

Objection to Representation 39 to the Huon Valley Council draft LPS

Submitted by Jenny Cambers-Smith, 25-8-23

Two submissions have been presented by Gray Planning on behalf of Caleb Elcock, objecting to the proposed (in the Huon Valley draft LPS) Landscape Conservation zoning of his property at 106 Mitchells Road, Crabtree 7109 (Representation 39 dated 4 April 23, and a second dated 10 July 23).

[REDACTED]

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[REDACTED]

[REDACTED]

2. FACTUAL ERRORS IN THE SUBMISSION OF 4 APRIL 2022

- *'The subject site at 106 Mitchells Road is not on a prominent skyline or ridgeline and has no identified or documented landscape values'*

106 Mitchells Road slopes upwards to the north, from 320m altitude to 460m altitude, compared with Crabtree Road and valley bottom, which averages no more than 140m along most of its length. Mr Elcock's property is 'prominent' and clearly visible from Crabtree Road and neighbouring properties. It's interesting that in nearly all anti-LCZ submissions that have been aided by the HVZA, lack of visibility has been used as an argument for not applying LCZ (although I believe this to be spurious based on the Section 8.0 guidelines),

yet in this submission there is no reference to visibility - presumably because the representor is clearly aware of its visibility.



Figure 1: Clearing to west of Jefferys Track at 106 Mitchells Road, taken just a few months ago from Crabtree Road on very small camera – hence poor resolution. Less visible now some vegetation is growing back.

The clearing to the east of Jefferys Track is on a ridge, as can be seen by the shape of the contour lines in the figures in Representation 39, and as evidenced by us being able to see the excavator that cleared that area, from close to our own house.

- *‘Council has not undertaken any assessment of either environmental or natural values to justify a rezoning of affected properties as part of their preparation of their draft LPS.’*

As you’ll be aware the section 8A guidelines state: ‘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.*’

‘The Landscape Conservation Zone should be applied to land with landscape values that are identified for protection and conservation, *such as bushland areas, large areas of native vegetation, or areas of important scenic values*, where some small scale use or development may be appropriate.’

The Landscape Conservation Zone may be applied to: *‘land that has significant constraints on development through the application of the Natural Assets Code or Scenic Protection Code’.*

106 Mitchells Road is clearly a ‘bushland area’ and part of a contiguous very large area of ‘native vegetation’. It has ‘important scenic values’ (as evidenced above) and sits entirely (and appropriately) within a biodiversity overlay. It is contiguous to, and contains the same vegetation and habitat as the Russell Ridge Conservation Area (RRCA) which was protected during the Forest Peace Process in around 2013, owing to its identified High Conservation Values.

Various comments are made in Representation 39 regarding threatened fauna, in an attempt to have the biodiversity overlay removed from the title:

- *‘The subject site at 106 Mitchells Road has no record of any evidence of, or documented threatened species ...’*
- *‘... the subject site is confirmed as: - Having a minimal likelihood of providing any habitat for any threatened species ...’*
- *‘no identified threatened species or species habitat’*
- *‘A natural values assessment of the subject site ... confirms the subject site contains no threatened flora or fauna’*

- 'The subject site was assessed by ECOTas in December 2020 and confirmed as not containing any significant habitat for any threatened fauna species'
- 'confirms the subject site has no threatened species'

Those statements conflict with ECOTas's natural values assessment of 2020 and the EPBC Act Protected Matters Report appended to the first submission. Please refer to the following quotes therefrom:

- The study area supports potential habitat (to varying degrees) of several species, as follows:
 - Tasmanian devil (*Sarcophilus harrisii*);
 - spotted-tailed quoll (*Dasyurus maculatus* subsp. *maculatus*);
 - eastern quoll (*Dasyurus viverrinus*);
 - eastern barred bandicoot (*Perameles gunnii* subsp. *gunnii*);
 - masked owl (*Tyto novaehollandiae*);
 - grey goshawk (*Accipiter novaehollandiae*);
 - swift parrot (*Lathamus discolor*); and
 - Mount Mangana stag beetle (*Lissotes menalcas*).

Surveys for threatened fauna were largely limited to an examination of "potential habitat" (i.e. comparison of on-site habitat features to habitat descriptions for threatened fauna), and detection of tracks, scats and other signs.

