

**JOINT REGIONAL PLANNING PANEL
(Southern Region)**

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| JRPP No | JRPP Reference Number 2014STH004 |
| DA Number | 263-2013 |
| Local Government Area | Queanbeyan City Council |
| Proposed Development | Staged development for the conceptual development of South Tralee urban release area involving five stages, the road heirachy and master plan for future subdivision for 1,348 dwellings (approx), commercial and community facilities, open space and recreation areas, and associated servicing. |
| Street Address | 360A and 360B Lanyon Road, Tralee NSW 2620, 508 Lanyon Drive, Jerrabomberra NSW 2619 and part of Territory Parade and Boundary Road |
| Applicant/Owner | Canberra Estates Consortium No. 4 / Village Building Company, John Bernard Morrison, Therese Mary Hansen, and Queanbeyan City Council |
| Number of Submissions | Four submissions made during the period of public notification and one late submission from the ACT Government |
| Regional Development Criteria (Schedule 4A of the Act) | Pursuant to Clause 3 of Schedule 4A of the <i>Environmental Planning and Assessment Act 1979</i> , the Capital Investment Value of the proposed development exceeds \$20 million and as such the determining authority is the Joint Regional Planning Panel (Southern Region) |
| List of All Relevant s79C(1)(a) Matters | <p>s79C(1)(a)(i):</p> <ul style="list-style-type: none"> • State Environmental Planning Policy No 55 – Remediation of Land. • State Environmental Planning Policy (Infrastructure) 2007. • State Environmental Planning Policy (State and Regional Development) 2011. • State Environmental Planning Policy (Rural Lands) 2008 • Queanbeyan Local Environmental Plan (South Tralee) 2012 (as amended). • Queanbeyan Local Environmental Plan 1998 (as amended). <p>s79C(1)(a)(ii):</p> <ul style="list-style-type: none"> • Draft State Environmental Planning Policy (Competition) 2010 <p>79C(1)(a)(iii):</p> <ul style="list-style-type: none"> • Queanbeyan Development Control Plan 2012 <p>s79C(1)(a)(iv):</p> <ul style="list-style-type: none"> • None. |

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| | s79C(1)(a)(v): <ul style="list-style-type: none"> • None. s79C(1)(a)(iv): <ul style="list-style-type: none"> • None. |
| List all documents submitted with this report for the panel's consideration | As well as all of the plans and documents submitted with this development application, amended plans lodged with Council in November 2014 have also been submitted for the Panel's consideration. |
| Recommendation | Conditional approval, except for a specified part of the proposed development pursuant to Section 80A(4) of the <i>Environmental Planning and Assessment Act 1979</i> . |
| Report by | Chelsea Newman, Queanbeyan City Council |

Assessment Report and Recommendation

Executive Summary

Integrated Development Application 263-2013 has been nominated by the applicant as a staged development application in accordance with section 83B of the *Environmental Planning and Assessment Act 1979* for the conceptual development of the South Tralee urban release area. This concept application does not seek approval to carry out any works, rather, it is for the general layout and land use as identified in the submitted Master Plan and other associated plans. Subsequent detailed development applications (DAs) will be lodged for five separate subdivision and construction stages. Should this concept DA be granted development consent, the determination of any further DAs in respect of the land cannot be inconsistent with that consent while it remains in force.

Note: This DA is currently the subject of a deemed refusal appeal by the applicant to the NSW Land and Environment Court pursuant to sub-clause 97(2)(b) of the *Environmental Planning and Assessment Act 1979*. At the time of writing the status of the appeal was that it be stood over for a further directions hearing on 22 December 2014.

South Tralee is located within the wider South Jerrabomberra urban release area, 8km from Queanbeyan city and 16km south-east of Canberra City. South Tralee comprises approximately 180Ha of land currently zoned mainly for urban development, but with a large area also zoned for environmental conservation. It is bounded by the currently disused Goulburn-Bombala railway, the ACT and Hume Industrial Estate to the west and north-west, and grazing properties to the south, east and north-east (Environs, Tralee Station, and Forrest/Morrison). Lands to the south have been identified as future urban release areas. Further to the north-east is the established residential suburb of Jerrabomberra. South Tralee is anticipated to provide approximately 1,350 dwellings housing an estimated 3,750 residents.

Overview

The capital investment value (CIV) of the proposed development is \$53.74 million. In accordance with the provisions of State Environmental Planning Policy (State and Regional Development) 2011 and Schedule 4A of the *Environmental Planning and Assessment Act 1979*, the CIV exceeds \$20 million and as such the determining authority is the Joint Regional Planning Panel (Southern Region).

Queanbeyan City Council is currently in the process of negotiating a Local Voluntary Planning Agreement (VPA) with the developer. This will include such matters as the provision of community facilities; open space provision and embellishment; roads, water and sewer infrastructure; affordable housing; water and energy savings initiatives; monetary contributions; ecological offsets and administration. A Deed of Agreement for the provision of water and sewer infrastructure is in the final stages of negotiation between Queanbeyan City Council and the applicant. At the time of writing it is anticipated that this Deed will be signed before the Panel meeting to determine this DA. The Deed of Agreement will allow for the applicant to provide water and sewer infrastructure on behalf of Council and will allow for the servicing of South Tralee.

The NSW Department of Planning and Environment has not issued a satisfactory arrangements certificate for the provision of designated State public infrastructure. However, the Department has advised that satisfactory arrangements certification is not required for this DA as the issuing of development consent will not authorise the carrying out of subdivision. Subsequent staged applications that involve the subdivision of land will not be able to be determined unless satisfactory arrangements have been certified.

To service urban development at South Tralee a new road (“The Northern Entry Road”) will run from Jerrabomberra through the areas known as Poplars, North Tralee and Environa, to the northernmost part of South Tralee. The concept design for this road was approved by Queanbeyan City Council in October 2014 (DA 175-2013). The most up-to-date traffic modelling shows that by 2026 the wider South Jerrabomberra area will require either The Northern Entry Road to be duplicated or an additional link road constructed to the ACT. This DA incorporates this factor and possible future connections.

The proposed development was advertised as Integrated Development from 29 January 2014 to 27 February 2014. Adjoining property owners and occupiers were also notified by mail. Four written public submissions were received during this period. The ACT Government also made a late submission. Government Agency submissions were received from NSW Office of Environment and Heritage, Roads and Maritime Services, Rural Fire Service and John Holland Rail.

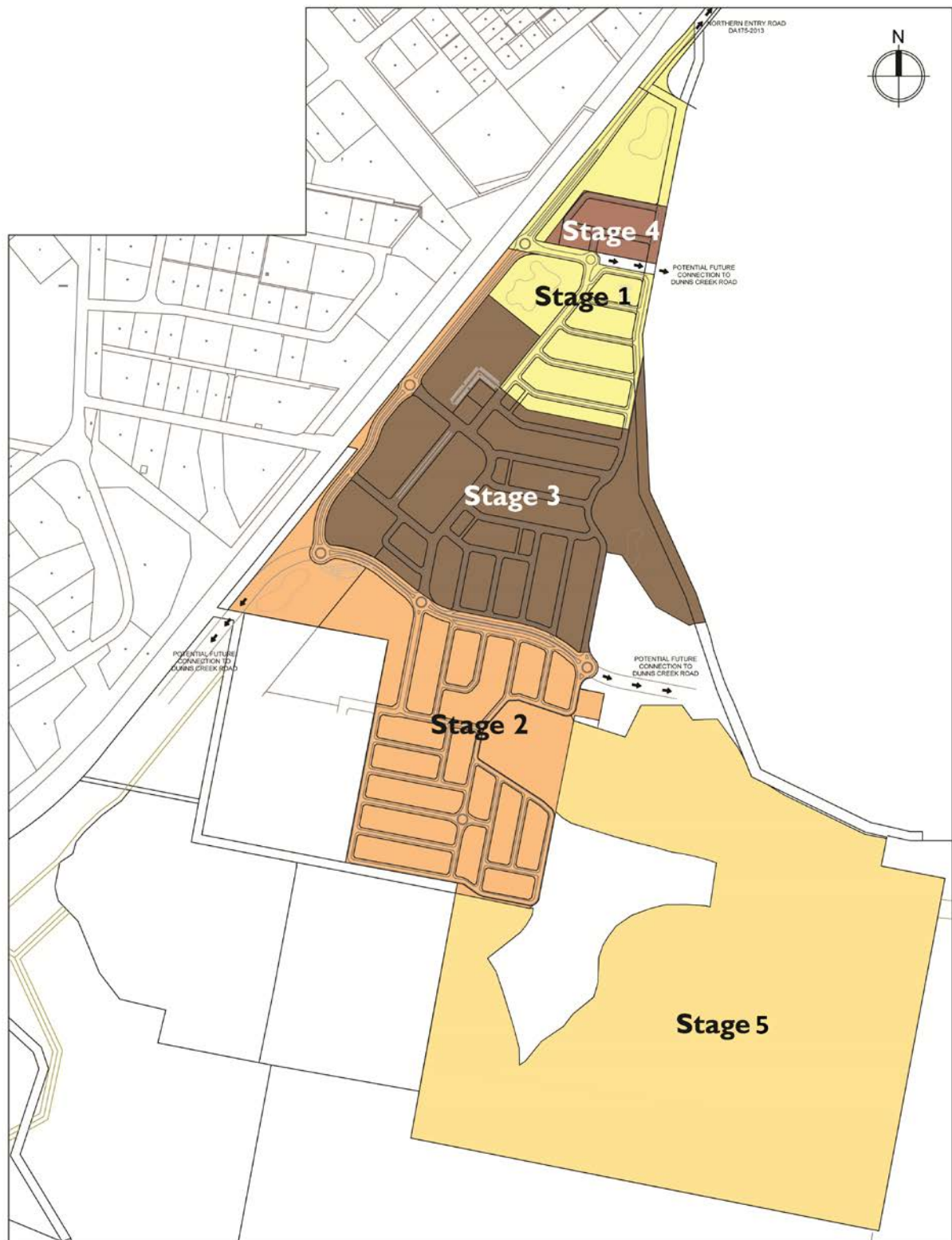
An assessment under Section 79C of the *Environmental Planning and Assessment Act 1979* has been undertaken. The application is recommended to be conditionally approved, except for a specified part, for reasons summarised below, discussed throughout this Report, and detailed in the Recommendations section.

Recommendation to **Not** Include Stage 2 in the Development Consent

Pursuant to Section 80(4)(b) of the *Environmental Planning and Assessment Act 1979* consent is recommended to be granted except for a specified part of the concept DA identified within Stage 2. The reasons for this are summarised below.

Stage 2 of this concept DA includes the southernmost section of South Tralee and a large area of R1 – General Residential zoned land – refer to Figure 1 below.

Figure 1 – Proposed Staging Plan



The assessment has recommended that part of Stage 2 of the concept development of South Tralee should not be granted development consent at this stage for the following reasons (summarised):

1. This part of the proposed development involves the modification of an environmentally sensitive area and prominent landscape features through extensive earthworks and the piping and filling of a steeply incised gully. This is not considered to encourage the proper management, development and conservation of natural areas and water for the purpose of promoting the social and economic welfare of the community and a better environment; and
2. This part of the proposed development does not protect and manage an environmentally sensitive area within South Tralee, fails to protect a prominent landscape feature and the indicative residential densities appear inconsistent with the environmental capacity of the land.

The above reasons are further elaborated on throughout this Report and in the Recommendations section. A plan showing the area not recommended to be included in the consent (should it be granted) is shown in Attachment 1 of this Report.

It is strongly recommended that the JRPP undertake an inspection of this section of the site to gain a full appreciation of the comment in this assessment.

At this stage, the concerns of Council regarding some aspects of Stage 2 are such that it should not form part of the development consent (should it be granted), pending further investigation. This will allow the applicant to address this issue without delaying the determination of the DA and without prejudicing the lodgement of the DA for the Stage 1 subdivision. The progression of Stage 1 is not dependent on the progression of Stage 2 in its current form.

It is possible that with further investigations the current proposed road layout and associated earthworks may be able to be supported, or a re-design may also be warranted. It was not considered reasonable to delay the determination of the application in order to resolve it.

Note: Section 80(5) of the Act allows for development consent to be granted in the future for the part of the development initially not approved under Section 80(4). That is the matter can be reconsidered without the need to submit a further development application.

Strategic Context

Queanbeyan Residential and Economic Strategy 2006 – 2013 (the Strategy)

The aim of the Strategy is to identify sufficient employment and residential land to meet future demand for the next 25 years, while achieving an appropriate balance of conservation, housing and employment development. The Strategy is a macro level document endorsed by both the Minister for Planning and Queanbeyan City Council that informs the preparation of other planning instruments, agreements, policies and studies. This Strategy is also adopted in the NSW Planning and Infrastructure's *Sydney Canberra Corridor Regional Strategy 2006 - 2031*.

South Tralee is one of a number of sites in South Jerrabomberra that were identified in the Strategy as being suitable for residential or employment lands development. The Strategy identified the capacity for 10,000 new dwellings in Queanbeyan over 25 years and enough employment land to create a competitive surplus. The Strategy was also informed by the findings and commentary of the Queanbeyan Land Release Inquiry.

The Strategy identified two major development fronts:

1. Googong – a new town development South East of Queanbeyan containing 5,550 dwellings and a town centre; and
2. South Jerrabomberra – incorporating a number of development fronts with the potential for at least 4,700 dwellings and containing land for community facilities and commercial development adjacent to the existing Jerrabomberra local centre.

In addition to the residential development areas identified above, the Strategy also proposed up to 130 hectares of employment land to address the shortage of suitable employment land in Queanbeyan. The Strategy was endorsed by the NSW Government in April 2007, with a revised Strategy being endorsed in December 2008 (the Addendum Report). The revised Strategy took into account the new Australian Noise Exposure Forecast (ANEF) prepared by Canberra Airport using a practical ultimate capacity model. As a result of the new ANEF maps, development in South Jerrabomberra was shifted so that no residential development would occur in the 25 and greater ANEF contour, while the amount of development in the 20-25 ANEF range was reduced to approximately half of the 4,700 dwellings.

