
From: James Boyce
Sent: Friday, 8 March 2024 4:50 PM
To: Graham, Linda; McCrossen, Samuel
Subject: Response from James Boyce re Bakers Creek Road Lucaston

Dear Mr Ramsay,

Thankyou for the opportunity to respond to the planning authority response to Direction 1 of the Commission that relates to the recommended zoning of my block in Bakers Creek Road, Lucaston, Register 41338/1.

Split zoning was recommended by the Commission after the original public hearing. Direction 7 required that the planning authority subsequently provide a diagram showing the planning authority's recommended application for a split zone between the Rural Zone and the Landscape Conservation Zone, and instructed that the diagram was to be prepared in consultation with me. The understanding I had after the original public hearing is that this recommendation was a consensus position reached with the agreement of the planning authority.

Unfortunately, no email was received by me despite the planning authority stating in the public hearing on 15 February and its most recent response to the Commission that one was sent. After three requests to have this email resent following the February meeting, this was done on 5 March 2024. It confirmed that the email was never received because it was sent to an old email address of mine that I have not used or had access to for many years. This occurred even though all other correspondence from the HVC in relation to the current zoning process has been sent using the present email, and all my representations have been made through it.

Notwithstanding this mistake, I welcome having received the 13 December email because it allows me to belatedly confirm that I agree with the planning authority's then recommendation to use the 300 metre contour for the split zoning. The wrongly addressed email of 13 December, which was the only contact that the Planning Authority attempted with me outside of the public hearings until the 5 March email, sought my "feedback on the proposal of split-zoning at Bakers Creek Road Lucaston (41338/1)". It included a coloured diagram and proposed that to "the north of the blue outline will be zoned Rural, and to the south of the blue outline will be zoned Landscape Conservation". It asked if I agreed "with this proposal or have any feedback". No suggestion was made that the Planning Authority had any concerns with the split-zoning or sought any feedback in relation to this. If this email had been sent to my correct address, I would have simply replied that "I agree with the Planning Authority proposal".

I now know that the same recommendation for the 300 metre contour split zoning was put to the TPC on 18 December by the Planning Authority and placed on the Commission website. While I did not see this correspondence, I accept that this was publicly available. At any rate, because I was and remain satisfied with the proposed contour for the split zoning, which was very close to what had been discussed in the public hearing, seeing this representation would have made no difference.

The new position taken by the planning authority at the February public hearing would have still come as a complete surprise as there had been no attempt to contact me in the interval between the

planning authority's response forwarded to the Commission on 18 December and the different position taken at the public hearing.

My understanding at the second public hearing was that the planning authority were now opposed to the split zoning based on new information which had been received from a neighbour. I am still not clear what the arguments were other than those presented during the public hearing by the planning authority. I have not seen the submission on which they were made or being briefed on its contents. I understand from the comments made by the Planning Authority in the public hearing that the new information broadly related to a denial that there was any pastoral history on the block and dismissing the claim that there was any difference in the conservation value between the higher and lower slopes. The most recent submission from the planning authority does not present these arguments in any detail so I hope that my response covers all of the relevant issues. If there are other matters that were in the private submission to the planning authority that remain of concern in relation to the proposed split zoning, I request that I am informed of them and have a further opportunity to respond.

The original information which I presented to the Commission - that the block had been used to run cattle with its lower levels being rough pasture - was based on a few different sources. The first was a number of conversations I had with two old farmers from Bakers Creek Road who were then living in the Aged Care Facility where I worked. I accept that because this evidence can not now be corroborated it is of little value to the Commission although those conversations remain very important to me. These accounts were confirmed by a long term resident of Bakers Creek Road and the son of the woman who (with her partner) first built the house opposite me.

While these accounts also cannot be corroborated, what easily can be is the evidence which still exists on the block itself. There is barb wire fencing, which is a type of fencing that is rarely used unless stock are being enclosed. There is also an undergrowth of grass on much of the lower slopes, still fairly thick in the roughly level area just below where the current sheds are constructed. Furthermore, most of the timber is young regrowth, largely stringybark and in the more grassed areas, generally less than thirty years old.