- 'The whole title is ca. 18 ha in extent and of square configuration. It supports native forest in the form of classic wet sclerophyll forest with a **mature regrowth structure**'
- 'Eucalyptus regnans is the dominant canopy species, although both **Eucalyptus globulus** and **Eucalyptus obliqua** (possibly **Eucalyptus delegatensis**) are present.'
- 'Site assessment indicated that the relevant part of the subject title supports **ubiquitous potential habitat** for a suite of threatened fauna species. This includes potential habitat of species such as *Sarcophilus harrisii* (Tasmanian devil), *Dasyurus maculatus* subsp. *maculatus* (spotted-tailed quoll), *Dasyurus viverrinus* (eastern quoll), *Perameles gunnii* subsp. *gunnii* (eastern barred bandicoot), *Tyto novaehollandiae* (masked owl), *Accipiter novaehollandiae* (grey goshawk) and *Aquila audax* (wedge-tailed eagle).'
- 'With respect to the Mount Mangana stage beetle (*Lissotes menalcas*), the whole title is considered to be potential habitat because it is mature regrowth wet sclerophyll forest with extensive rotten logs
- With respect to the swift parrot (*Lathamus discolor*), the site is atypical of potential nesting habitat because as relatively even-aged homogenous wet sclerophyll forest, the canopy trees are currently lacking extensive hollow development. **That said, a small number of the trees on the margins of the recently cleared area are larger and may support hollows (or are at least much closer to forming such hollows e.g. Plate 13). Of greater importance, however, is that at least part of the site supports a canopy with some shared dominance by Eucalyptus globulus, which provides potential, albeit probably quite opportunistic, foraging habitat for the swift parrot.'**

Given the above, how can Ms Gray and Mr Elcock state that there is no threatened fauna on the title and no habitat for threatened fauna, and use those statements as justification for removal of the biodiversity overlay?

Additionally, I have been using trailcams on our property at 56 Mitchells Road, Crabtree for 7 years. We regularly record all of the following threatened species, who are breeding both on our property and in the locality:

- Spotted-tailed quoll
- Eastern quoll
- Eastern barred bandicoot
- Tasmanian Devil

- Wedge-tail eagle
- Grey goshawk

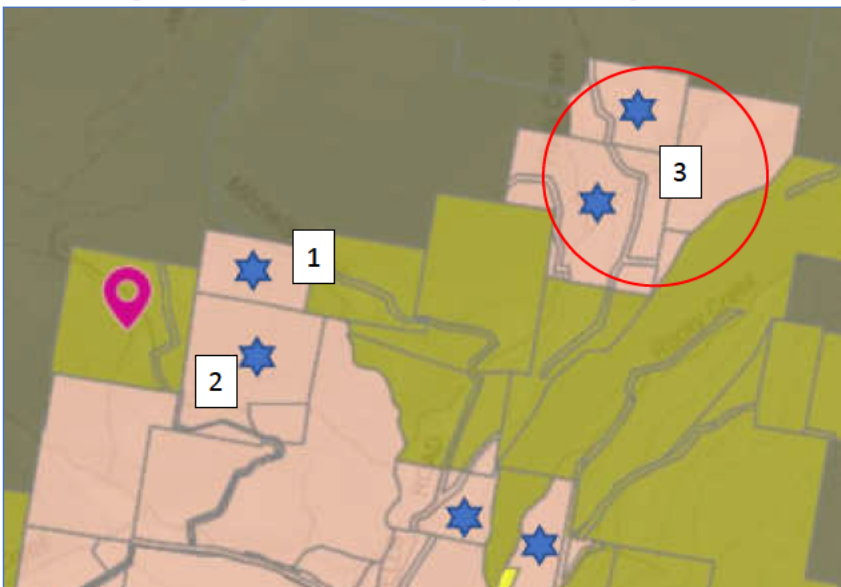
Trailcams were placed by neighbours in the RRCA prior to its protection, close to Mr Elcock's title, to garner evidence for its conservation values. The trailcams recorded both devils and spotted-tailed quolls. The lack of data on the Natural Values Atlas is purely owing to the lack of research undertaken in the area by academics and naturalists.

For further details please refer to <https://youtube.com/c/taswildlife>

- *'The property owner is a commercial beekeeper and wishes to use the property to keep hives and also build a residence'*

Beekeeping is an exempt activity in the State Planning Provisions, and thus can be undertaken in any zone without a permit. A residence is a discretionary development in LCZ, as it is in both the current Rural Resource zone, and the new Rural Zone. Therefore LCZ is no more restrictive on these activities than the Rural Zoning being sought.