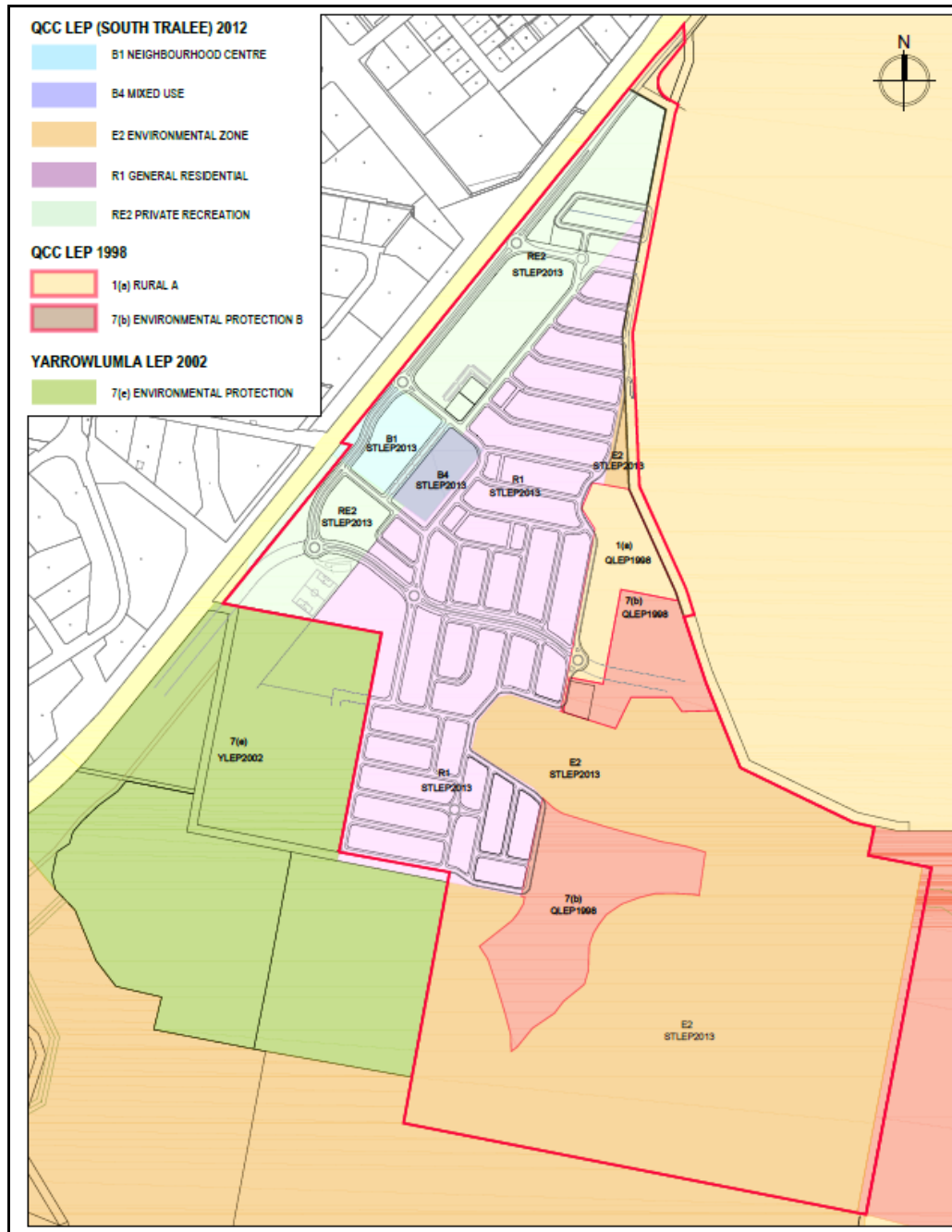
The South Tralee area was identified as a Stage 1 priority release area, in addition to the employment land areas of the Poplars and North Tralee. Only South Tralee and the Poplars have been re-zoned to this point.

A key principle in the Strategy is that new housing development should occur on several fronts, progressed simultaneously and by more than one developer in order to provide appropriate housing choice in terms of location, style form and affordability, and be undertaken by a minimum of two development interests. This is currently occurring, particularly with the progression of the Googong Township. The development of South Tralee has been progressed by the recent approval (DA 175-2013) of the concept design of a northern entry road that will run through the areas known as Poplars, North Tralee and Environa, ultimately linking South Tralee to Jerrabomberra.

Queanbeyan Local Environmental Plan (South Tralee) 2012

The Queanbeyan Local Environmental Plan (South Tralee) 2012 (the LEP) was gazetted in November 2012 with the primary aim of making local environmental planning provisions for land known as South Tralee. A large area of land in South Tralee originally recommended to be re-zoned for residential development was deferred due to constraints posed by aircraft noise, while a smaller portion was also deferred to allow for the completion of further ecological studies in the adjoining Environa lands. These areas retain their land use zones under the Queanbeyan Local Environmental Plan 1998 (as amended) – refer to Figure 2 below.

Figure 2 – South Tralee LEP Zoning Map (Site Outlined in Red)



The changes to the proposed rezoning ensured that housing in South Tralee would be restricted to areas outside of the Australian Noise Exposure Forecast (ANEF) 20 – 25 contour levels for the Canberra Airport, reducing the overall development footprint at South Tralee by approximately 20 per cent – refer to Figures 3 and 4 below.

Figure 3 – South Tralee in Relation to ANEF Contours

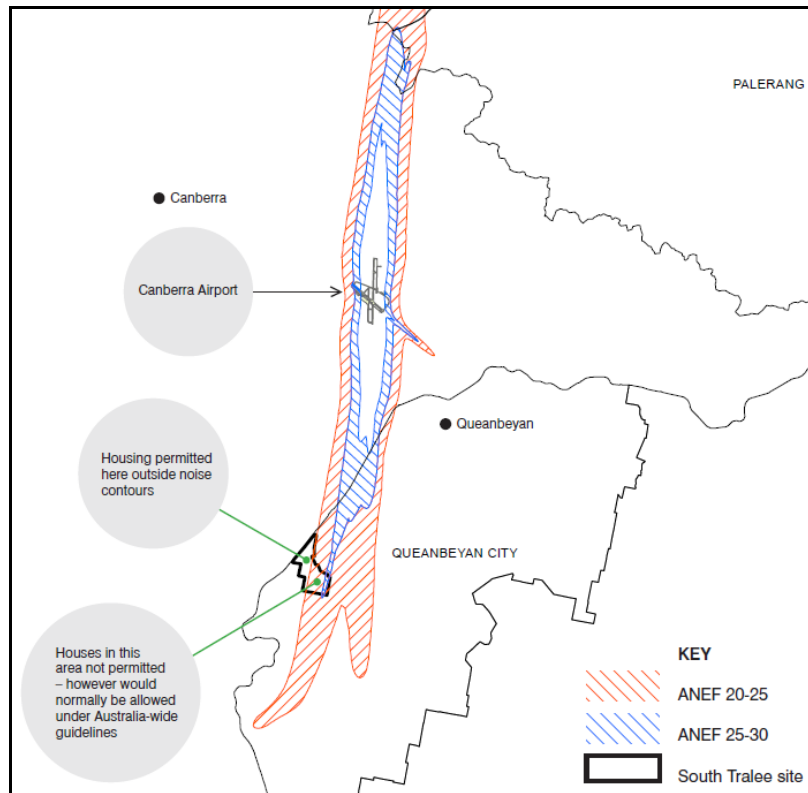
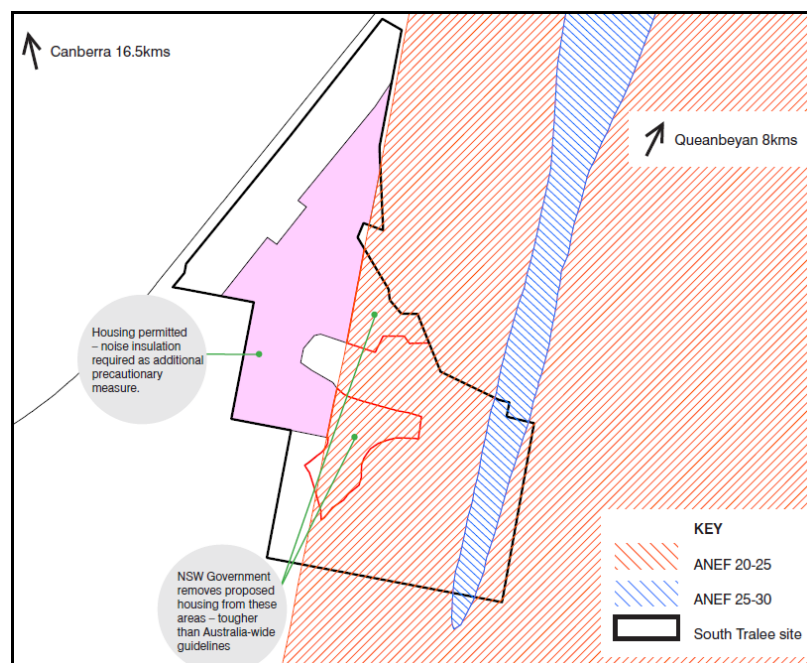


Figure 4 – Land Deferred from Rezoning



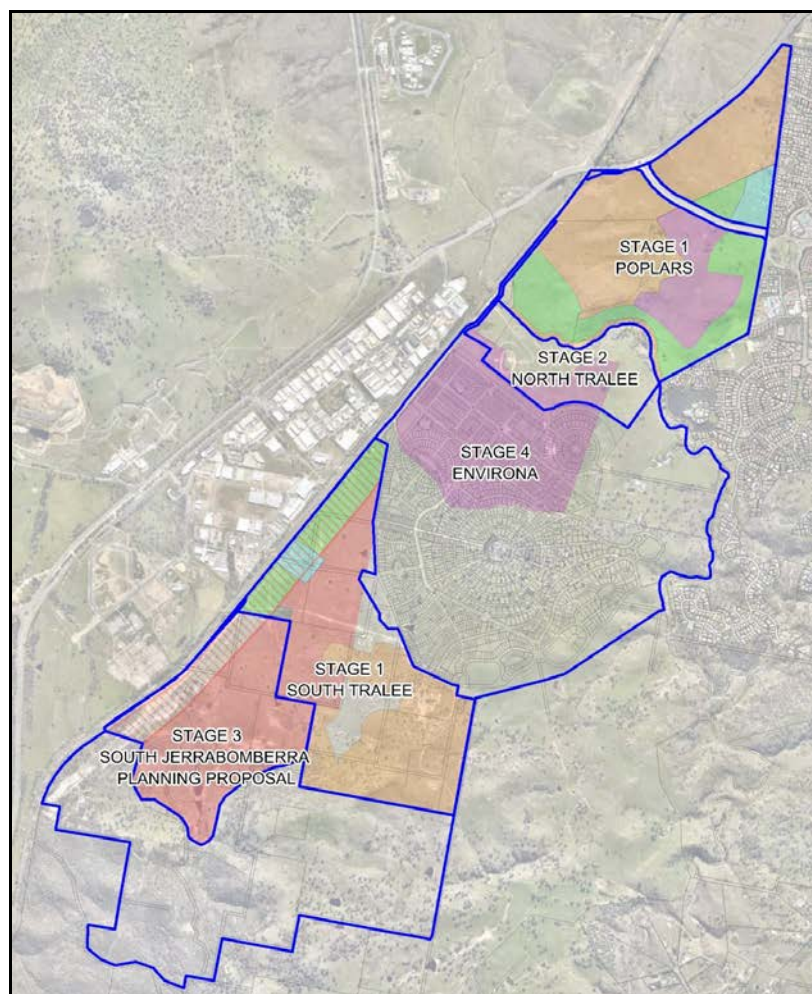
South Jerrabomberra Structure Plan

The South Jerrabomberra Structure Plan 2013 was endorsed by the Department of Planning and Environment in May 2014. The purpose of the Structure Plan is to inform the development of South Jerrabomberra over a 25 year period, specifically in its provision of infrastructure, and to aid it being delivered in a logical and efficient manner. It is not a statutory document however it represents Council's and the Department of Planning and Environment's preferred direction for development and infrastructure provision within South Jerrabomberra.

The Structure Plan's maps show the preferred options in relation to the provision of such services as electricity, gas, telecommunications water and sewerage and road links. The maps also show areas broadly identified for residential, commercial, community, educational, employment, open space and recreation and environmental conservation. The maps also show Canberra Airport's current Ultimate Practical Capacity Australian Noise Exposure Forecasts (ANEFs) which were endorsed for technical accuracy by Air Services Australia in June 2008.

South Tralee is within the first stage of South Jerrabomberra. This stage also includes The Poplars – refer to Figure 5 below.

Figure 5 – Staging Plan for South Jerrabomberra



The Structure Plan outlines the indicative main infrastructure requirements for Stage 1, including: the initial construction phase; short term (to provide for interim development); and longer term (to provide for the ultimate proposed development). Other public infrastructure / facilities identified include:

- Sporting fields.
- Regional Park/Bushland.
- Multipurpose community centre.
- Playgrounds and open space.
- Skateboard Park.
- Tennis Courts.
- Hardcourts (basketball/netball).
- Community Hall – Stage 1
- Park and Ride (Transit Hub).
- Telecommunications.
- Emergency Services Centre.
- Potential Local police/ambulance Station.
- Potential primary school (public).
- Potential High School (public).

The proposed conceptual development of South Tralee contemplates the provision of many of the above community infrastructure projects as well as a child care centre, and is generally consistent with the Structure Plan Map, except for the location of Dunn's Creek Road which is identified as a future arterial road. The Structure Plan Map shows this road as per the location mapped in the South Tralee LEP, however, the location of Dunn's Creek Road is now the subject of further investigations and a resolution of Council to prepare a planning proposal to amend the South Tralee LEP to alter its location.

The Structure Plan's details regarding the provision of infrastructure was done on the basis of the information available at the time from numerous detailed studies and other strategic documents. Since it was adopted, and during the course of the assessment of this DA and the application for the northern entry road to South Tralee, both the applicant and Council have engaged additional traffic modelling work. The ACT Government has again confirmed its opposition to a Sheppard Street connection, and Council has made several resolutions regarding Dunn's Creek Road and future road connection(s) to the ACT that affect this DA.

Resolutions of Queanbeyan City Council Relevant to this Development Application

- 24 September 2014 – Resolved that Council adopt Sheppard Street as the preferred southern access point to the South Jerrabomberra area. Council recognises that the ACT Government has not given support to Sheppard Street being the southern access point and accordingly the South Jerrabomberra Development Control Plan 2014 provides for Dunn's Creek Road being directly connected to Isabella Drive. Council's policy position continues to be that Sheppard Street is the preferred southern access point to the South Jerrabomberra area.
- 8 October 2014 – Resolved that as a matter of Policy Council agree to:
 - Prepare a planning proposal to alter the position of Dunn's Creek Road as shown on the Local Clauses Map of Queanbeyan Local Environmental Plan (South Tralee) 2012.

- Support the creation of a single corridor through the South Tralee urban release area to allow for the future proposed Dunn's Creek Road to be directly connected to Isabella Drive.

Council support:

- The provision of a 29m wide road corridor for the future Dunns Creek Road connection through the proposed South Tralee urban release area.

That it be noted the above road widths vary from the recommendations in the report for the following reasons:

- Planning constraints have reduced the net developable area for South Jerrabomberra by approximately 70% and the development can be considered marginal given the now limited yield.
- A 50m Dunns Creek Road corridor would be overburdening land already zoned for urban development for a road not yet justified in the current 25 year planning time frame and catering for further sites to the South which may or may not eventuate.
- 12 November 2014 – Resolved to reconfirm that Council declares its preference for Sheppard Street as its primary southern connection and that this preference must be reflected in the South Jerrabomberra Structure Plan and in all other relevant plans produced by Council.

Development Control Plan

It should be noted that this DA was lodged pursuant to section 83C of the *Environmental Planning and Assessment Act 1979* and is accompanied by Design Guidelines that contain the information required to be included in a DCP by the South Tralee LEP.

Areas within South Tralee that were deferred from the rezoning are subject to the relevant provisions of the Queanbeyan Development Control Plan 2012 (QDCP).

The Draft South Jerrabomberra Development Control Plan 2014 (DCP) includes South Tralee and introduces the following:

1. The context of how development at South Jerrabomberra will proceed and contains a South Jerrabomberra Master Plan and Staging Plan;
2. Requirements for the preparation of Neighbourhood Structure Plans; and
3. Guidelines and standards for development in South Jerrabomberra.

Pursuant to Section 18 of the *Environmental Planning and Assessment Regulation 2000* the draft DCP was placed on public exhibition from 14 November 2014 to 12 December 2014. Additional traffic modelling conducted since the adoption of the South Jerrabomberra Structure Plan 2013, the ACT Government's confirmed position on Sheppard Street, relevant resolutions of Council, and the recently issued development consent for the conceptual northern entry road, have all informed the Master Plan for South Jerrabomberra contained in the Draft South Jerrabomberra Development Control Plan 2014.

