

10 December 2014

Joint Regional Planning Panel - Southern Region
NSW Department of Planning and Environment
By Email: jrppenquiry@jrpp.nsw.gov.au



Dear Panel Members,

Re: Submission in Relation to South Tralee – JRPP Ref: 2014STH004

The following submission is in response to Queanbeyan City Council's 120 page Assessment Report, Recommendations and Proposed Conditions of Consent. The Assessment Report was received by Canberra Estates Consortium No.4 (CEC4) just 5 working days ago following a pre-DA lodgment meeting and lodgment of associated documents on 23 August 2013. The formal DA lodgment by CEC4 of their Urban Concept DA on 10 December 2013. Council's Assessment Report, recommends the deferral of part of Stage 2 due to a series of new issues addressed by Council only weeks before Council's Assessment Report was due to be lodged with the JRPP. As a consequence of the Assessment Report, further extensive investigation is now required by the project's various professional consultants. The balance of the report as recommended by Council should be determined forthwith.

On behalf of Canberra Estates Consortium No.4 we seek to make a verbal submission to the JRPP at their meeting on 15 December 2014. This written submission by CEC4 is intended to provide panel members with further details relating to our oral presentation. We accept Council's recommendations other than those that have led to the exclusion of part of Stage 2 from the current determination. The following areas of the report however, require reconsideration and/or correction.

- 1) **Comments on the Reasons for the Proposed Exclusion of Part of Stage 2:** Council incorrectly asserts that the proposed design of Stage 2 involves the modification of an environmentally sensitive area and prominent landscape features. Unsupported criticisms by the Council Report include inappropriate piping of a natural drainage gully and the creation of residential allotments wrongly alleged to be constrained by steep slopes and large depths of fill.
- 2) **Comments on Viability of Development and Economic Impacts:** A failure of South Tralee to proceed, will prevent development of the entire South Jerrabomberra corridor. This will be of significant detriment to the Queanbeyan and regional economy and particularly the Queanbeyan building industry in a time of severe economic downturn.
- 3) **Report Inaccuracies:** There are inaccuracies within Council's report which require correction. Those inaccuracies are covered in Part 2 of our submission.
- 4) **Conclusions & Recommendations:** The Council assessment has been elongated and resulted in 120 pages of detail less than two weeks before the JRPP assessment. Council's request for exclusion of part of Stage 2 poses further unnecessary delays in the approval of the entire development. We will shortly provide further information to support our current design and have this deferred area considered for approval at a further JRPP meeting, preferably in February.

The Council assessment includes inaccuracies to which have responded to within Section 4 of this submission. We have also proposed some amendments to the proposed conditions of consent.

1) **Comments on Major Concerns within Report – Exclusion of Part of Stage 2 from the Current Determination**

Much of Council's assessment focuses on the justification for exclusion of part of Stage 2. Council asserts that this has been recommended based on the proposed design of Stage 2 involving the modification of an environmentally sensitive area and prominent landscape features, incorporating inappropriate piping of a natural drainage gully and the creation of residential allotments constrained by steep slopes and large depths of fill.

These assertions are unwarranted as the design proposed meets the relevant planning objectives in the LEP and the *EP&A Act* and therefore should be approved.

Council has stated that "the applicant be afforded the opportunity to respond to Council's concerns about the aspects of Stage 2". Assuming the JRPP concurs with Council's recommendation that "Council continue to negotiate a suitable outcome for the conceptual design of aspects of Stage 2", then the JRPP should determine a timetable of no more than 8 weeks for response and negotiation, to ensure the ability of the JRPP to reconsider Stage 2 in middle to late February.

We provide the JRPP with our initial responses to these concerns below. As per Council's recommendations we will provide a more detailed justification (including consultant reports from Ecological, Urban Design, Engineering, Geotechnical, and Economic Planning specialists) by 31 January 2015. The purpose of these reports would be to support our current design to enable the JRPP to determine this excluded area of Stage 2 between mid and late February 2015.

a) Modification of Environmentally Sensitive Area

Within Council's assessment report they define the "upper parts of an incised gully where it is particularly steep with rock outcrops and associated steeply sided rocky tor and native trees", as an environmentally sensitive area.