- *The submission uses evidence of grazing on some properties and the fact Rural is applied to some neighbouring titles as evidence of 'spot zoning':*



- Title 1 is PPTZ and therefore must be zoned Rural under the Section 8A guidelines, and
- areas 2 and 3 are recommended to be LCZ in the Section 35F report. Area 3 was only zoned Rural in the original draft LPS because it was then one block, and thus didn't meet the overall 80% tree cover criteria set by council for LCZ.

[REDACTED]

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As someone who has been prepared to stand up for HVC's approach to the development of the region's Local Planning Provisions, I've been subject to a year of abuse from various directions. Personal attacks by the anti-LCZ group and social media troll profiles, and the discovery of Representation 39 with its untrue comments about me, has taken a significant personal toll.

The Huon Valley is unusual in that it has a predominance of small rural titles (when compared to other large rural municipalities) and significant tree cover. It is this rural, green, treed character that people value most about the area (as evidenced in every ratepayer engagement process). I am deeply concerned that the over-use of the new very broad Rural Zone and the small acreage Rural Living Zone in the Huon (both being pushed by HVZA instead of LCZ, will not only adversely alter the character of the area over time (and therefore its attractiveness as a tourist and living destination), but also increase infrastructure costs and thus rates. Land is invariably developed to the fullest extent allowed over time.

An example is the title under consideration – 106 Mitchells Road – which if zoned Rural, could require the construction and maintenance of a **1km road in difficult, steep and rainy terrain**, for the sake of one household. Councils have to be able to take such issues into account when designing their Local Planning Provisions. Likewise, **reticulated sewerage is only available in very limited areas**, ie close to townships, and **mains water is also restricted**. Additionally, the further subdivision of rural titles which follows RL zoning, will place **more people in danger from bushfire, continue to fragment potentially productive land** and lead to the increased spread of noxious introduced weeds. Unfortunately, the guidelines provided by the State Planning Office and the TPC, do not specifically detail ways in which councils can take such issues into account.

4. Incorrect personal statements

My submissions (nos. 247, 393, 394, 395, 396 and 397) were made as a private individual, prior to standing for and becoming a Huon Valley (HVC) councillor, as was permitted under the Land Use Planning and Approval Act 1993 (LUPAA). I checked this position with the Planning Authority before making the submissions.

Mr Elcock's submission states that I made '*specific reference*' to 106 Mitchells Road, Crabtree in my submissions and didn't seek the owner's permission. I did suggest that the head of Crabtree Valley had a scenic overlay, which would be consistent with the overlays on the wooded hills to the east and west of Crabtree Valley. I drew a rough map but didn't state which titles I thought it should cover. That would be something for expert mapping. I note that several other submissions to the draft LPS requested Scenic Overlays or extensions thereto, also without seeking permission of landholders.

The references to my voting on the section 35F report which council endorsed, are factually incorrect. At least 4 of the current councillors also made submissions to the draft LPS, and we were all advised by our Director of Strategy, Planning and Governance, that there is no conflict of interest that would stop us from voting on acceptance of the 35F report.

The quote cited by Danielle Gray in her submission on behalf of Mr Elcock, stating: "*that there is case law where a councillor who has made a representation*" was made by our Director of Strategy, Planning and Governance, in relation to a **different** planning matter. We were considering a multi-unit subdivision and development in Huonville, on which I'd made a representation after being contacted by a concerned resident. Because of that advice, I recused myself from discussion and voting on that DA. At council's meeting on 26 July 23, we considered submissions from owners of properties on which I had made submissions. I recused myself from discussion and voting on those submissions.

Ms Gray states: "*She [me] did not receive the written consent of the property owner of land she seeks to have rezoned, in the case of my client Mr Elcock*". I did **not** request that 106 Mitchells Road be rezoned, since it was already appropriately zoned Landscape Conservation (LCZ) in the draft LPS.

Ms Gray goes on to state: "*I have serious concerns about the impartiality of Councillor Cambers-Smith. Her representations are based on her own personal views and are not backed up by any expert evidence.*" I was not a councillor at the time of putting in my submissions, plus other councillors also submitted representations which can hardly be termed impartial. Ms Gray's comment about a lack of expert evidence, is entirely irrelevant as no qualifications are required for someone to put in a submission to this process.

End.

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