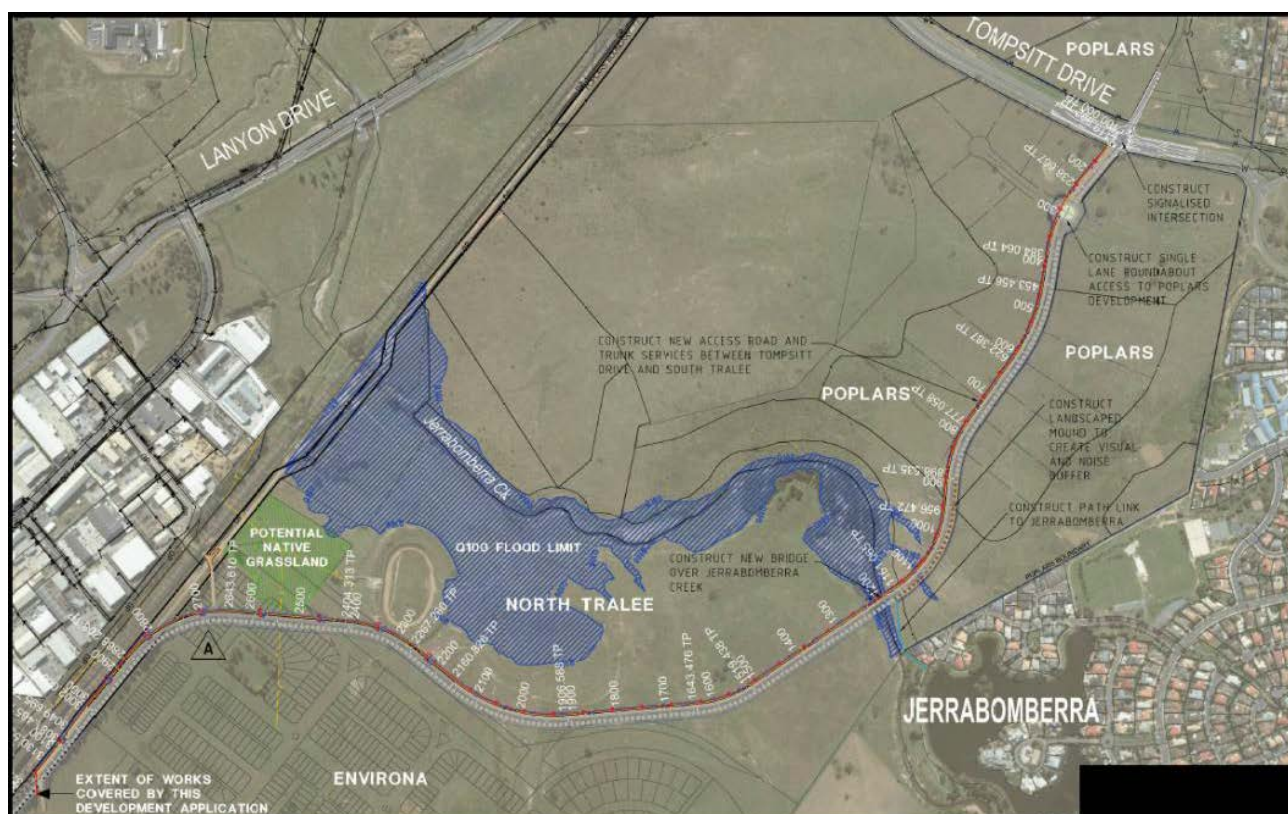
Crucial differences between the draft Master Plan on exhibition and the South Jerrabomberra Structure Plan endorsed earlier this year are the identification of Sheppard Street as the

preferred access into the ACT and the relocation of the indicative Dunn's Creek realignment (subject to further detailed investigations and a planning proposal to alter the position of Dunn's Creek Road).

Concept Development Consent for the Northern Entry Road

At its Ordinary Meeting held on 22 October 2014 Council resolved to grant conditional approval to an integrated staged development application (175-2013) for the construction of a road to link Tomsitt Drive, Jerrabomberra to Territory Parade near South Tralee (the Northern Entry Road). The road is proposed to run through the areas known as Poplars, North Tralee and Envirova before ultimately linking to South Tralee – refer to Figure 6 below.

Figure 6 – Northern Entry Road



The Northern Entry Road is to be constructed from a new intersection with Tomsitt Drive (Jerrabomberra) heading south towards South Tralee and terminating at the intersection with the southern end of Territory Parade where the South Tralee urban release area begins. The small length of road that will form the connection from Territory Parade to South Tralee is currently a public road vested in Council and is outside of the defined boundaries of the South Tralee urban release area. It forms a part of this DA.

Note: While the originally submitted plans for this DA clearly included the abovementioned section of Territory Parade in an L-shaped portion of land that also includes a road called Boundary Road, amended plans submitted to alter the staging of the development removed this portion of land. While the Statement of Environmental Effects (SEE) includes this portion of land in the development site, many supporting documents, including the ecological assessment, did not. Rather, reports submitted for the Northern Entry Road DA included this portion of land.

Clarification was sought from the applicant who confirmed their intention that the Territory Road connection to the Northern Entry Road should be within the development boundaries of this DA. Amended plans were lodged on 21 November 2014 to reflect this. The applicant also submitted an amended Ecological Report to include this portion of land. A review of the information submitted for the Northern Entry Road DA showed that this portion of land is not subject to any constraints.

Local Voluntary Planning Agreement

Queanbeyan City Council is currently in the process of negotiating a Local Voluntary Planning Agreement (VPA) with the developer. This will include such matters as the provision of community facilities; open space provision and embellishment; roads, water and sewer infrastructure; affordable housing; water and energy savings initiatives; monetary contributions; ecological offsets and administration.

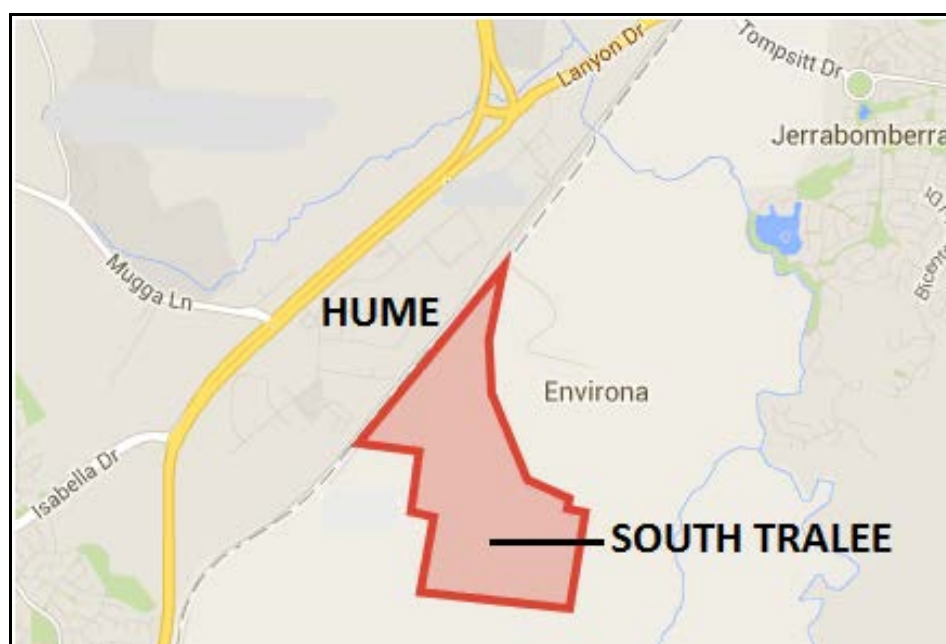
State Planning Agreement

Satisfactory arrangements for the provision of designated State and Territory public infrastructure in relation to the site have yet to be made. Before determining subsequent DAs for Stages that involve the actual subdivision of land at South Tralee, the applicant must obtain certification from the Director-General of the Department of Planning and Environment that satisfactory arrangements have been made.

Site and Surrounds

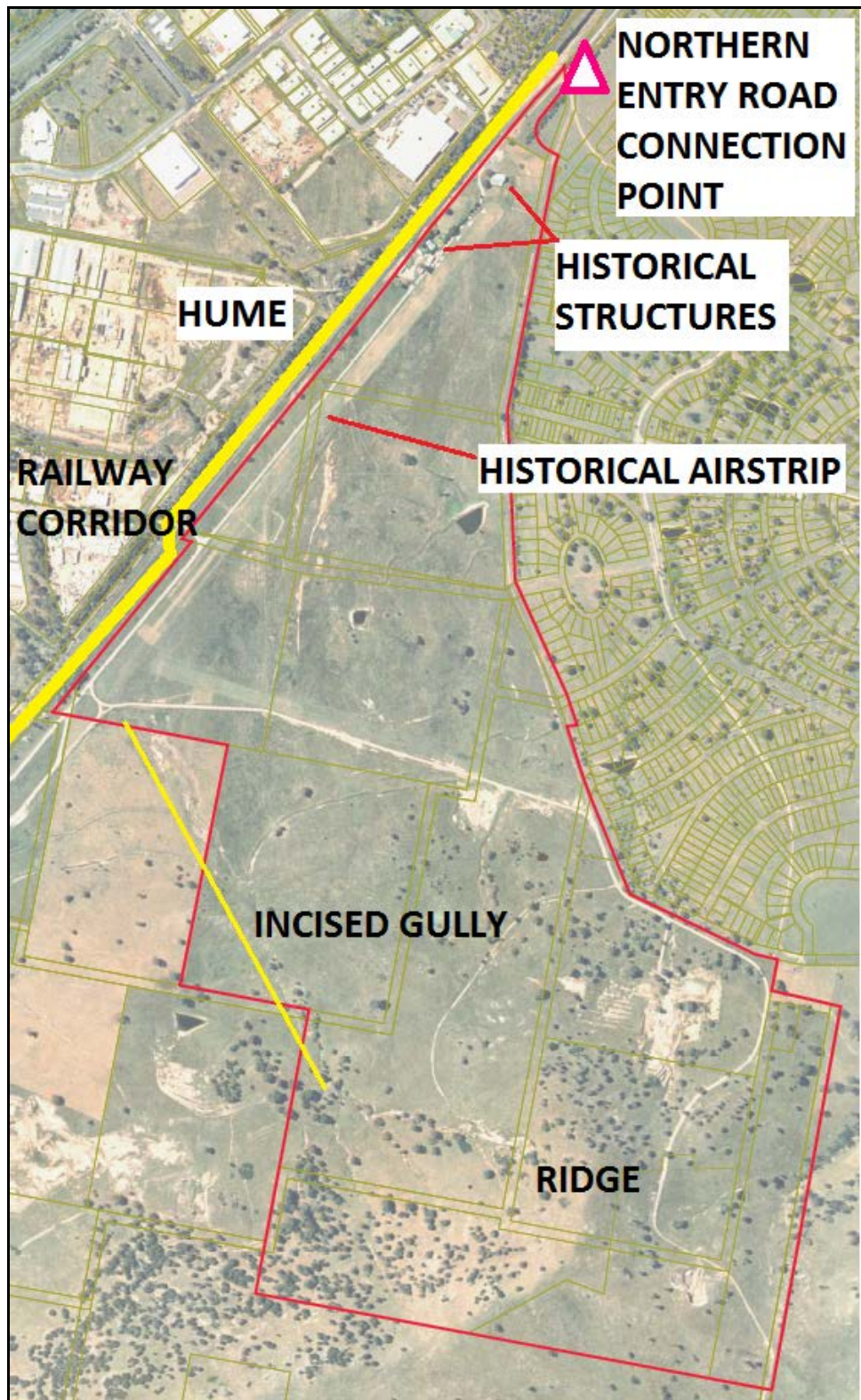
Figures 7 and 8 below show the site of the proposed development 8km south of the Queanbeyan CBD and approximately 16kms south-east of Canberra City. The site currently has no specific land use, however, it has most recently, and historically, been used as a grazing property.

Figures 7 and 8 – Locality Plans



The principal infrastructure and landscape features of the site are shown in Figure 9 below:

Figure 9 – Aerial Photograph of Site



The site has the following characteristics.

1. Lengthy border along the west and north-west of the site with the Goulburn/Bombala railway corridor, the ACT and the Hume Industrial Estate. Land uses in Hume include warehouses, factories, heavy and light industry and business park developments. Also within the ACT, but in the vicinity of the site is the Mugga Lane Resource Management Centre (Landfill).
2. Southern, eastern and north-eastern border with grazing property's (Environa, Tralee Station, Forest/Morrison). Lands to the south have been identified as future urban release areas. Further to the north-east is the established residential suburb of Jerrabomberra.
3. The site's landform consists of gently sloped terrain in the north and north-west of the site with moderate and steeply sloped terrain in the eastern and southern parts. At its extreme, the variation in elevation across the site from the northernmost tip to the southernmost part of land zoned for residential development is approximately 105m, and the adjoining E2 zoned land continues to rise to a section of ridgeline that forms part of a regional system of undeveloped ridges and hills. There is also a deeply incised gully and steeply sided rocky tor in the southernmost part of the site zoned R1 – General Residential. This is a significant site constraint.
4. The landform has been altered over the years by earthworks including construction of a now disused airstrip, dams, vehicle tracks, erosion control works and gravel quarrying.
5. Vegetation at South Tralee consists of degraded agricultural pastures, areas of native grassland and woodland with high conservation, isolated native trees, and scatterings of exotic trees and shrubs.
6. South Tralee is drained by a number of shallow depressions, with the drainage network on the south western side more incised into gully lines. The flow pathways through the area have been extensively altered by soil conservation works (contour banks and dams) and by earthworks associated with an airstrip construction. The drainage lines are part of the upper catchment of Jerrabomberra Creek which flows to Lake Burley Griffin in the ACT. South Tralee is not subject to inundation by flood waters and there are no riparian corridors or perennial watercourses on the site.
7. Several farm buildings and structures associated with the historic use of the property are located in the north-west portion of the site. Two of these structures, including a woolshed, are identified as having heritage value and are to be retained.
8. Access is currently from two unsealed tracks from Hume in the ACT. Development consent 175-2013 issued in October 2014 is for a new road connection from Jerrabomberra to South Tralee (The Northern Entry Road).

The Hume Industrial Estate contains a wide range of industrial land uses including heavy industry. The Mugga Lane Landfill site is the principal putrescible waste landfill in the ACT. Maintaining the regional system of undeveloped ridgelines, protecting land with high conservation values, and mitigating the impacts of Hume and the Mugga Lane Resource Management Centre on the future development of South Tralee were important factors that influenced the final land use zoning pattern and content of the South Tralee LEP.

Proposed Development

The details of the proposed development are listed below.

Land Use Framework

1. Residential
2. Community
3. Open Space and Recreation
4. Conservation

Infrastructure and Services

1. Water
2. Sewer
3. Utilities
4. Transport and Roads
 - a) Layout
 - b) Hierarchy
 - c) Public Transport
 - d) Bicycle and Shared Access
 - e) Potential future connection(s) to the ACT

The above description of the proposed development is further broken down below.

Land Use Framework

The Master Plan submitted with this concept DA broadly outlines the future land uses in South Tralee based on the land use zones in the LEP.

- The large area of the site's south-east that is zoned E2 - Environmental Conservation will remain largely undeveloped, some potential embellishments for passive recreation such as walking tracks and the possible upgrading of existing vehicle tracks that provide access to adjoining properties are indicated. Any works in this part of the site will be subject to detailed assessment within the relevant Stage DA. This land is identified mostly as being within Stage 5, with a portion of the E2 zoned land that 'juts' into the residential zoned land being within Stage 2. The applicant is proposing to 'gift' the majority of the E2 zoned lands to Council for retention as a public reserve. This is the subject of negotiations separate to the assessment of this DA.

A high zone water reservoir and water pipes will likely be located within the E2 zone and will be subject to separate assessment under Part 5 of the *Environmental Planning and Assessment Act 1979*. The high zone reservoir is important for the supply of potable water not just to South Tralee but to the wider South Jerrabomberra urban release area.

- The R1 – General Residential zoned land is to be subdivided in future DAs to create a variety of residential allotments and a potential primary school. The road layout and residential blocks run mostly east-west, taking into account the general topography of the site. The R1 zoned land is identified as being within Stage 1 – 4, with the majority of residential development occurring in Stage 2 and 3.