As noted in Council's report "a number of ecological studies were commissioned to inform the development of Tralee" and these studies informed the LEP zoning map, notably the Environmental Conservation – E2 zone. The area of the incised gully Council has asserted to be environmentally sensitive, falls within the area Council has recently rezoned to be Residential Zone – R1. Throughout the lengthy and intensive rezoning process involving investigations by both the Applicant and Council, the environmental significance of this area was assessed in detail and it was determined by Council that other areas, notably the 82 Ha of land zoned E2, were more suited to conservation, whilst this area was suitable for residential development as proposed.

The environmental qualities of this area were not deemed significant by Council following a Section 5A assessment incorporated in our DA submission of 10 December 2013. Noted within Council's report is the following; "In summary, the proposed development of South Tralee is not likely to have a significant effect on any threatened species, populations or communities." No significant features such as threatened species communities, habitat for threatened species and significant vegetation have ever been identified on the land now proposed by Council for exclusion from the JRPP's current determination.

The native trees at the top of this incised gully are only small trees and do not provide any notable habitat value and are not supporting any threatened species communities. These trees are not suitable for retention within the subdivision network. The "rocky tor" does not provide any known habitat for any threatened species communities. The majority of the incised gully is heavily eroded and contains exotic species, large parts of which include a listed noxious weed, blackberry.

Council asserts that the top part of this incised gully is within the mapped boundaries of an identified bio-link. We understand Council is referencing a very broad high level study based on aerial mapping, undertaken on behalf of Council as part of the Queanbeyan Biodiversity Study 2008. This study

identifies a large tract of land as a regional bio-link that comes within proximity of the south east corner of the proposed residential development.

We note that South Jerrabomberra, including the area in question within Stage 2 South Tralee, was clearly excluded by this high level study from inclusion in the bio-link. The more detailed local environmental studies undertaken by Council as part of the rezoning of South Tralee, superseded the high level aerial mapping. Council has taken the Queanbeyan Biodiversity Study 2008 out of context.

The development proposed at South Tralee however, does not preclude a substantial regional bio-link running east-west through South Jerrabomberra. The 82Ha of land zoned E2 to the south of Stage 2 will form an integral part of this bio-link.

Council asserts that the conservation of natural water should be a consideration in the design. As stated above the predominantly dry erosion gully is not a habitat for any significant species and it is also not a designated waterway under the Water Management Act. This has been confirmed by the Office of Water which dismissed the need for a riparian corridor for this local dry gully.

It is normal practice, as occurred in this case, for a riparian corridor to be considered at the rezoning stage. This was the case with Jerrabomberra Creek and Dog Trap Gully where a riparian corridor was considered.

Within the South Tralee LEP, the term “environmentally sensitive area” is only defined within Clause 3.3 (2). This clause lists environmentally sensitive areas as; the coastal waters of the State, a coastal lake, coastal wetlands, aquatic reserves, wetlands of International significance, land within 100m of the above, land of high aboriginal or biodiversity significance, land within a National Park, land within a State Conservation Area, identified habitat for threatened species.

Clearly none of the above is present on the land proposed by Council for exclusion.

The incised gully, or the area of trees and “rocky tor” are clearly not environmentally sensitive. This land was considered by Council as being fit for residential development and was appropriately zoned R1 – General Residential. Our concept proposal is consistent with this zoning and other relevant matters for consideration.

b) Modification of Alleged Prominent Landscape Feature

Within Council’s assessment report they assert a “steeply sided rocky tor characterized by mature eucalypt trees” is a prominent landscape feature worthy of protection.

The description asserted by Council is inaccurate. This small rock out-crop or knoll is a localised interruption in an otherwise uniform landform characterised by northern facing slopes converging on western facing slopes. They meet at a deeply rutted gully that traverses the site immediately to the west of this out-crop.

