NO : Landscape Conservation

ZONE_SUBGRP :

NOTES :

TABLE : lps_planning_zones

Appendix 2 – Rural Resource Use Table

26.2 Use Table

No Permit Required	
Use Class	Qualification
Any permitted use	Only if replacing an existing use on the site and there is no associated development requiring a permit
Natural and cultural values management	
Passive recreation	
Resource development	Only if agriculture, bee keeping, crop production, forest operations in accordance with a Forest Practices Plan, horse stud or tree farming and plantation forestry in accordance with a Forest Practices Plan.
Utilities	Only if minor utilities
Permitted	
Use Class	Qualification
Educational and occasional care	Only if for home-based child care in accordance with a licence under the Child Care Act 2001
Residential	Only if home-based business or an extension or replacement of an existing dwelling
Resource development	Except where No Permit Required or Discretionary
Discretionary	
Use Class	Qualification
Bulky goods sales	Only if rural suppliers, garden and landscape suppliers or timber yard
Community meeting and entertainment	Only if by the Council, an agency or a community organisation.
Crematoria and cemeteries	
Domestic Animal breeding, boarding and training	
Educational and occasional care	Only if related to rural resource use. Except if Permitted.
Emergency services	

Extractive Industry	
Food Services	<p>Only if:</p> <p>(a) for the serving of agricultural produce primarily from the region; or</p> <p>(b) at 859 Esperance Coast Road, Police Point (folio of the Register volume 52299 folio 1).</p>
General retail and hire	<p>Only if:</p> <p>(a) for the sale of agricultural produce primarily from the property;</p> <p>(b) for the sale or hire of rural equipment; or</p> <p>(c) at 859 Esperance Coast Road, Police Point (folio of the Register volume 52299 folio 1).</p>
Manufacturing and processing	Only if boat building or activities based on glass, timber, minerals or textile products.
Motor racing facility	
Pleasure boat facility	
Research and development	
Residential	Only if single dwelling
Resource development	Only if intensive animal husbandry
Resource processing	
Recycling and waste disposal	
Service industry	Only if primarily for vehicles and machinery used for resource development uses.
Sports and recreation	Only if firing range, golf course or driving range; outdoor recreation facility; race course and sports ground
Storage	Only if contractors yard, freezing and cool storage, liquid fuel deport, solid fuel deport or woodyard

Transport depot and distribution	Only if for transport and distribution of rural equipment and products.
Visitor accommodation	Only if: (a) backpackers hostel, bed and breakfast establishment, camping and caravan park, holiday cabin, overnight camping area or seasonal workers accommodation; or (b) at 859 Esperance Coast Road, Police Point (folio of the Register volume 52299 folio 1).
Utilities	Except if No Permit Required.
Prohibited	
Use Class	Qualification
All other uses	

Appendix 3 – LCZ Use Table

Use Class	Qualification
No Permit Required	
Natural and Cultural Values Management	
Passive Recreation	
Permitted	
Residential	If for a: (a) home-based business; or (b) single dwelling located within a building area, if shown on a sealed plan.
Utilities	If for minor utilities.
Discretionary	
Community Meeting and Entertainment	If for a place of worship, art and craft centre or public hall.
Domestic Animal Breeding, Boarding or Training	
Emergency Services	
Food Services	If for a gross floor area of not more than 200m ² .
General Retail and Hire	If associated with a Tourist Operation.
Residential	If for a single dwelling.
Resource Development	If not for intensive animal husbandry or plantation forestry.

Use Class	Qualification
Sports and Recreation	If for an outdoor recreation facility.
Tourist Operation	
Utilities	If not listed as Permitted.
Visitor Accommodation	
Prohibited	
All other uses	

Appendix 4 – Priority Vegetation Report

Priority Vegetation Details

Relative Reservation



Relative Reservation

- (NAD) *Acacia dealbata* forest
- (WGL) *Eucalyptus globulus* wet forest

Reservation status is a measure of the degree to which vegetation communities are included in the Comprehensive, Adequate and Representative (CAR) reserve system. Higher levels of reservation give greater confidence that the species for which vegetation communities are surrogates are likely to be protected, subject to appropriate geographic and biophysical distribution in the landscape. Reservation provides greater certainty of the maintenance of better condition vegetation and hence maintenance of ecological function at local and landscape scales.

Why is it included?

- Less than 30% of extent in bioregion is in reserves

Data Source:

- TasVeg 3.0 (minor exceptions)

Reliability:

- Highly variable

Management:

- Check TasVeg for field verification
- Consider local extent, condition & management options
- Potentially require on-ground field verification

Threatened Fauna and Significant Habitat



Threatened Fauna
• swift parrot

These are species listed as threatened fauna under the Tasmanian Threatened Species Protection Act (1975) or Commonwealth Environment Protection and Biodiversity Conservation Act (1999). Listed threatened species have statutory recognition that they are likely to become extinct if the factors causing them to be threatened are not managed. Species may be listed due to historical loss since settlement, natural rarity giving rise to potential risk, or impacts of particular land use and land management practices.