- The part of the site zoned RE2 – Private Recreation is a strip of land approximately 200m wide that runs parallel to the site’s border with the railway corridor, the ACT and Hume Industrial Estate. This land also correlates with the Visual and Acoustic Buffer Lands as mapped in the LEP. The Master Plan identifies the RE2 zoned land as being used for open space passive recreation, three private recreation superlots, a child-care centre, multi-purpose community centre and an ‘Additional Development’ superlot. The main connection roads in South Tralee are also located within the RE2 zoned land. The land identified for private recreation superlots is envisioned to be developed in the future for permissible land uses, for example, a gymnasium, club, cinema et cetera. The ‘Additional Development Area’ allows for such land uses as food and drink premises, offices and service stations. The RE2 zoned land is identified as being within Stage 1 – 4, with most of the open space passive recreation area within Stage 1.

Clearly, the part of the site zoned RE2 may be developed in the future to contain a large variety of land uses, however, the specific use of land within the Visual and Acoustic Buffer will need to be carefully assessed in future DAs with regard to noise, odour and visual impacts from the Hume Industrial Estate.

- The part of the site zoned B1 – Neighbourhood Centre is centrally located within the Visual and Acoustic Buffer land adjoining ACT, RE2 zoned land and land zoned B4 – Mixed Use. The Master Plan identifies the B1 zoned land as being a Neighbourhood Centre superlot, bounded by a road on each side. This land is identified as being within Stage 3.

The Neighbourhood Centre may be developed in the future to contain a large variety of commercial, residential, recreational and community land uses. However, as per any land in South Tralee that is within the Visual and Acoustic Buffer the specific use of land here will need to be carefully assessed in future DAs with regard to noise, odour and visual impacts from the Hume Industrial Estate, particularly any residential development or other sensitive land use.

- The part of the site zoned B4 – Mixed Use is partially within the Visual and Acoustic Buffer land and adjoins the Neighbourhood Centre, RE2 zoned land, including the ‘Additional Development’ area, and land zoned R1 – General Residential. The Master Plan identifies the B4 zoned land as being a Mixed Use superlot, bounded by a road on each side. This land is identified as being within Stage 3.

Similar to the Neighbourhood Centre, the Mixed Use area may be developed in the future to contain a large variety of commercial, residential (including multi-dwelling housing), recreational and community land uses. Again, impacts from Hume will need to be taken into account for future proposed specific land uses, as well as impacts on adjoining residential areas.

Infrastructure

Engineering drawings, the Master Plan and other associated plans submitted with this concept DA conceptually outline the provision of infrastructure in South Tralee. The provision of potable water and sewer related infrastructure is the subject of a Deed of Agreement between the applicant and Queanbeyan City Council. This means that the infrastructure will be constructed by or on behalf of Council and the actual works assessed separately under Part 5 – Environmental assessment of the *Environmental Planning and Assessment Act 1979*.

- Potable water for South Tralee will be sourced from the Queanbeyan City Council water supply network, which in turn is supplied with potable water under an

agreement with ACTEW Water (ACT). No recycled water is proposed to be supplied. Two reservoirs (low and high zone) will be required to service the site and the wider South Jerrabomberra area as it is developed. The high zone reservoir will likely need to be located in land zoned E2 – Environmental Conservation. Impacts from this infrastructure on conservation values will be considered during the Part 5 assessment process.

- Sewer infrastructure in South Tralee will ultimately connect to the Queanbeyan sewage treatment plant. A pumping station is identified to be located at North Tralee. Piping from the pumping station to the existing trunk main in Jerrabomberra will be sized to cater for the future development of South Jerrabomberra.
- Electricity for South Tralee will initially be supplied from an existing substation at Jerrabomberra in underground trenches aligning with road reserves. For the full development of South Tralee and South Jerrabomberra an overhead supply cable from Googong will need to be installed and a new substation built. This will be the subject of a separate application in the future, however, drawings submitted with this DA indicate that there is an area of land deferred from residential zoning that may be a suitable substation location.
- Provision for public transport is made by indicating potential bus routes, stops, park and ride facility and interchange. Bicycle and shared access is provided in a mix of pedestrian paths, shared paths and on-road cycle lanes.
- The conceptual road hierarchy and layout shows that the majority of streets in South Tralee will run from east to west in a grid-like pattern. This takes into account the overriding topography of the site. The layout includes connection into the Northern Entry Road which will provide the main access to South Tralee. This road will extend south-west into the site, parallel with the ACT border. The layout also allows for two possible future connections into the ACT, a southern connection via Dunn's Creek Road into Isabella Drive, and a more northerly connection into Sheppard Street.

Amendments

During the course of the assessment of this DA, and after the period of public notification had ended, numerous issues were raised with the applicant which resulted in changes to the proposed development. Some changes were also made by the applicant as a result of their own internal investigations and considerations.

Note: Although this DA was lodged in December 2013, the applicant informed Council of its intention to submit amended plans and supporting documents which mainly related to changing the Staging sequence of the development. Hence, the period of public notification did not begin until the amended plans and documents were received in January 2014.

The changes made to the proposal after the period of public notification are reflected in amended plans submitted to Council on 21 November 2014 and are summarised as follows:

1. Land Use

- a) Removal of encroachment of residential development in the RE2 – Private Recreation zone;
- b) Removal of indicative recreational structures, such as tennis courts and skate parks in the RE2 parkland; and
- c) Relocating potential multi-purpose centre site to be further away from the Hume industrial area.

2. Roads

- a) Changes to the configuration of Dunn's Creek Road and possible future road connection to the ACT via Sheppard Street to reflect Council resolutions and updated traffic modelling;
- b) Allowance for potential primary school site to be accessed from a collector road instead of Dunn's Creek Road;
- c) Reduction in the amount of intersection with Dunn's Creek Road and incorporation of service roads to ensure that residential allotments are not directly accessed from this arterial road and to provide on-street parking outside these future residences;
- d) Minor change to the alignment of the north-south entry road (Road 1) into South Tralee to accommodate the retention of two historical structures and changes to some intersections;
- e) Minor changes to some road types and increases to some on-road cycle paths and shared path widths;
- f) The eastern perimeter road (Road 15) has been realigned and the northern section has been designed to facilitate its conversion to a service road in the event that the Sheppard Street link via Road 2 is approved. Note: A proposed connection of Road 15 to Road 3 is not supported and should be redesigned to meet the roundabout at Road 2; and
- g) Removal of cul-de-sacs and reduced amount and length of laneways.

3. Stormwater

- a) Changes to the stormwater management plans to ensure that post development flows are detained within the site and so that discharge across the railway line and into the ACT is kept to pre-development flow rates at existing discharge locations; and
- b) Relocation of an overland flow detention basin to avoid native grassland.

4. Sewer

- a) Removal of sewer pump station from the northern section of South Tralee. A pump station located in North Tralee will service South Tralee.

5. Earthworks

- a) The proposed finished design contours for the steeper parts of the land zoned for residential development amended to show that residential allotments will have a slope of <20%.

The proposal was not re-notified as a result of the above amendments and additional information submitted during the course of the assessment as the changes either resulted in the issues raised in the submissions being satisfactorily addressed or did not directly relate to the submissions. It should be noted that many of the Strategic Planning issues raised in some of the submissions are the subject of the Draft South Jerrabomberra Development Control Plan 2014, which is currently on public exhibition, a future planning proposal relating to Dunn's Creek Road, and ongoing negotiations between Council, adjoining land owners and the ACT Government regarding the future development of South Jerrabomberra.

All aspects of the proposed development are extensively elaborated on and discussed throughout the rest of this Report.

The following reports and plans were submitted by the applicant and used throughout the planning assessment. Note: Superseded reports and plans are not referenced.

- Statement of Environmental Effects prepared by CBRE (December 2013).
- Structure Plan, Master Plan and associated Development Structure Plans prepared by Peter Andrews + Associates Pty Ltd (November 2014);
- Infrastructure Servicing Report and Engineering Concept Design Drawings and prepared by Browns Smart Consulting (November 2014 and October 2013 respectively).
- Landscape and Open Space Strategy prepared by Redbox Landscape Architects (December 2013).
- South Tralee Sub-Division Concept DA Noise and Air Assessment prepared by Wilkinson Murray (December 2013).
- South Jerrabomberra - South Tralee Traffic Report prepared by ARUP Pty Ltd (November 2013).
- Bushfire Protection Assessment for the South Tralee Urban Release Area prepared by Australian Bushfire Protection Planners Pty Limited (November 2013).
- South Tralee – Desktop Assessment, Addendum Report: Site STRH2 Well, Technical Paper: Aboriginal Heritage, and Draft Aboriginal Cultural Heritage Assessment Report prepared by Navin Officer Heritage Consultants Pty Limited (September 2013, August 2014, October 2014 and October 2014 respectively).
- Site Contamination Summary Report – South Tralee Development Site prepared by SMEC (December 2013).
- Ecological Assessment of Rezoned Land at South Tralee, Queanbeyan and South Tralee Vegetation Assessment – Land Outside Development Zones prepared by Kevin Mills and Associates (November 2013 and July 2014 respectively).
- South Tralee Release Area Development Guidelines prepared by CBRE and Peter Andrews + Associates Pty Ltd (January 2014).
- Geotechnical Assessment Report prepared by Douglas Partners (August 2013).
- South Tralee Strategic Social Plan prepared by GHD (November 2013).

Other correspondence relating to: achieving BASIX requirements; the intent of the applicant to commence discussions about entering a Local Voluntary Planning Agreement; advice from Essential Energy regarding the provision of electricity; and advice from the Department of Planning and Environment regarding the provision of State infrastructure were also submitted with this DA.

Statutory Assessment

Assessment of the subject Development Application has been undertaken in accordance with the *Environmental Planning and Assessment Act 1979* (“the Act”), as amended, specifically including:

- a) Section 4B – Subdivision of land;
- b) Section 5 – Objects;
- c) Section 5A - Significant effect on threatened species, populations or ecological communities, or their habitats;
- d) Section 79C – Evaluation;
- e) Section 80 – Determination;
- f) Division 2A – Special procedures concerning staged development applications, which includes;
 - a. Section 83A – Application of this Division,
 - b. Section 83B – Staged development applications,
 - c. Section 83C – Staged development applications as alternative to DCP required by environmental planning instruments,
 - d. Section 83D – Status of staged development applications and consents;
- g) Section 91A – Development that is integrated development; and
- h) Section 94 – Contribution towards provision or improvement of amenities or services.

Section 4B - Subdivision of land

For the purposes of the Act, subdivision of land means the division of land into two or more parts that, after the division, would be obviously adapted for separate occupation, use or disposition. This concept DA does not propose any actual subdivision of land, but indicates super lots and areas of land to be subdivided for residential development under subsequent staged development applications.

Section 5 – Objects

The objects of the Act are:

(a) To encourage:

- (i) The proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) The promotion and co-ordination of the orderly and economic use and development of land,*
- (iii) The protection, provision and co-ordination of communication and utility services,*
- (iv) The provision of land for public purposes,*
- (v) The provision and co-ordination of community services and facilities, and*
- (vi) The protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and*
- (vii) Ecologically sustainable development, and*
- (viii) The provision and maintenance of affordable housing, and*
- (b) To promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and*
- (c) To provide increased opportunity for public involvement and participation in environmental planning and assessment.*

The proposed development is considered to be generally consistent with the objects of the Act, except for those listed as sub-clauses (a)(i) and (a)(ii) in regards to the part of the proposed development identified as Stage 2 that involves the modification of an environmentally sensitive area and prominent landscape features through extensive earthworks and the piping and filling of a steeply incised gully.

As will become clear during the discussion of this issue in detail later in this Report under the provisions of Queanbeyan Local Environmental Plan (South Tralee) 2012, based on the information submitted with this DA and an inspection of the site, the Stage 2 part of the this concept DA does not satisfy objective (a)(i) of the Act to encourage the proper management, development and conservation of natural areas and water for the purpose of promoting the social and economic welfare of the community and a better environment.

Section 5A - Significant effect on threatened species, populations or ecological communities, or their habitats

The consent authority is required to determine if the proposed development and its consequential actions are likely to have a significant effect on threatened species, populations or ecological communities, or their habitats. Before addressing the specific requirements of this Section, an overview of the potential ecological and biodiversity impacts of the proposed development is warranted.

Relevant Background

A number of ecological studies were commissioned to inform the development of the Tralee Local Environmental Study (LES) (2005). These studies assessed the conservation value of the site against the requirements of both the NSW *Threatened Species Conservation Act 1995* and the Commonwealth's *Environmental Protection and Biodiversity Conservation Act 1996*. Several areas of high conservation value were identified and known environmental values include endangered grasslands, threatened species and remnant vegetation.

While additional ecological work has been undertaken since the development of the Tralee LES (2005), the majority of recommendations made at that time remained relevant when the South Tralee LEP was being finalised. As outlined in the Supplementary Report to the Tralee LES (2010) the key changes since 2005 were: clarification and agreement of the proposed boundaries for conservation areas within South Tralee; the composition and value of those areas; and the appropriate zonings.

As can be seen from the LEP zoning map, the majority of the south-east section of South Tralee is zoned for environmental conservation – refer to previous Figure 2. All of the deferred land is zoned 7(b) Environmental Protection B and 1 (a) Rural A under the Queanbeyan LEP 1998. Most of this land was originally recommended for a residential zoning, however, this was deferred due to aircraft noise considerations. There is also a small section of land known as “Area 1” identified as having environmental value as native grassland that was deferred from rezoning pending further studies that take into account the adjoining Environa land – refer to Figure 10 below.

Figure 10 - “Area 1” - Land Deferred Due to Environmental Factors



The Queanbeyan Biodiversity Study 2008 identified conservation corridors of regional significance linking to the ACT through South Jerrabomberra and also South Tralee connecting through to Googong and the Eastern Escarpment of Queanbeyan. The E2 zoned lands includes the corridor, albeit with some small overlap of the corridor into the adjoining R1 zoned land.

Portion of Land outside the South Tralee Urban Release Area – Northern Entry Road Development Application

As previously discussed, the proposed development also incorporates a small portion of land outside of the boundaries of the South Tralee urban release area which will connect to the Northern Entry Road. This land is zoned 1 (a) Rural A under the Queanbeyan LEP 1998 and was not originally incorporated into the ecological assessments done for this DA, rather, reports done for the Northern Entry Road development application included this land. The applicant has submitted an Assessment of Significance lodged for the Northern Entry Road for incorporation into the assessment of this DA. The assessment of the Northern Entry Road under Section 5A is therefore of relevance to this DA in so far as it included this portion of land.

The Assessing Officer for the Northern Entry Road reviewed the Assessment of Significance in consultation with the Office of Environment and Heritage and concluded that the development would not have any significant impact on flora and fauna.

The main remnant vegetation has been avoided and retained on the site. There is an area of native grasslands within Territory Parade that will be impacted upon, however, the impact is not considered to be significant.

Land within the South Tralee Urban Release Area

Although the proposed development does generally avoid environmentally sensitive areas as reflected by the land use zones, this does not preclude a detailed assessment of the environmental impacts of the conceptual urban development of South Tralee.

This DA included an ecological assessment carried out by Kevin Mills and Associates (KMA) – ‘Ecological Assessment of Rezoned Land at South Tralee, Queanbeyan’ (2013). After conducting a preliminary review Council requested the applicant provide further details about the applicability of the *Native Vegetation Act 2003* to the proposal. This resulted in KMA conducting additional survey work to identify ground cover on land subject to the *Native Vegetation Act 2003* to determine if its removal would require an approval under this Act – ‘South Tralee Vegetation Assessment – Land Outside Development Zones’ (2014). In order to assist its assessment, upon receipt of the second KMA Report Council sought the advice of the Office of Environment and Heritage (OEH) with regard to the potential ecological and biodiversity impacts from the proposed development. The OEH raised a number of concerns and made several recommendations as outlined below.