In terms of a landscape feature, the height of the knoll is insignificant and rises no more than 1m from the land immediately to the east. When viewed from the lower levels of the erosion gully alignment (adjacent to the proposed Primary School site) the knoll is not prominent and if left in situ, is almost certain to be obscured by housing from all but the closest of views. The knoll would not serve any purpose as a visual landscape feature.

There are far more prominent, substantial and high level rock out-crops that fulfil those visual landscape feature roles in the lands adjoining the knoll to the south and upper levels of Mt Pemberton. These lands have already been identified and protected by Council by virtue of the E2 Zoning placed on them.

What Council has identified as a “rocky tor” is better described as small rock out-crop and is not a significant landscape feature worthy of retention. Council has expressed its desire not to have small “pocket parks” within the development. Regrading this development to be suitable for residential roads and lots (as envisaged by the R1 – General Residential Zoning) it complies with this policy.

c) Inappropriate Treatment of an Alleged Natural Drainage Gully

The Council Assessment Report asserts that it is “inappropriate not to utilize the steeply incised natural drainage line as the major overland flow path.” Council had more than adequate time to review these designs. Council’s consultant GHD reviewed the proposed Stormwater Concept on behalf of Council as part of its Technical Memorandum dated 25 August 2014. GHD did not express any concerns with the proposal to pipe flows in the Central Catchment or the associated re-grading.

Council concedes that it only viewed the site “very late in the assessment process” and based its recommendations for exclusion of part of Stage 2 on this cursory site inspection rather than considering the review by GHD of CEC4’s technical plans. Council has been in receipt of these technical plans since the pre-lodgment meeting in August 2013. The site inspection that Council undertook informing this recommendation for a deferral of part of Stage 2 was held for the first time on 13 November 2014, just weeks prior to the completion of the Assessment Report for the JRPP, and 15 months after receipt of the technical plans.

All green field residential developments contain low points and gullies and piping of ephemeral watercourses, such as this gully, is standard practice in urban environments. The proposal is to use the road network for all major trunk stormwater pipelines.

The retention of an open space corridor through an urban environment always requires maintenance. A gully with a steep longitudinal grade and steep sides, such as this gully, will remain plagued by erosion issues. Regular maintenance or undesirable hard engineering solutions would be required. A heavily stone pitched, rock lined gully would be a poor design outcome and provide no environmental benefits. The steep grades along the gully would require fencing to keep children out of the area. Unlike Council’s assertion that there may be cumulative adverse impacts from maintaining the proposed stormwater network, there would be increased maintenance in maintaining the gully in its current form.

d) Council’s Assertion of Inappropriate Grading and Road/Lot Layout

Council asserts that “Extensive cut and fill up to 5m in depth to achieve the required grades for roads and future residential allotments, particularly to the incised gully” would result in an undesirable outcome within that part of Stage 2 recommended for exclusion from the approval.

It is standard practice to fill in natural low points and drainage lines within new subdivisions that have no environmental constraints associated with them, in order to create a suitable land form for roads and residential blocks. Indeed without filling in this gully at South Tralee the blocks on the northern side of the gully will be very steep with portions of the site zoned R1- General Residential being inaccessible.

In order to create a suitable road network that is compliant with Council engineering standards and to create suitable blocks for residential purposes, it is necessary to regrade the entirety of Stage 2 including the existing gully.

There are no engineering constraints to placing fill in the existing gully, nor does filling the gully result in any undesirable engineering or environmental outcomes. There are other positive benefits to rationalizing the grades across this part of the development, the most significant of which is that a regular optimal north/south lot configuration is possible. This has created a lot layout where over 90% of lots fall within the desired lot orientation, thereby assisting in achieving good solar access and ease of meeting BASIX requirements.

e) Alleged Creation of lots constrained by Fill

Council asserts that “residential lots being created with the geotechnical constraint of up to 5m of fill to accommodate in building designs will create a number of difficulties in constructing dwellings in terms of the piling and retaining walls that will be required to stabilise any buildings as well as the site.” Council incorrectly asserts that there are “extra costs for building of residences on land containing up to 5m fill.”