Threatened fauna habitat characteristics are extremely varied and are modelled as significant based on Natural Values Atlas records with a limited number of habitat variables or more detailed customised models for about 100 fauna species. Some species habitat occurs across the landscape but not all sites may be essential for species survival and not all suitable habitat may be occupied. Species that rely on this type of habitat are classified as landscape-dependent and are regarded as being of local importance, however the relative importance of the site to the survival of the species can only be known in response to field verification, the context and the nature of a proposal.

Why is it included?

- Statutory recognition that species extinction is likely, however not all sites are important or occupied

Data Source:

- NVA records combined with REM point-based modelling rules
- Habitat-based models

Reliability:

- Variable

Management:

- Check species observation source
- Check data on habitat and local context
- Potentially require on-ground field verification

Appendix 5 – Photos of Eucalyptus Species on the Property

The below are current photographs of eucalyptus species present on the Property. All are *Eucalyptus obliqua*, a species that is not threatened. None contain *Acacia delbata* forest or *Eucalyptus globulus* as these are not present on the property. Therefore, the reasoning for applying LCZ to protect threatened species is not valid.



Appendix 6 – Group Representation for Cloverside Road

Date: 30th Day of May 2022

General Manager
Huon Valley Council
PO Box 210
Huonville TAS 7109

Dear General Manager,

RE: Group Representation for the Huon Valley Council's advertised zoning of the following properties

Address/Folio ID:

410 Cloverside Road – CT 139274/4

407 Cloverside Road – CT 139274/5

Cloverside Road – CT 139382/2

We Adam Bayliss and Aidan Mulhall of 380 Cloverside Road (CT - 139274/3) would like to submit the following representation that objects to the proposed Landscape Conservation zoning for the above listed properties as put forward by the council as part of the advertised draft Local Provisions Schedule submission. We believe that the more appropriate zone of Rural should be applied as it better fits with the land use future and current and as these properties border our own we feel that to avoid spot zoning the allocation of Rural is most suitable. We also include the following reasons Rural Zone is best allocated under the HVO LPS for these properties:

Observation	Impact	Argument	Outcome
LZ1 Guideline not followed	Properties do not meet LZ1 for inclusion of the LCZ	Using the REM, HVC assessed the properties was >80% native vegetation. Ground testing show this to be grossly overestimated and in fact less than this is native vegetation.	The titles do not meet LCZ1 and cannot be zoned LC.
Rural Zone is consistent with past, current, and future use	STRUS encourages the most productive use of the land - which is rural	The properties have been an operating farm for most of the 1900s and continues in the same use today.	The titles should be zoned Rural
Consistent Zoning patterns are preferred within	LCZ is inconsistent with other properties in the area	Under the interim scheme and the new LPS the majority of properties on our Road	The titles should be zoned Rural

neighbouring titles		and around are not zoned LC - but more likely Agriculture or Rural	
Like for Like transition has not been applied	The titles were not comparatively assessed between LCZ and RZ	When the titles are assessed against RZ it meets RZ1, RZ2 and RZ3. When assessed against LCZ it does not meet the criteria.	The titles should be zoned rural
Priority Veg Report - has not been ground tested and is wrong	Topography and Natural Asset and Scenic Code Overlays provide protection to these values	The REM is a model and has not been ground tested - it is inaccurate. Natural Asset and Scenic Protection Codes provide ample protection where it is desirable.	The properties have been a mix of bush and pasture for a century. Continuing as a managed farm will provide ongoing protection to the natural assets of the area.
Threatened species can be protected without Zoning	Topography and Natural Asset and Scenic Code Overlays provide protection to these values	The REM is a model and has not been ground tested - it is inaccurate. Natural Asset and Scenic Protection Codes provide ample protect.	LCZ is not required to achieve a balance between resource development and preservation of natural assets

As we were not made aware of this re-zoning until quite late in the process and exhibition period we are unable to engage with the appropriate legal/planning counsel at this time to address the relevant points on behalf of our neighbours' titles listed in this area. Therefore, we shall be abstaining from making further comment other than requesting that our objection and that the above zone change be considered, and that we invoke our right to be afforded an opportunity to have our matter heard at the Tasmanian Planning Commission's hearing should further information be required to speak to our objections. We also reserve the right to bring further objections to this hearing should they arise from engaging with appropriate counsel.

Regards,

Sign:



Name: Adam Bayliss
Land Owner/
Concerned Party

Sign:



Name: Aidan Mulhall....
Land Owner/
Concerned Party