Comments from the Office of Environment and Heritage

1. Large Native Tree Retention:

- a) *Efforts should be made to retain native trees as large trees in urban spaces provide important habitat for native species of birds, bats and invertebrates. The applicant’s claim that the loss of trees is counteracted by the retention of numerous trees in the E2 zoned land, and by the intention to plant new native trees, is not supported. No comparative survey of the trees in the E2 land has been done, moreover, these trees would not constitute a true offset in accordance with the OEH principles for offsetting.*

Background Comment – The 2013 KMA Report submitted with this DA contained a survey of native trees within the land zoned for development at South Tralee as well as the area of E2 zoned land that ‘juts’ into the southern portion of R1 zoned land. As well as over 100 mostly native eucalypt trees identified in the survey, it also identified nine mature “high value” native trees and a group of “high value” trees along a non-perennial watercourse and around a rocky outcrop (No. 39-52) that should be retained “if at all possible”. The surveyed trees were plotted onto an overlay of the proposed urban concept. This showed all of the trees outside of the E2 zoned land as being removed.

- b) *In particular a clump of trees (39 – 52) in the southernmost section of the R1 zoned land should be retained in an open space/park capacity and the subdivision layout amended to remove residential lots and roads over this area. There have been recordings of a threatened species in this area (Pink-Tailed Worm Lizard) and it also coincides with a non-perennial natural watercourse and falls within a regional bio-link.*
- c) *Any large native trees that are removed should not be cut up and removed from the site, but moved to the southern E2 zoned lands to provide habitat for ground dwelling fauna.*

2. Threatened Species Habitat:

- a) *Within R1 zoned land the proposed development needs to avoid threatened species habitat, specifically the Pink-Tailed Worm Lizard (*Aprasia parapulchella*) and the Golden Sun Moth (*Synemon plana*). If this cannot be achieved the proponent should offset the loss of habitat under the Biobanking Scheme.*
- b) *An Assessment of Significance under Section 5A of the Environmental Planning and Assessment Act 1979 needs to be done for the Pink-Tailed Worm Lizard and the Golden Sun Moth.*

Background Comment – The OEH referenced the NSW Wildlife Atlas to show that these two species have been observed in R1 zoned land and that the Pink-Tailed Worm Lizard observation correlated with a particular clump of native trees (39 – 52), some of which were identified by KMA as being “high value”. A site inspection of this area by Council staff identified that this clump of trees is associated with a deeply incised gully with rocky outcrops and a steeply sided rocky tor.

The Wildlife Atlas is the OEH’s database of flora and fauna records. The OEH’s website states:

Data in the Atlas, whilst extensive, is nevertheless ‘patchy’. The Atlas covers all areas of NSW and also includes some records from neighbouring states, but will not provide information on the full distribution of a species. The Atlas is not a comprehensive inventory of all species, nor of all locations of species in NSW.

The Pink-Tailed Worm Lizard (also known as the Pink-Tailed Legless Lizard) is listed as a vulnerable species under the NSW *Threatened Species Conservation Act 1995*. The Golden Sun Moth is listed as an endangered species under the *Threatened Species Conservation Act 1995* and critically endangered under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.

The originally submitted ecological assessment by KMA included a discussion of the following specific flora and fauna species and ecological communities:

- White Box – Yellow Box – Blakely’s Red Gum Woodland (Box-Gum Woodland);
- Pink-tailed Worm-lizard (*Aprasia parapulchella*);
- Grassland Earless Dragon (*Tympanocryptis pinquicollis*);
- Legless lizard (*Delma impar*);
- Golden Sun Moth (*Synemon plana*);
- Small Purple Pea (*Swainsona recta*);
- Woodland birds.

An Assessment of Significance under Section 5A was also carried out by KMA, but it was not done separately for each of the above species/groups

3. Development in E2 – Environmental Conservation Zoned Land:

- a) *All roads servicing R1 zoned land should not fall within E2 zoned land.*

Background Comment – There is a small triangular portion of E2 zoned land that is bounded by R1 zoned land, land deferred from being rezoned due to environmental constraints, and Environa – refer to zoning map in Figure ** above. This area was originally recommended to be rezoned for residential development, however, once it was decided that areas of land within the Canberra Airport's ANEF 20 and above contour would be excluded from being zoned for residential development, the Department of Planning and Environment determined that this now isolated area of land should have an E2 zone applied.

Part of a road and associated services is proposed to encroach into this E2 zoned portion of land. Roads are permissible in the E2 zone with development consent.

- b) *Any new walking or vehicle tracks or upgrading of existing tracks, and any other embellishments in the E2 zoned land needs to avoid known threatened species habitat. The impacts of these works will also need to be adequately assessed and an Assessment of Significance undertaken.*
- c) *Recommended that a comprehensive management plan be prepared for the E2 zoned lands. This plan should specifically address the management of threatened species and their habitats, and grassland and woodland ecological communities. Weed management will also need to be addressed.*

4. Deferred Lands

- a) *It is noted that the northern section of land deferred from rezoning will contain an overland flow detention basin as well as being set aside for parks and recreation, and a possible future electrical sub-station. The application identifies that this area will have supplementary tree planting. This area has been identified as supporting moderate to good quality vegetation. If any of these areas are mapped as natural grassland it is inappropriate to propose tree planting in these areas as they are naturally treeless.*

Background Comment – A drainage basin, part of a road, associated infrastructure and a possible future electricity sub-station are shown within the northern deferred lands. While a large portion of these deferred lands were originally recommended to be rezoned for residential development, but were deferred due to aircraft noise considerations, there is an area of 1(a) - Rural A and 7 (b) - Environmental Protection B zoned land that was deferred due to environmental factors—also known as “Area 1”. These factors related to the quality of native vegetation and the potential for this vegetation to extend into the adjoining Environa lands. This land adjoins the triangular portion of E2 zoned land and was shown previously in Figure ** above.

5. Adequacy of Reports

- a) *The vegetation assessment done by KMA for the purposes of the Native Vegetation Act 2003 was conducted in winter, not an ideal time to survey grasslands as the flowering time is spring/summer.*
- b) *The quality of the mapping is poor and do not overlay the vegetation mapping previously done in the same area, making it difficult to compare.*

Addressing the OEH's Comments

Council requested the applicant to address the OEH's concerns. As a result, further information was submitted by the applicant, including:

- A more detailed and targeted Assessment of Significance for the Pink-Tailed Worm Lizard and Golden Sun Moth;
- Updated and clearer mapping of various ecological constraints; and
- Itemised responses to specific issues.

The Assessing Officer has thoroughly reviewed all of the available relevant information, including the ecological studies conducted during the rezoning process for South Tralee. What follows is a detailed discussion of how the concerns raised by the OEH have been addressed.

1. Native Tree Retention

KMA's originally submitted Report stated that while the mature, healthy native trees labelled "high value" should be retained if at all possible, it is concluded that their retention would largely be for aesthetic purposes and, as none are hollow bearing trees, their habitat value is not high.

In response to the specific concerns of the OEH regarding tree retention KMA have further submitted:

- *Obviously large old trees have habitat value. In urban areas these are often lost over time as the environment around them changes. Road construction and associated soil drainage changes can drastically affect local hydrology. Even if great trouble was taken to retain trees in urban settings, drainage and local changes to topography can reduce the availability of moisture to trees and result in the loss of these trees over time.*
- *It is better to retain trees in larger areas rather than single trees on street verges, etc. The loss of some trees is inevitable, but compared to the amount of woodland to be set aside on public land, these are not significant in the scheme of things. The amount of tree cover in the southern E2 zone can be readily appreciated from the aerial photographs.*

While Council agrees that large mature native trees have habitat value and should be retained if possible when new urban development is proposed, the amount of land required to be set aside to ensure the long term viability of the mostly isolated trees is not warranted. The trees are not hollow bearing and do not form an endangered ecological community.

In regard to the future status and maintenance of the E2 land, regardless of the future ownership of this land, its management will need to be carefully considered so that the residents of Tralee may benefit from its environmental values whilst these values are also protected and enhanced. The recommendations of the OEH that a comprehensive management plan be prepared for the E2 zoned lands and that the impacts of any embellishments such as walking tracks needs careful consideration are supported. The management plan will need to be prepared either as a part of Voluntary Planning Agreement negotiations or before the determination of the Stage 2 development application (condition recommended). Any works in the E2 land for recreation purposes

will be considered in detail during subsequent Staged DAs. The recommendation of the OEH that any large trees that are felled should not be cut up, but moved to the E2 land to provide habitat is also supported and has been agreed to by the applicant (condition recommended).

2. Retention of Clump of Trees in R1 Zoned Land which May Provide Habitat for the Pink-Tailed Worm Lizard.

Unlike the majority of native trees identified by KMA as having “high value” these trees are not isolated, but rather form a clump in a small area of land characterised by a steeply incised gully with rocky outcrops and steeply sided rocky tor. The clump is also just within the mapped boundaries of an identified regional biolink. Council staff have conducted a site inspection of part of the site containing this clump of trees and have concerns about the amount and nature of earthworks that will be required to facilitate the proposed development – discussed in detail later in this Report.

The observation of the Pink-Tailed Worm Lizard in this area referred by the OEH from the NSW Wildlife Atlas was further clarified to be from a 2009 report prepared by GHD, ‘Flora and fauna survey between the ACT and Googong Dam’.

In response to the specific concerns of the OEH regarding retention of this clump of trees KMA have submitted that:

- *As noted in our previous reports...the clump of trees numbered 39 to 52 should “be retained if at all possible”. That small area contains a patch of small trees, none with hollows, some rocky ground and some native ground cover. Due to site constraints (including road grades, stormwater/drainage, lot grades and required filling) none of these trees can be retained. These trees sit in extremely steep terrain which must be levelled to safely form part of an urban area.*
- *The group of trees is not of high importance as habitat...listed trees 39-52 all fall within the R1 zone, land that was deemed fit for residential development. Higher value trees and ecological communities remain retained within the E2 zone.*
- *The PTML [Pink-Tailed Worm Lizard] has not been recorded in this area; the record nearby in the Wildlife Atlas is of a Perunga Grasshopper; a species not listed as threatened in NSW. Despite various surveys...the PTWL has not been recorded in the area referred to as the ‘clump of trees 39-52’. The known and potential habitat for the PTWL does not include this area.*

It is disputed as to whether the reporting of the Pink-Tailed Worm Lizard shown in the Wildlife Atlas correlates with the location of the clump of trees. A review of the Atlas contradicts KMA’s statement that the record nearby in the Atlas is of a Perunga Grasshopper. When viewing the subject site in the Atlas there are actually no reported sightings of this grasshopper species. Furthermore, a map prepared by KMA purporting to overlay all of the sightings of the Pink-Tailed Worm Lizard from the Atlas and previous relevant studies contains errors, including mislabelling Perunga Grasshopper observations as being Pink-Tailed Worm Lizard. KMA have not specifically addressed the observation of the Pink-Tailed Worm Lizard in the 2009 GHD report.

Until and unless confirmed otherwise, it is considered warranted to take a precautionary approach and assume that there has been an observation of the Pink-Tailed Worm Lizard

in the area of South Tralee characterised by the clump of trees 39 – 52. However, an observation of a species in a specific area does not necessarily mean that this area constitutes habitat for that species, or that any impacts from the proposed development will necessarily be significant. The known and potential habitat for Pink-Tailed Worm Lizard was investigated and mapped as part of the rezoning process. It does not include the area characterised by the clump of trees, although the clump is in the vicinity.

Clearly, regardless of it being zoned R1 – General Residential, the area of the site where trees 39-52 are located is subject to environmental constraints. However, its overall habitat value in isolation is unlikely to be high.

3. Avoiding Impacts on Habitat for the Golden Sun Moth

The observation of the Golden Sun Moth referred to by the OEH is an isolated observation from 2003 that was extensively referenced and reviewed during the rezoning process for South Tralee. It does **not** correlate with the clump of trees 39-52, and is either just within the E2 zoned land or just outside it in the R1 zoned land (there are discrepancies in the mapping of this observation). A detailed Assessment of Significance under Section 5A of the *Environmental Planning and Assessment Act 1979* was done by KMA for the Tralee Local Environmental Study (2005). It concluded that the development of the South Tralee urban release area is not expected to have a significant impact on this species and that the single individual moth recorded on the site likely indicated a former population surviving in sub-optimal habitat.

In response to the specific concerns of the OEH regarding the Golden Sun Moth KMA have submitted that:

- *The record of the Sun Moth is based on only one observation. There have been numerous targeted surveys across South Tralee and also more recent surveys across adjacent land proposed for development to the south, with no moths being found. The Golden Sun Moth is not prevalent in the area...there cannot be considered to be an ecologically significant population present on or adjacent to South Tralee.*
- *The potential habitat for the Golden Sun Moth is contained within the land zoned E2.*

In summary, it is considered that the concerns of the OEH in relation to avoiding impacts on habitat for the Golden Sun Moth have been satisfactorily addressed as outlined in the discussion above.

4. Road Works and Infrastructure in the Deferred Lands (“Area 1”) and Northern Triangular Portion of E2 Zoned Land

The grassland survey of this part of South Tralee conducted by KMA in 2014 was more extensive than the ones conducted for the studies which informed the rezoning process. Additional mapping was prepared by KMA in response to the criticisms of the OEH. This involved KMA digitising the survey results and overlaying them on the urban concept plan. This map shows that there is some native grassland in the deferred area and E2 triangle but that the whole area is not native grassland. The northern portion of the deferred land running into the E2 land contains a wetland of *Carex appressa* grassland, and a portion of land in the southern part of the deferred land and bordering Environs contains Box Gum Woodland derived (secondary) grassland.

In response to the specific concerns of the OEH regarding works in this part of South Tralee and the quality of the mapping and survey of “Area 1” KMA have further submitted:

- *This area was deferred due to environmental factors, however, this was questioned at the time, particularly the significance of the small area and its long term viability. We note that the environmental studies of the adjacent Environal/Robin lands have not proceeded. In fact, Council’s South Jerrabomberra Structure Plan has now omitted development of Environa/Robin lands on the basis of not wishing to have residential development within the 20 ANEF. The native grassland mapped by others [on the adjacent land] is well away from the isolated patch [on the subject site]. There is no contiguous native grassland on the Environa side of the fence.*
- *The purpose of the grassland survey was to delineate native grassland. One does not need to do this in summer, as every single native species does not need to be identified to determine if it does or does not meet the definition of native grassland. Early surveys conducted by Biosis (2003) were high level only. This level was partially determined due to the severe drought conditions...Our more recent surveys (2014) were conducted in non-drought conditions and utilised detailed transects to determine the extent of native vegetation rather than broad relative condition mapping.*
- *The mapping is in fact very accurate in terms of delineating native grassland. The boundaries were marked onto large scale colour aerial photographs as they were walked in the field. The transects provide quantitative data on the character of the grassland present.*

KMA have assessed the areas of native grassland in this part of South Tralee in relation to the NSW *Threatened Species Conservation Act 1995*, *Native Vegetation Act 2003* and the Commonwealth’s *Environmental Protection and Biodiversity Conservation Act 1996* and state that they are not matters of environmental significance. However, the applicant has amended the urban concept design to avoid impacts to the grassland by relocating an overland flow basin and slight change to a road alignment. There are now no infrastructure works proposed in the areas of native grassland in the deferred land known as “Area 1” or the E2 triangle. There remains a section of road proposed to encroach over the boundary between the R1 zoned land and the E2 triangle, however, there are no identified environmental constraints posed to permitting this encroachment and it is permissible under the LEP. The applicant’s precautionary approach to the protection of native grassland in this part of South Tralee is supported. The applicant now also proposes to “gift” this land to Council for use as parkland. This will be subject to separate negotiations and any consent to this DA does not constitute Council’s acceptance of this “gift”.

In summary, it is considered that the concerns of the OEH in relation to road works and infrastructure in the deferred lands (“Area 1”) and northern triangular portion of E2 zoned land have been satisfactorily addressed by the applicant. The OEH’s recommendation that tree planting in the area of deferred land characterised by wetland grasses is inappropriate is noted and the detailed landscaping of this area will need to take this into account. A condition is recommended to this effect.