The proposed site regrading actually reduces the existing slopes to something more manageable and brings the slopes within specified Council standards. The use of engineered fill in accordance with Australian Standard AS3798 – 2007, as proposed by CEC4 on residential lots is common place and does not result in increased costs and does not necessitate piling.

2) Economic and Social Impacts of South Tralee on Queanbeyan and Surrounding Regions

For South Tralee to proceed, it must be financially viable. There have been substantial reductions in yield due to constraints imposed by the LEP and by Queanbeyan City Council. However, the cost of providing major infrastructure is largely unchanged and hence the “per dwelling” cost of these essential services has increased substantially.

If Stage 2 yield is reduced, it will diminish the overall dwelling yield by up to 10.9% and lead to a loss making budget, rendering South Tralee unviable. With the consequent absence of infrastructure for the balance of South Jerrabomberra, this will in turn ensure that the lands further to the South and included in the Queanbeyan Residential and Economic Strategy Map 2008, do not proceed. The balance of South Jerrabomberra depends on trunk infrastructure from South Tralee, such as roads, water, electricity and sewerage.

In the event that South Tralee did not proceed, the social benefits such as a Primary School, emergency services site, a community hall, substantial land for recreation facilities and for extensions to the existing primary school playing fields, will be foregone. House sales of \$1.4b and Council contributions of approximately \$90m are involved for South Jerrabomberra. A huge benefit to Queanbeyan industry will be lost if the project does not proceed.

Council rates of approximately \$5m per annum will be lost to Queanbeyan City Council. The New South Wales state government will forego upfront stamp duty of \$11m and annual GST of over \$12.8m for South Jerrabomberra.

At a Council meeting on 8 October, the Mayor noted that the project was marginal and road infrastructure proposed by committee staff would make the project non viable. Given the financial benefits to Queanbeyan City Council and the benefits of community infrastructure, Councillors then unanimously voted to modify road widths in South Tralee to retain project viability and the benefits that this brought to QCC and the broader community.

The last remaining obstacle to the viability of South Tralee is any reduction in the lots in Stage 2.

The plan for Stage 2 as proposed by CEC4 will, if adopted, proceed to construction forthwith. There is already strong sales interest ensuring the success of the project.

Reliance on the above factors is referred to in S79C of the Environmental Planning and Assessment Act which requires that consideration be given not only to environmental matters but equally to “Social and economic impacts in the locality.”

The Act also requires that “the public interest be taken into account when assessing the development application. “

In this regard, the development has carried the support of Councillors over the last 12.5yrs and in several annual surveys has attracted support recently rising to 73% of the Queanbeyan population. It carries the support of the local residents via the Jerrabomberra Residents Association. It has strong support from the Queanbeyan Business Council, the Jerrabomberra Public School P&C and a wide range of sporting groups.

The development is referred to in the Queanbeyan Residential and Economic Strategy 2031, as the basis for a competitive housing and land market in Queanbeyan.

3) Corrections Required to the Report

We have identified the following inaccuracies in the report by Council on our revised design submitted on 21 November 2014:

- a) **Design Amendments;** A reading of the clause 'Amendments' on Page 20 of Council's Assessment Report inferred that Village was responsible for the extended delays in producing Council's Assessment Report.
- Initial Town Planning Comments were provided to CEC4 by Council on 16 May 2014. We partially responded on 22 May 2014 providing some design extracts and responses. Our response did not include revision to all drawings as Council's assessment was ongoing and further comments, particularly engineering comments, were yet to be provided by Council and were prerequisite to CEC4 providing a full response. Limited and general Engineering Comments were provided by Council on 12 August 2014. These comments did not provide the basis for a full response. Council foreshadowed further engineering comments and asked that the design not be revised until these detailed comments were provided.
 - We responded to Council's limited preliminary comments on 11 September 2014, providing design extracts and report extracts. Our response was limited because Council's assessment was ongoing and further comments, particularly engineering comments, were yet to be provided by Council and were essential to CEC4 providing a full response.
 - Following a request from CEC4 to Council, Final Comments were provided to CEC4 on the 7 November 2014. These comments outlined Council's outstanding issues to be addressed, provided a determination timeframe and requested CEC4 to amend all designs accordingly and lodge them with Council no later than 21 November 2014, to enable determination timeframes to be met. We provided these substantial design revisions within the 14 day requested timeframe on 21 November 2014.