The aerial photography which is the only evidence presented by the planning authority to question a pastoral history, while difficult to interpret with any confidence, does not confirm anything other than that the area was never improved pasture. This is not a claim that was ever made by me at any stage in the rezoning process because it is self-evidently not the case. Areas of rough pasture are still common on Bakers Creek Road, especially on the upper side of the road, and even within the last decade, areas that were formerly predominantly grass have been recolonised by native vegetation. This occurs very quickly in this high rainfall area once stock are removed. Even while stock remain, various sedges, acacias, and bracken fern can rapidly become widespread unless they are removed regularly.

The conservation value of this vegetation is clearly much less than the older forest. The photography seems to show a noticeable difference between the lower and upper slopes and is consistent with this history of unimproved pastoral land use.

I also point out that the planning authority itself accepted in its submission that "stock may have been run within the wooded area on the lower slopes". I presume this is based on the photographic evidence given that no other evidence to support this claim has been made, and that it was made before the submission from the neighbour was received. The obvious question then becomes that, given there is very little native grass cover in this area, what the cattle were sustained on if introduced grasses had not been sown?

The ecological difference between the upper and lower slopes that is evident in the photography can be confirmed by observation on the ground.

I recognise and celebrate the high conservation value of the *eucalyptus globulus* forest, especially older trees, including its importance for the swift parrot. The protection of this habitat was rightly a major reason for the original Landscape Conservation Zoning. It is because I want to maximise the long term protection of this forest on my block that I support the split zoning recommendation. While some *globulus* do exist on the lower slopes, this forest type, especially the older trees, is heavily concentrated on the higher slopes.

Furthermore, it would seem reasonable to ask whether, if it is maintained that the lower slopes of my block needs landscape conservation zoning, why LCZ has not been applied to any part of the neighbouring block which has instead been zoned rural in its entirety? If the concern is to ensure the maximum protection for the maximum area of wooded land regardless of its conservation value, rezoning could easily have been sought by either the owner or the planning authority as part of the current process. As can be seen by the contours, the neighbouring block lacks the equivalent area of roughly level land contained in my holding, and this combined with the fact that there is a barbed wire fence roughly separating the two, suggests a possibility that it has a different pastoral history, and subsequently might even have a higher conservation value. At any rate there is no dispute that its conservation value is at the very least equal to my block but that mine would, under the split zoning proposal I support, have a higher degree of protection.

The planning authority provides little further information on “zoning in the surrounding area” despite this being requested by the Commission. I would simply point out that my block is part of a mixed rural/agricultural/bush precinct along Bakers Creek that has a cultural and economic history of active land use. My block is near the natural end point of this zone because from then on, Bakers Creek Road goes up the hill away from the creek into the foothills of the Wellington Range. In this higher country, there is a varied forestry history but not an agricultural one. If the lower slopes of my block were to be zoned LCZ, it would seem to be the only block along Bakers Creek Road where the road runs adjacent to the creek that has such a listing.

In relation to Bakers Creek itself, I would also point out that it is stated on the title deeds of my land, (and those of the properties opposite), that I have access to the water of the Creek through a pipeline easement and right of way. This suggests that the planning authority itself has long understood that the block was part of the rural precinct that characterises Bakers Creek Road where it runs adjacent to the creek.

The planning authority stated in the hearing that there was not a need to rezone the neighbouring block because it was bought for conservation. I can confirm that my priority is also the protection of the land which is in my custody and, despite the rural zoning for the same forest in the neighbouring block, wish to ensure this is permanently reflected in landscape conservation zoning for the areas of high conservation value.

If split zoning proceeds, my footprint on the lower slopes will be confined to the roughly level area that is not visible from either the road, from which it is separated by steep sloping land, or the borders of the neighbouring blocks, which are also some distance away. Even within this area, there will be no clearing of new land or removal of older or mature trees. Rather, my hope is to lightly open up the space in a way that allows already existing grasses and shrubs to grow, and to plant some fruit and nut trees for personal use. I will be happy to show the planning authority and any neighbour over the block, including the planning authority informant, to confirm not just what I have said about the native vegetation cover and history of the land, but also provide reassurance about the impact of any rezoning. I acknowledge that everyone’s first concern in this matter has been to ensure that the land is properly cared for and remain confident that this is what all parties engaged in this process have in common.

Yours Sincerely

James Boyce
8 March 2024