Section 5A Assessment

The above detailed overview of the potential ecological and biodiversity impacts of the proposed development informs the assessment of this DA against the specific requirements of

Section 5A - Significant effect on threatened species, populations or ecological communities, or their habitats of the *Environmental Planning and Assessment Act 1979*.

When deciding whether there is likely to be a significant effect on threatened species, populations or ecological communities, or their habitats, each of the factors listed below must be taken into account, as well as any assessment guidelines. The 'Threatened Species Assessment Guidelines' published by the NSW government are the relevant guide.

- a) *in the case of a threatened species, whether the action proposed is likely to have an adverse effect on the life cycle of the species such that a viable local population of the species is likely to be placed at risk of extinction;*

The proposed development of South Tralee as shown in the urban concept plan is not likely to have an adverse impact on the life cycle of a viable local population of vulnerable or threatened species. Known habitat for vulnerable and threatened species is conserved in the large portion of the site zoned E2 – Environmental Conservation. Any future works in this land for passive recreation, maintenance of vehicle access tracks or a high zone water reservoir will be subject to additional assessment in separate applications and can be designed to avoid habitat.

- b) *in the case of an endangered population, whether the action proposed is likely to have an adverse effect on the life cycle of the species that constitutes the endangered population such that a viable local population of the species is likely to be placed at risk of extinction;*

There are no endangered populations known to exist on the site.

- c) *in the case of an endangered ecological community or critically endangered ecological community, whether the action proposed;*
 - i) *is likely to have an adverse effect on the extent of the ecological community such that its local occurrence is likely to be placed at risk of extinction, or*
 - ii) *is likely to substantially and adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of extinction;*

The areas of the site that meet the criteria for Box-Gum Woodland or Natural Temperate Grassland are located within the large southern section of E2 – Environmental Conservation zoned land. Any works in this land for passive recreation, maintenance of vehicle access tracks et cetera can be designed to avoid impacts to endangered ecological communities. The applicant's consultant recommends that an ecologist should assist with any detailed designs (condition recommended).

With the careful consideration of any future embellishments and the implementation of a detailed management plan it is considered that the proposed development is not likely to have an adverse effect or substantially modify the endangered ecological community so as to risk the local occurrence's extinction.

- d) *in relation to the habitat of a threatened species, population or ecological community;*
 - i) *the extent to which habitat is likely to be removed or modified as a result of the action proposed,*

- ii) *whether an area of habitat is likely to become fragmented or isolated from other areas of habitat as a result of the proposed action, and*
- iii) *the importance of the habitat to be removed, modified, fragmented or isolated to the long-term survival of the species, population or ecological community in the locality;*

During the course of the assessment of this DA there has been some doubt as to whether a portion of land in the R1 zone characterised by a clump of trees, incised gully and rocky tor may constitute habitat for the Pink-Tailed Worm Lizard. However, based on the ecological surveys carried out for the rezoning process, the uncertainty as to the exact location of an observation of this species referenced in the Wildlife Atlas, and the applicant's ecological consultant's assessment of this land, it cannot be claimed with any certainty that this land is habitat for the Pink-Tailed Worm Lizard. Therefore, it is correct to state that no known habitat for any threatened species, population or ecological community exists within the land at South Tralee other than within the land zoned E2 – Environmental Conservation.

Any future works in the E2 land for passive recreation, maintenance of vehicle access tracks or a high zone water reservoir will be subject to additional assessment in separate applications and can be designed to avoid habitat.

e) whether the action proposed is likely to have an adverse effect on critical habitat (either directly or indirectly);

The subject land does not contain any registered critical habitat.

f) whether the action proposed is consistent with the objectives or actions of a recovery plan or threat abatement plan; and

The National Recovery Plan for the White Box - Yellow Box - Blakely's Red Gum Grassy Woodland and Derived Native Grassland (2010) is relevant to the site, which contains Box-Gum Woodland and Natural Temperate Grassland within the large southern section of E2 – Environmental Conservation zoned land. There are no relevant threat abatement plans. The objective of the Recovery Plan is to promote the recovery and minimise the risk of extinction of the ecological community through:

- *Achieving no net loss in extent and condition of the ecological community throughout its geographic distribution;*
- *Increasing protection of sites in good condition;*
- *Increasing landscape function of the ecological community through management and restoration of degraded sites;*
- *Increasing transitional areas around remnants and linkages between remnants; and*
- *Bringing about enduring changes in participating land manager attitudes and behaviours towards environmental protection and sustainable land management practices to increase extent, integrity and function of Box-Gum Grassy Woodland.*

The proposed development of South Tralee is considered to be consistent with the aims of the Recovery Plan. Areas of the site that meet the criteria for Box-Gum Woodland or

Natural Temperate Grassland are located within the large southern section of E2 – Environmental Conservation zoned land which will be subject to minimal disturbance from works associated with the development. The development of an on-going management plan for this land and its potential to be transferred into public ownership will assist in increasing protection of sites in good condition and increasing the landscape function through management and possible restoration of degraded sites.

g) whether the action proposed constitutes or is part of a key threatening process or is likely to result in the operation of, or increase the impact of, a key threatening process.

A key threatening process is a process listed under the *Threatened Species Conservation Act 1995* which threatens, or may have the capability of threatening, the survival or evolutionary development of a species, population or ecological community.

Key threatening processes as identified in the *Threatened Species Conservation Act 1995* that may form a part of the actions proposed to facilitate the development of South Tralee as outlined in this concept DA are:

- The clearing of native vegetation;
- Removal of bush rock;
- Removal of dead wood and dead trees; and
- Loss and degradation of native plant and animal habitat by invasion of escaped garden plants.

The site is largely clear of dead wood and dead trees but does contain rocky outcrops. The type of native vegetation and the amount that will be cleared, and the amount of dead wood, dead trees and bushrock that will be removed to facilitate the development of South Tralee is not significant in that it will not threaten, or have the capability of threatening, the survival or evolutionary development of a species, population or ecological community.

The development of South Tralee as an urban area, particularly the creation of residential allotments that will adjoin areas of high conservation value, over time risks the escape of invasive garden plants into the E2 zoned lands and impacting on the Box Gum Woodland and Natural Temperate Grassland. The interface between the land in South Tralee zoned for residential development and the conservation lands will be an important consideration in future Stage DAs that include subdivision works and the creation of residential lots. It may be that the density of residential development in the vicinity of this interface will need to be lower than what is numerically permitted in the LEP. Nonetheless, it is considered that with careful ongoing management of the E2 land and appropriate levels of residential subdivision at the interface of this land, this key threatening process will not threaten, or have the capability of threatening, the survival or evolutionary development of a species, population or ecological community.

Summary

In summary, the proposed development of South Tralee is not likely to have a significant effect on any threatened species, populations or communities listed under the *Threatened Species Conservation Act 1995*, or their habitats, and the preparation of a Species Impact Statement (SIS) is not required.

Section 79C – Evaluation

Clause 1 – Matters for consideration—general

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) The provisions of:*
 - (i) Any environmental planning instrument, and*
 - (ii) Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) Any development control plan, and*
 - (iiia) Any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and*
 - (iv) The regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*
 - (v) Any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates,*
- (b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) The suitability of the site for the development,*
- (d) Any submissions made in accordance with this Act or the regulations,*
- (e) The public interest.*

Clause (1)(a)(i) – Any Environmental Planning Instrument

The following environmental planning instruments have been considered in the planning assessment of this DA:

- a) State Environmental Planning Policy No 55 – Remediation of Land.
- b) State Environmental Planning Policy (Infrastructure) 2007.
- c) State Environmental Planning Policy (State and Regional Development) 2011.
- d) State Environmental Planning Policy (Rural Lands) 2008
- e) Queanbeyan Local Environmental Plan (South Tralee) 2012 (as amended).
- f) Queanbeyan Local Environmental Plan 1998 (as amended).

The following State Environmental Planning Policies **do not** apply to the proposed development:

- State Environmental Planning Policy No 1—Development Standards
- State Environmental Planning Policy No 14—Coastal Wetlands
- State Environmental Planning Policy No 15—Rural Landsharing Communities
- State Environmental Planning Policy No 19—Bushland in Urban Areas
- State Environmental Planning Policy No 21—Caravan Parks
- State Environmental Planning Policy No 26—Littoral Rainforests
- State Environmental Planning Policy No 29—Western Sydney Recreation Area
- State Environmental Planning Policy No 30—Intensive Agriculture
- State Environmental Planning Policy No 32—Urban Consolidation (Redevelopment of Urban Land)
- State Environmental Planning Policy No 33—Hazardous and Offensive Development
- State Environmental Planning Policy No 36—Manufactured Home Estates
- State Environmental Planning Policy No 39—Spit Island Bird Habitat
- State Environmental Planning Policy No 44—Koala Habitat Protection
- State Environmental Planning Policy No 47—Moore Park Showground
- State Environmental Planning Policy No 50—Canal Estate Development
- State Environmental Planning Policy No 52—Farm Dams and Other Works in Land and Water Management Plan Areas
- State Environmental Planning Policy No 59—Central Western Sydney Regional Open Space and Residential
- State Environmental Planning Policy No 62—Sustainable Aquaculture
- State Environmental Planning Policy No 64—Advertising and Signage
- State Environmental Planning Policy No 65—Design Quality of Residential Flat Development
- State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes)
- State Environmental Planning Policy No 71—Coastal Protection
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
- State Environmental Planning Policy (Kosciuszko National Park—Alpine Resorts) 2007
- State Environmental Planning Policy (Kurnell Peninsula) 1989
- State Environmental Planning Policy (Major Development) 2005
- State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007
- State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007

- State Environmental Planning Policy (Penrith Lakes Scheme) 1989
- State Environmental Planning Policy (SEPP 53 Transitional Provisions) 2011
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
- State Environmental Planning Policy (Sydney Region Growth Centres) 2006
- State Environmental Planning Policy (Three Ports) 2013
- State Environmental Planning Policy (Urban Renewal) 2010
- State Environmental Planning Policy (Western Sydney Employment Area) 2009
- State Environmental Planning Policy (Western Sydney Parklands) 2009

State Environmental Planning Policy No 55 – Remediation of Land

The objectives of this Policy are summarised as follows:

1. To provide for a state wide planning approach to the remediation of contaminated land; and
2. To promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

Pursuant to *Clause 7 - Contamination and remediation to be considered in determining development application*, the consent authority must consider:

- a) Whether the land is contaminated; and
- b) If the land is contaminated, whether it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the proposed use.

Given the use of South Tralee will be predominantly for residential development a Stage 1 Preliminary Site Assessment was required to determine if the site was impacted by any contaminants introduced as a result of its previous uses. As part of the development application Council received *Site Contamination Summary Report – South Tralee Development Site* dated December 2013 and prepared by SMEC (Ref: Revision No.3).

The conclusion of the Report indicates that there are seven potential areas of environmental concern (AEC's). These relate to:

1. Borrow pits;
2. A hard rock quarry;
3. The homestead and surrounding buildings;
4. The wool shed and stockyards;
5. A sheep dip;
6. An aircraft hanger; and
7. Areas of disturbed soil.

AEC's 1, 2, 4, 6 and 7 were considered to have limited potential contamination and with the implementation of a management plan and minor remediation prior to the construction phase are not likely to present a significant constraint to development on the site.

AEC 3 identified concerns around asbestos and lead based paints and while further investigation has been recommended they are not issues considered likely to present a significant constraint to the development.

Similarly, AEC 5 identified arsenic and deildrin in soil samples and will require additional investigation. The consultant concludes that they are not issues considered likely to present a significant constraint to the development.

The recommendation to the report indicates that *a detailed environmental investigation to characterise the nature and extent of contamination associated within these areas of environmental concern* should be prepared. Further it is recommended that this detailed study be prepared and submitted at the time of each of the relevant staged development applications.

Environmental Health Officer's Comments - After reviewing the documentation and the results I see no reason for Council to doubt the veracity of the consultant's conclusion.

The detailed environmental studies proposed are consistent with a Stage 2 Detailed Investigation as provided for in the NSW Office of Environment and Heritage's (OEH) *Guidelines for Consultants Reporting on Contaminated Sites*. I concur that these Stage 2 investigations should be carried out and submitted at the time the staged DA's are lodged. The study could be done for all AEC's or only those relevant to each stage of the development. Further, the nature and extent of the contamination and the sensitive nature of the final landuse warrants the appointment of a Site Auditor. Accredited site auditors can be engaged to independently review reports on assessment, remediation and validation actions to ensure that the methodology used by consultants and their interpretation of data are consistent with current OEH regulations and guidelines.

The Managing Land Contamination: Planning Guidelines - SEPP55 - Remediation of Land (Department of Urban Affairs and Planning and DECC 1998) specifies that planning authorities may require an accredited site auditor to be engaged when the planning authority:

1. Believes on reasonable grounds that the information provided by the proponent is incomplete or incorrect;
2. Wishes to verify that the information provided by the proponent adheres to appropriate standards, procedures and guidelines; or
3. Does not have the internal resources to conduct its own technical review.

I am satisfied that requisites b) and c) have been met in this case and warrant the appointment of a site auditor. Site auditors are able to provide increased certainty to planning authorities about the nature and extent of contamination and the suitability of a site for a specified use. Where requested, site auditors can also provide conclusions about the suitability of a site for a proposed land use.

Given the above and the fact that this application is for concept only I am satisfied that none of the issues raised present a significant constraint to development at this stage. Therefore, with the imposition of recommended conditions, I am satisfied that Council has met its obligations under Clause 7 of SEPP 55 in relation to this application.

State Environmental Planning Policy (Infrastructure) 2007

This Policy provides a planning regime the provision of services and infrastructure in NSW, outlines requirements for consent authorities to consult with relevant public authorities during the assessment of development applications, and outlines provisions for various types of exempt and complying development.

Clauses of the Policy relevant to this DA are:

- Clause 85 – Development immediately adjacent to rail corridors;
- Clause 87 – Impact of rail noise or vibration on non-rail development; and
- Clause 104 – Traffic generating development.

Rail Corridors

The north-western boundary of the subject site adjoins the currently disused Goulburn-Bombala railway corridor. The corridor separates the site from the Hume industrial area in the ACT. Although the railway is currently disused, it could be reactivated in the future and therefore should be considered as a potential constraint to development. The rail corridor is zoned SP2 – Infrastructure (Railway) under the South Tralee LEP. The land use zones in South Tralee are such that the majority of residential and other sensitive land uses will be setback at least 200m from the rail corridor, outside of the Visual and Acoustic Buffer Land identified on the Local Clause Map of the South Tralee LEP. Noise abatement measures will likely be required for the use of land in the Visual and Acoustic Buffer, particularly for more sensitive uses. Noise abatement measures could involve the erection of acoustic mounds and fencing and treatments to the built form.

Land use zones immediately adjacent to the corridor include: RE2 – Private Recreation and B1 – Neighbourhood Centre. A wide variety of land uses are permitted in these zones. Furthermore, an Additional Development Area in the southern portion of the RE2 zone permits development for the purposes of food and drink premises, hotel or motel accommodation, office premises and service stations with development consent.

Pursuant to Clause 85 of the Policy the development application was referred to John Holland Rail (JHR) as the rail authority requiring notification of development that may have an adverse effect on rail safety. Pursuant to sub-clause 85 (2)(b) before determining the development application the consent authority must take into consideration:

1. Any response to the notice; and
2. Any guidelines that are issued by the Director-General for the purposes of this clause and published in the Gazette.

JHR requested that Council consider Clause 87 of the Policy and *Development Near Rail Corridors and Busy Roads — Interim Guideline (2008)* in its assessment of the application. Specifically JHR requested Council to consider noise and vibration, fencing and storm water issues as outlined in detail below.

1. Noise and Vibration:
 - a) Council should ensure that development near the rail corridor includes building lots that are large enough to enable dwellings to be located so that they cannot be affected by rail related noise and vibration; and
 - b) Council may wish to consider the imposition of a Section 88B Instrument (s88B) which stipulates a building envelope and/or notes that the property may be affected by rail noise and vibration, and that noise mitigation measures may be

required in building construction. This can ensure future occupants are aware of the potential noise issues, and aware of required construction in the future.