Our responses have all been timely and have not been the cause of Council's lengthy assessment.

- b) **Response to the late ACT Submission:** The Council Report asserts that we did not respond to the late submission of the ACT, provided to us on 30 May 2014. This is inaccurate. An initial response was provided to Council on 11 June 2014 and was followed by an interactive process over ensuing months, finalizing in November 2014.

In particular we removed residential development proposed within the Visual and Acoustic Buffer as instructed by Council and reconfigured the multipurpose centre to be a greater distance from Hume.

- c) **Council's Assertion that South Tralee is Reliant on a Southern Cross-Border Connection:** Various parts of Council's report infer that South Tralee requires a secondary southern cross-border access. This is not the case. As determined by ARUP (refer to Appendix 5 of the DA) and verified by Council's consultants, TDG and GHD, South Tralee can be entirely serviced via the Northern Entry Road, the concept development application for which has been approved by Council.

The requirement for any secondary southern access or duplication of the Northern Entry Road will be triggered by traffic generated by subsequent developments across the balance of South Jerrabomberra. As such CEC4 requires no further liaison with the ACT or RMS on any future link.



The proposed road layout for South Tralee has been designed to accommodate any such potential future link. Any such link should not form part of a VPA with Council in relation to South Tralee. These roads are not required for South Tralee and are not within Council's jurisdiction.

- d) **Larger Lots Adjacent to the Interface with Conservation Lands:** Council's report and the Advisory Notes within the proposed Conditions of Consent foreshadow that larger lots may be required at the interface between residential development and conservation lands. We acknowledge that this area needs to be considered carefully. However, as part of subsequent more detailed Development Applications proposing subdivision, the risk posed by any privately planted exotic flora on lots could be better mitigated by appropriate sized edge roads, appropriate edge road treatments and landscaping, and, potentially by appropriate controls on adjacent lots.
- e) **Council's Assertion that the Woolshed and Shearers Cookhouse are of Historical Significance:** Council's Report asserts that these two buildings have heritage value and should be retained in situ. This opinion of Council's Heritage Committee is contradicted by our specialist heritage consultant, Navin Group, whose assessment was included within Appendix 10 to the DA.

The Navin Group's report also referenced a Structural Assessment and the Strategic Social Plan (Appendix 13 to the DA). The Structural Assessment found that the Woolshed is in poor condition and would be problematic to restore to a state fit for any public use. The Strategic Social Plan could define no use for either building given their awkward sizes and location in an isolated northern part of the site and within the Hume industrial buffer zone where other community uses have been precluded by Council.

If Council is not willing to assume responsibility for the two buildings, then the buildings should be demolished.

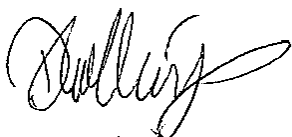
4) Conclusions

This submission of CEC4 addresses its concerns about the reasons why Council feels obliged to defer consideration of part of Stage 2 of the South Tralee Urban Concept DA.

The proposed deferral is understandable given that council only completed its consideration nearly twelve months after the DA lodgement and could not properly respond to these new concerns that they addressed for the first time, following a site inspection in November 2014 just a few weeks before they were required to lodge their assessment with the JRPP.

The further and more detailed response from Village will be delivered progressively by 31 January 2015. This will enable sufficient time for Council to fully address the issues in time for a final hearing of the JRPP, preferably in mid to late February 2015.

Kind Regards,



Daniel Collings
Senior Development Manager

Presentation on 15 December 2014 by John Kenworthy, General Manager – Land