Comment – The recommendations above will need to be taken into account during the assessment of subsequent stages of the staged development of South Tralee.

For this concept DA it is appropriate to consider the suitability of the specific land uses indicated on the submitted Master Plan as being in the Visual and Acoustic Buffer Land, i.e., within 200m of the rail corridor. As well as broadly identifying areas within that correlate with the land use zones, such as “Neighbourhood Centre Superlot”, the Master Plan also specifically identifies an area of land for a “multi-purpose centre” and a child care centre.

Clause 87 of the Policy requires the consent authority to consider the *Development Near Rail Corridors and Busy Roads — Interim Guideline (2008)* when certain land uses, including a child-care centre, are proposed adjacent to a rail corridor. The *Interim Guideline* contains a large amount of detailed advice for the assessment of specific built form as well as more strategic guiding principles.

The area shown on the submitted Master Plan to be used for a child care centre is located >100m from the rail corridor. The multi-purpose centre location is adjacent to the child care centre location. This centre will likely be used for community purposes, in accordance with the South Jerrabomberra Structure Plan 2013 and subject to current Voluntary Planning Agreement negotiations. While there will likely be demand for a child care centre at South Tralee, it is not specifically identified as a main piece of community infrastructure required for the first stage of the development of South Jerrabomberra.

A noise report prepared for the Local Environmental Study (LES) for the rezoning of South Tralee, *South Tralee Supplementary Report to LES – Acoustic Review*, included a prediction of potential noise levels from a reactivated rail corridor. It recommended that a rail noise and vibration assessment be undertaken for noise sensitive uses within the Visual and Acoustic Buffer Land, but only those located within 40m – 60m of the rail corridor. The *Interim Guideline* states that child care centres should be located a sufficient distance from rail corridors to avoid adverse noise impacts.

With careful consideration of the future subdivision of land and the specific design of sensitive land uses such as child care centres, it may well be that adverse noise impacts from the rail corridor (if it is reactivated) can be satisfactorily addressed. However, at this conceptual stage in the process for the development of South Tralee there is not enough detailed information to allow for the proper consideration of whether specific land uses, especially a sensitive one like a child care centre, should be located broadly within the Visual and Acoustic Buffer Land and specifically in proximity to the rail corridor. Any future application for the development of a sensitive land use will be the subject of detailed acoustic investigations. Therefore, it is considered warranted at this conceptual stage to amend the submitted plans to label this area as a generic super-lot. (Refer to related discussion relating to the Visual and Acoustic Buffer Land later in this Report under clause 7.4 of the South Tralee LEP).

2. Fencing:

- a) The security of fencing along the rail corridor is essential to prevent unauthorised entry. JHR requests that Council impose a condition on any consent requiring a 1.8m chain wire fence or similar to prevent access, if relevant.

Comment – This recommendation will need to be taken into account during the assessment of subsequent stages of the staged development of South Tralee and during the assessment of future development applications for built form. Unauthorised access to the rail corridor will

need to be prevented during subdivision works and on a more permanent basis as specific land uses and built form develop. It is considered that a condition should be imposed to the development consent (should it be granted) requiring details about the fencing of the rail corridor to be shown on subsequent staged DAs. Subsequent staged applications that do involve works and/or subdivision will also be referred to the rail authority and subject to the Infrastructure SEPP, allowing for any other appropriate conditions to be imposed as required.

3. Storm Water:

- a) It is requested that Council ensure that no additional stormwater flows toward the rail corridor.

Comment – Council’s Senior Engineer – Development, advises that the stormwater concept is designed to detain post development flows within the site so that discharge across the railway line and into the ACT is kept to pre-development flow rates at existing discharge locations.

Traffic Generating Development

Pursuant to Clause 104 of the Policy the development application was referred to NSW Roads and Maritime Services (RMS) as traffic generating development requiring notification to the RMS. Pursuant to sub-clause 104 (3), before determining the development application the consent authority must take into consideration:

1. *Any submission that the RMS provides in response to the notification;*

The RMS’s response relates to the separate development application for the Northern Entry Road to provide access to South Tralee as well as this DA, in particular, the external road linkages to South Tralee from Jerrabomberra and into the ACT and how they will be funded. Since the RMS response was received in February 2014 there has been significant progress in resolving traffic issues relating to both the Northern Entry Road and this DA.

Council’s Senior Engineer – Development has reviewed the RMS response and provides the following comments, including an overview of the how the provision of external road linkages has progressed since the date of the RMS’s comments.

- Council recently approved the concept DA for the Northern Entry Road (175-2013) linking the future South Jerrabomberra development areas to Tomsitt Drive in Jerrabomberra. The assessment report for that DA noted the submission of a traffic report (ARUP 2013) that aimed to identify future traffic generation from the future developments within South Jerrabomberra and thereby determine traffic volumes on the proposed Northern Entry Road and impacts on the existing road network. Council’s adopted ‘Googong and Tralee Traffic Study’ (2031) was referenced, together with traffic data sourced from Roads ACT.
- Council engaged TDG (formerly Gabites Porter) to review the ‘Googong and Tralee Traffic Study’ (2031) with reference to the revised lot yields at South Jerrabomberra and the traffic reports and information submitted for the Northern Entry Road DA and the subject urban concept DA for South Tralee. The draft TDG report was received by Council in July 2014 and was reviewed. The following observations / comments were made by TDG on the ARUP (2013) report and the ‘Googong and Tralee Traffic Study’ (2031): –
 - Both the reports provided similar outputs in regard to current traffic issues and traffic impacts of development at South Jerrabomberra;

- At the assumed development rate of 150 lots per annum both reports concluded that the Northern Entry Road has capacity to provide Level of Service (LOS) D or better for a number of years as a one lane each way road, with the TDG report indicating until 2026;
 - However, the Tompsitt Drive intersections with the Northern Entry Road, Lanyon Drive and Edwin Land Parkway begin to fail in the short term (all by 2022), hence requiring upgrades;
 - From 2026 either the Northern Entry Road will require duplication, or an additional link road to the ACT is required;
 - Sheppard Street (ACT) is recognised by Council as the more favourable second link, but this is not supported by ACT;
 - A Dunn's Creek Road link to Isabella Drive (ACT) will also provide a suitable second link, but the TDG report indicates possible duplication of the Northern Entry Road in 2031;
 - Construction of both the above links will provide the most benefit to the existing road network and the developments at South Jerrabomberra;
 - The Monaro Highway (ACT) is operating at LOS F in the p.m. peak at present day and therefore requires additional lanes to increase capacity, irrespective of the additional traffic generated from South Jerrabomberra; and
 - The ARUP (2013) report assumed South Tralee will be fully developed before any other land in South Jerrabomberra commences development and the TDG modelling has used the same modelling approach. This is noted as not necessarily to be the case.
- Access to and from South Jerrabomberra should not be only a question of road link/intersection capacity. It is desirable that at least two access routes are available to provide for emergency access, to provide an alternative route in times of road blockage (accident, chemical spill, felled tree et cetera), to provide convenient travel paths and connectivity to anticipated travel destinations. For these reasons a second access point needs to be established within an appropriate time period. It is appropriate that the second link is made available prior to LOS E on roads or intersections being reached (other than where an improvement is required irrespective of there being a second link).
 - The intended Voluntary Planning Agreement (VPA) should describe the mechanisms for ensuring design and construction of the identified road improvements is undertaken as appropriate to the level of development in South Jerrabomberra.
 - The construction of the Northern Entry Road will benefit other developments in South Jerrabomberra and the developer of South Tralee is seeking to enter into a VPA for the South Tralee development that in part will specify the scope and quantum of works to be undertaken and provide for recoupment of funds from other developers via a S94 contributions plan. Dunns Creek Road and Road 1 in the concept subdivision will also need to be included in the scope of works as these roads are likewise subject to use by other developments. This is supported in principle but will require the finalisation of the alignment of the future second access road's corridor (both within South Jerrabomberra and within ACT) and cost estimates of the access

roads and intersection improvements to be completed in order to complete the VPA. Conditions pertaining to this will need to be placed on the concept subdivision DA, with completion of the VPA in place prior to issue of the Stage 1 DA.

- The RMS has responded to the concept DA plan as originally lodged with concerns in respect to the need to obtain ACT agreement to a link to the west and for additional modelling to be done of road link and intersection capacity. It is appropriate that the developer be advised of the need to refine the link road designs and gain RMS & ACT government approval of the link into Hume as part of the concept DA approval, with such approvals to be obtained prior to release of the Stage 1 DA (conditions to this effect required). Note: these decisions will also impact on the negotiations between the NSW and ACT governments when determining the contributions for the State's satisfactory arrangements.

2. *The accessibility of the site concerned, including:*

- a) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
- b) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*

3. *Any potential traffic safety, road congestion or parking implications of the development.*

Council's Senior Engineer – Development has assessed the proposed development in relation to the above considerations and provides the following comments:

- As previously outlined the proposed concept development of South Tralee and the approved concept for the Northern Entry Road provides for efficient movement of traffic and allows for future additional external road linkages and duplication required to prevent congestions and intersection failure subject to further negotiations with Council, the ACT Government and adjoining land owners. Any traffic safety and parking implications will be considered in detail during subsequent Stage DAs.

State Environmental Planning Policy (State and Regional Development) 2011

This Policy identifies development for which Joint Regional Planning Panels (JRPPs) are to exercise specified consent authority functions.

The capital investment value (CIV) of the proposed development is \$53.74 million (>\$20 million). Clause 20 of this Policy references Schedule 4A of the *Environmental Planning and Assessment Act 1979*, which states that where the capital investment value of the development exceeds \$20 million and the proposed development must be determined by the Joint Regional Planning Panel – Southern.

State Environmental Planning Policy (Rural Lands) 2008

This Policy aims to facilitate the orderly and economic use and development of rural lands for rural and related purposes and identifies Rural Planning and Subdivision Principles so as to assist in the proper management, development and protection of rural lands for the purpose of promoting the social, economic and environmental welfare of the State.

There are some sections of the site along the eastern boundary that are zoned 1 (a) Rural A under the Queanbeyan LEP 1998. These correlate with existing public road reserves and land deferred from the South Tralee rezoning process due to aircraft noise considerations and environmental constraints (see previous discussion of “Area 1”). The 1 (a) Rural A zone is equivalent to a rural zone as identified in the Policy, therefore it is applicable.

This concept DA shows that the land zoned 1 (a) Rural A will be used for: roads and associated infrastructure; a detention basin and open space. No conceptual subdivision of this land is indicated.

Part 2 - Rural Planning Principles

The Rural Planning Principles are focussed on the protection of rural lands, natural resources and promoting appropriate opportunities for rural housing and lifestyle. The parts of the site zoned 1 (a) Rural A are either: existing public road reserves that will form part of the development's public road system; originally recommended to be rezoned for general residential development; or were deferred from residential rezoning due to environmental factors that have been satisfactorily addressed previously in this Report. They also constitute a very small percentage of the development site and are not viable for stand-alone rural purposes. Therefore, it is not reasonable or a desirable planning outcome for the development of South Tralee to be consistent with the Rural Planning Principles.

Part 3 - Rural subdivisions and dwellings

This DA does not indicate the conceptual subdivision of the land zoned 1 (a) Rural A and, as such, the provisions of this Part are not relevant. Any future Stage DAs that do include subdivision will be subject to this Part.

Part 4 - State significant agricultural land

The site is not identified as being State significant agricultural land.

Queanbeyan Local Environmental Plan (South Tralee) 2012

The Queanbeyan Local Environmental Plan (South Tralee) 2012 (the South Tralee LEP) was gazetted on 9 November 2012. The South Tralee LEP applies to a large part of the subject site, specifically the areas identified in black outline in Figure 11 below.

Figure 11 - Land to which Queanbeyan LEP (South Tralee) 2012 Applies



Queanbeyan Local Environmental Plan (South Tralee) 2012 (cont)

Part 1 – Preliminary

Clause 1.2 – Aims of the Plan

The particular aims of the plan are as follows:

- (a) to rezone certain land at South Tralee to achieve an economically, environmentally and socially sustainable urban development,*
- (b) to facilitate the orderly growth of the South Tralee urban release area in a staged manner that promotes a high level of residential amenity and the timely provision of physical and social infrastructure, through appropriate phasing of the development of land,*
- (c) to identify, protect and manage environmentally and culturally sensitive areas within South Tralee,*
- (d) to provide appropriate residential densities and a range of housing opportunities consistent with the environmental capacity of the land,*
- (e) to create a diverse town centre that caters for the retail, commercial, and service needs of the local community,*
- (f) to ensure development has regard to the principles of ecologically sustainable development.*

The proposed development is considered to be generally consistent with the particular aims of the LEP, except for aims (c) and (d), in regards to the part of the proposed development identified as Stage 2 that involves the modification of an environmentally sensitive area and prominent landscape features through extensive earthworks and the piping and filling of a steeply incised gully.

As will become clear during the discussion of this issue in detail later in the assessment under this LEP, based on the information submitted with this DA and an inspection of the site, the Stage 2 part of the this concept DA does not satisfy the aims to protect and manage environmentally sensitive areas within South Tralee, and to provide appropriate residential densities consistent with the environmental capacity of the land.

Clause 1.4 – Definitions

The proposed conceptual development includes the following land uses as defined in the LEP's dictionary:

- Child care centre;
- Commercial premises (neighbourhood centre)
- Community facility (multi-purpose centre);
- Drainage;
- Earthworks;
- Educational establishment (primary school);
- Environmental facilities;
- Public utility infrastructure;
- Recreation area; and
- Roads.

Other identified super lot areas are consistent with the land use zoning map and the Additional Development Area.

Note: The proposed development is also defined as the conceptual subdivision of land. Refer to clause 2.6 later in this Report.

Clause 1.6 – Consent authority

As provided for under Schedule 4A of the *Environmental Planning and Assessment Act 1979*, the Joint Regional Planning Panel is the consent authority for the purposes of the LEP.

Clause 1.9A – Suspension of covenants, agreements and instruments

The proposed development does not require the suspension of any covenants as specified.

Queanbeyan Local Environmental Plan (South Tralee) 2012 (cont)

Part 2 – Permitted or prohibited development and Land Use Table

Clause 2.1 – Land use zones and Clause 2.3 – Zoning of land to which Plan applies

The applicable zones as listed in Clause 2.1 and identified on the Land Zoning Map referred to in Clause 2.2 are:

- R1 - General Residential;
- RE2 - Private Recreation;
- E2 – Environmental Conservation;
- B1 – Neighbourhood Centre; and
- B4 – Mixed Use.

Clause 2.3 requires the consent authority to have regard to the objectives of the zone when determining a development application. The objectives of each applicable land use zone are listed below as well as a discussion of permitted land uses.

R1 – General Residential

- a) *To provide for the housing needs of the community.*
- b) *To provide for a variety of housing types and densities.*
- c) *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- d) *To ensure that buildings with non-residential uses have a bulk and scale that is compatible with the zone's predominantly residential character.*
- e) *To promote walkable neighbourhoods and a sense of community.*
- f) *To ensure that where possible, development maintains existing bushland.*
- g) *To encourage medium to high density housing located in close proximity to the town and village centres.*

A large portion of the South Tralee urban release area is currently zoned R1. It is a zone that is suitable to be applied in urban release areas as its objectives and permissible land uses are very broad. Over time, as South Tralee is developed, a wider variety of residential land use zones may be introduced as deemed necessary under future reviews of the LEP.

The proposed conceptual development is considered to be generally consistent with the objectives of the R1 zone, although, if the concept design for Stage 2 were to be re-designed to be more sensitive to the natural landscape, it would likely result in the retention of some existing bushland, particularly a clump of native trees.

Permitted Land Uses

The predominant use of the R1 zoned land as identified in the proposed Master Plan is for residential accommodation of varying densities. A potential primary school shown in the R1 zoned land is permitted with consent as an 'educational establishment under the Infrastructure SEPP 2007.

RE2 – Private Recreation

- a) *To enable land to be used for private open space or recreational purposes.*
- b) *To provide a range of recreational settings and activities and compatible land uses.*
- c) *To protect and enhance the natural environment for recreational purposes.*

The RE2 zone covers a 200m wide strip of land that runs parallel to the site's border with the railway corridor, the ACT and Hume Industrial Estate. It correlates with the Visual and Acoustic Buffer Land identified on the Local Clauses Map.

The proposed conceptual development is considered to be generally consistent with the objectives of the RE2 zone. The submitted Master Plan identifies the RE2 zoned land as being used for open space passive recreation, private recreation superlots, and an 'Additional Development' superlot. As previously discussed the submitted Master Plan also identifies two portions of land for use as a multi-purpose centre and child-care centre. It is inappropriate to give conceptual approval to these specific land uses within the Visual and Acoustic Buffer Land and the Master Plan and any other relevant plans will be amended in red to remove the reference to these two land uses.

The most recently submitted Master Plan and associated plans shows the provision of a basketball court in the RE2 zoned land, adjacent to the potential primary school site. The applicant had previously been requested to remove specific recreational structures such as tennis courts, skate parks and the like from the Master Plan as this type of development needs to be the subject of more detailed assessment in the relevant Stage DAs. Therefore, the basketball court will be crossed out in red on the Master Plan and where shown on any other plans.

Permitted Land Uses

The 'Additional Development Area' allows for such land uses as food and drink premises, offices and service stations, while the areas identified for private recreation may be used in the future for a wide variety of permissible land uses, subject to detailed assessment in future DAs.

E2 – Environmental Conservation

- a) *To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.*
- b) *To prevent development that could destroy, damage or otherwise have an adverse effect on those values.*
- c) *To protect threatened species, rivers, creeks and gully ecosystems within Queanbeyan.*
- d) *To identify and protect escarpment areas that enhance the visual amenity of Queanbeyan and possess special aesthetic or conservational value.*
- e) *To protect water quality by preventing inappropriate development within catchment areas.*

A large portion of the South Tralee urban release area is zoned E2, concentrated in the south-east area of the site. A relatively small triangular section of land to the north is also zoned E2. The E2 lands in the south are characterised largely by areas of native grassland, woodland and steeper land. The environmental values of the small triangular portion of E2 land are not significant while the southern lands have high environmental value.

The large area of the site's south-east E2 land is proposed to remain largely undeveloped, some potential embellishments for passive recreation such as walking tracks and the possible upgrading of existing vehicle tracks that provide access to adjoining properties are indicated. Any works in this part of the site will be subject to detailed assessment within the relevant Stage DA. The applicant is proposing to 'gift' the majority of the E2 zoned lands to Council for retention as a public reserve. This is the subject of negotiations separate to the assessment of this DA.

A high zone water reservoir and water pipes will likely be located within the E2 zone and will be subject to separate assessment under Part 5 of the *Environmental Planning and Assessment Act 1979*.

The proposed conceptual development is considered to be generally consistent with the objectives of the E2 zone, provided that conditions recommended earlier in this Report in relation to the management of potential impacts are implemented.

Permitted Land Uses

Roads and environmental facilities are permitted in the E2 zone with development consent. The potential embellishments for passive recreation are considered to meet the definition of environment facilities.

environmental facility means a building or place that provides for the recreational use or scientific study of natural systems, and includes walking tracks, seating, shelters, board walks, observation decks, bird hides or the like, and associated display structures.

B1 – Neighbourhood Centre

- a) *To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*
- b) *To provide the opportunity for small scale non-residential uses that will provide goods and services to meet the day-to-day needs of people who live and work in the surrounding neighbourhood.*
- c) *To provide for active retail, business or other non-residential uses at street level.*

The proposed conceptual development is considered to be generally consistent with the objectives of the B1 zone. The area of land zoned B1 is located within the Visual and Acoustic Buffer Land and The Master Plan identifies this land as being a Neighbourhood Centre superlot, bounded by a road on each side.

Permitted Land Uses

The Neighbourhood Centre may be developed in the future to contain a large variety of commercial, residential, recreational and community land uses subject to detailed assessment in future DAs.

B4 – Mixed Use

- a) *To provide a mixture of compatible land uses.*
- b) *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

The proposed conceptual development is considered to be generally consistent with the objectives of the B1 zone. This area of land adjoins the B1 zoned land and is partially within the Visual and Acoustic Buffer Land.

Permitted Land Uses

Similar to the Neighbourhood Centre, the Mixed Use area may be developed in the future to contain a large variety of commercial, residential (including multi-dwelling housing), recreational and community land uses subject to detailed assessment in future DAs.

Clause 2.5 – Additional permitted uses

Part of the subject land zoned RE2 – Private Recreation is included in Schedule 1 for additional permitted uses and identified as “Additional Development Area 1” on the Local Clauses Map. Development for the purposes of food and drink premises, hotel or motel accommodation, office premises, service stations and signage is permitted with development consent in this area. The submitted Master Plan shows a super lot for this additional development. It is anticipated that subsequent staged development applications will include the creation and further subdivision of this super lot and specifically permissible land uses.

Clause 2.6 - Subdivision

This clause states that the subdivision of land is permissible with development consent. This concept DA does not propose any actual subdivision of land, but indicates super lots and areas of land to be subdivided for residential development under subsequent staged development applications. These applications will be required to be consistent with the conceptual development consent (should it be granted).

Clause 2.7 – Demolition requires development consent

No demolition is proposed.

Clause 2.8 – Temporary use of land

No temporary use of the land is proposed.

Queanbeyan Local Environmental Plan (South Tralee) 2012 (cont)

Part 3 – Exempt and complying development

No exempt or complying development is proposed in this DA.

Part 4 – Principal development standards

Clause 4.1 – Minimum subdivision lot size

Although this concept DA does not include the actual subdivision of land, the future subdivision layout of South Tralee is represented broadly in numerous ways, including:

1. The proposed road configuration shows the length, breadth and orientation of future residential blocks;
2. The submitted ‘Lot Size Plan’ and ‘Lot Orientation Mix’ plan and reflect the proposed density of residential development through minimum lot sizes, and the orientation of residential lots;
3. The submitted ‘Master Plan’ shows the location of future superlots for specific and non-specific land uses; and
4. The submitted ‘Design Contours’ plan shows the proposed finished slopes of residential land in the steeper parts of South Tralee after the completion of earthworks associated with subdivision works.

Given the above, and because if this concept DA is approved subsequent staged DAs cannot be inconsistent with the approval, the objectives of this clause relating to the subdivision of land are relevant considerations in the assessment of this DA.

The objectives of this clause are as follows:

(a) to ensure that lots created are sensitive to land, heritage and environmental characteristics (including water quality, native fauna and flora and places or items of Aboriginal or European heritage value),

Generally, the conceptual subdivision design of South Tralee is sensitive to land, heritage and environmental characteristics, except for the land within Stage 2 in the southern part of the site zoned for residential development that is characterised by slopes of 10 to 25% with some patches of land having a slope of 25 – 35%. The exact nature of the landform in the steepest area was not fully realised by Council staff until a recent site inspection identified that a gully running diagonally from south-east to north-west across this land is deeply incised and characterised by rocky outcrops. A steeply sided rocky tor is located directly east of the gully line and is characterised by mature eucalypt trees. The gully is a significant drainage line that begins to flatten out as it crosses into adjoining land (Morrison) before it ends at the far south-west of the site (also in Stage 2). The gully and associated tor are important site constraints for the development of this part of South Tralee for residential allotments and associated roads and infrastructure - see Figure 12 below.

Figure 12 - Incised Gully in Stage 2



It is considered that the part of the proposed development identified as Stage 2 does not satisfy this objective in that it is not sensitive to the environmental characteristics of the land. It is proposed to fill the gully and pipe its stormwater flows, flatten the top and remove the trees in order to create suitable grades for the proposed subdivision layout. It is also proposed to pipe the stormwater flow of this gully down residential streets as a combination of piped drainage and overland flow. While this is accepted practice in residential areas where there are no natural drainage lines, Council's Senior Engineer – Development considers it to be inappropriate not to utilise the steeply incised natural drainage line as the major overland flow path.

The design of urban development should take into account the existing landform, aim to take advantage of and retain obvious natural features, minimise the alteration of significant natural landscape features, and create residential allotments that are not constrained by steep slopes or large depths of fill.

The current proposal will result in the following undesirable outcomes within Stage 2 of South Tralee:

1. Extensive cut and fill up to 5m in depth to achieve the required grades for roads and future residential allotments, particularly adjacent to the incised gully;
2. Residential lots being created with the geotechnical constraint of up to 5m of fill to accommodate in building designs. This will create a number of difficulties in construction dwellings in terms of the piling and retaining walls that will be required to stabilise any buildings as well as the site;
3. It is likely that the piping of the gully may result in large stormwater mains infrastructure being located within the yards of individual residential allotments, which is considered unsuitable in a Greenfield development site; and
4. Significant unnecessary alteration of natural landscape features.

The conceptual design of Stage 2 does not appear to have attempted to avoid adverse impacts to the existing characteristics of the land or considered incorporating the natural features into the design. It would appear that in preparing the concept design the applicant has focussed on the LEP zoning map while perhaps not fully taking into account that land use zone boundaries are necessarily based on large scale considerations. While this part of the site may be zoned R1 – General Residential and permit a minimum lot size of 600m², this does not mean that all of the land zoned as such is suitable for lots of this size, or that natural constraints and features of the land should not be taken into account and in some cases preserved.

At this point, it must be acknowledged that the Council staff assessing this DA did not realise the full extent of the impacts proposed to the land within Stage 2 until very late in the assessment process. Therefore, the applicant has not been afforded the opportunity to address Council's concerns or argue the merits of the design.

Council acknowledges that the amount of land at South Tralee originally earmarked for urban development was reduced by the NSW Government during the final stages of the rezoning process due to aircraft noise considerations. It is also acknowledged that a large area of South Tralee that was otherwise highly suitable for residential development was not able to be zoned as such due to proximity to the Hume Industrial Estate. Clearly, the South Tralee urban release area is a constrained site. It also will not yield the amount of residential allotments originally envisioned in the early stages of the rezoning process, thus putting pressure on the economic viability of the development. However, this does not negate the need for the proper consideration of environmental constraints and principles of subdivision design. It is appropriate for the Panel to be satisfied that the works identified in this concept DA as being required to facilitate the development of South Tralee are in accordance not only with the

objectives of this clause but with longstanding principles and objectives of good subdivision design as expressed in this LEP, Council's Development Control Plans and indeed, in the applicant's submitted Development Guidelines.

Land in Stage 2 contains obvious natural features that may not be appropriate for residential development or should be subject to a re-design that is more sympathetic to the natural features within Stage 2. Council is also open to the applicant making a case for the acceptance of the current design with the submission of additional information in support of it. While not every specific part of Stage 2 is considered to be problematic, the areas of concern cover a large enough portion of the land identified as Stage 2 to warrant this stage not being included in the development consent (should it be granted).

Council is mindful of not delaying the determination of the majority of this concept DA which can be supported at this late point in the assessment process. The applicant should also be afforded the opportunity to respond to Council's concerns about aspects of Stage 2. Should this aspect of this concept DA not be included in the development consent the lodgement and assessment of a DA for Stage 1 will be able to proceed with while the applicant and Council continue to negotiate a suitable outcome for the conceptual design of aspects of Stage 2. It is important to note that if a part of a DA is not approved pursuant to Section 80(4) of the *Environmental Planning and Assessment Act 1979*, it remains undetermined, i.e., not refused, and it is open to the consent authority to approve the remainder of the application at a later time.

(b) to ensure lots created do not adversely impact on the functions and safety of main roads,

The proposed development of the South Tralee urban release area as outlined in this concept DA will not adversely impact on the functions and safety of main roads – refer to assessment of traffic and roads elsewhere in this Report.

(c) to provide lots with areas and dimensions that enable the appropriate siting and construction of a building and associated works to minimise and avoid the threat of natural hazards (including bush fire, soil instability and flooding) and to protect significant vegetation and prominent or significant landscape qualities,

The proposed development of the South Tralee urban release area as outlined in this concept DA will generally allow for the creation in subsequent Stages of lots that are able to satisfy this objective. However, the proposed conceptual subdivision works in the part of Stage 2 containing the incised gully and steeply sided rocky tor do not protect this prominent landscape feature.

(d) to ensure that lots created allow for an adequate water supply, can be provided with effective means of disposal of domestic waste and be adequately serviced,

The proposed development of the South Tralee urban release area as outlined in this concept DA will allow for the creation in subsequent Stages of lots that are able to satisfy this objective – refer to assessment of the provision of infrastructure elsewhere in this Report.

(e) to create lots that are compatible with the existing predominant lot pattern or desired future character of the locality and to minimise likely adverse impacts on the amenity of adjoining developments.

The proposed development of the South Tralee urban release area as outlined in this concept DA is generally in accordance with the desired future character of the South Tralee urban release area as outlined in the LEP and relevant strategic planning policies. Adverse impacts on the amenity of adjoining development are not anticipated providing that appropriate conditions regarding the management of future subdivision and infrastructure works are imposed and adhered to.

Clause 4.1A - Exceptions to minimum subdivision lot size

This clause permits the subdivision of land within 200m of any land zoned B4 - Mixed Use to create lots with a minimum size of 170m². The submitted conceptual Lot Size Plan identifies land within 200m of the B4 zoned land as having a minimum lot size of 170m². Subsequent staged applications that involve the subdivision of land will be subject to Clauses 4.1 and 4.1A.

Note: The applicant should be aware that any future proposal for the subdivision of land must also meet the objectives of Clause 4.1 and 4.1A. Complying with the minimum lot size does not mean that the consent authority cannot refuse an application for subdivision if it does not have merit. Indeed, given that the applicant has pre-sold numerous lots it is considered warranted to bring this further to their attention via an advisory note attached to the consent (if granted).

Clause 4.3 Height of buildings and Clause 4.4– Floor space ratio

The proposed development does not involve the erection of any buildings, therefore, these two clauses do not apply.

Clause 4.6 – Exceptions to development standards

The proposed development does not involve any exceptions to development standards.

Queanbeyan Local Environmental Plan (South Tralee) 2012 (cont)

Part 5 – Miscellaneous provisions

Clause 5.1 - Relevant acquisition authority

The land is not subject to acquisition.

Clause 5.2 - Classification and reclassification of public land

The land is not public land that is proposed to be classified or reclassified.

Clause 5.3 - Development near zone boundaries

The objective of this clause is to provide flexibility where the investigation of a site and its surroundings reveal that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone. This clause applies to any land that is within 20m of a boundary between any two zones.

The originally submitted proposal included an application to make use of this clause to allow for residential development permitted in the R1 – General Residential zone to extend by 20m into the adjoining strip of RE2 - Private Recreation zone. This would also mean that residential development and part of an area identified as a possible primary school site would encroach into the Visual and Acoustic Buffer Land.

Pursuant to subclause (4) Council needed to be satisfied that this part of the proposed development was not inconsistent with the objectives for development in both zones, and that it was desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.

After giving the proposal due consideration Council advised the applicant that it did not support it for the following reasons:

1. The proposal does not result in a more logical and appropriate development, nor is it compatible with the land use planning principles that underpin the Visual and Acoustic Buffer Land to shield residential and other sensitive land uses from negative impacts from the Hume industrial area and rail corridor. The R1 and RE2 zoned boundary directly correlates with the Visual and Acoustic Buffer Land boundary to ensure that more sensitive land uses would generally not be located within the buffer; and
2. The use of RE2 – Private Recreation zoned land for low and medium density residential development, and effectively reducing the amount of open space and recreational opportunities within South Tralee, is incompatible with the zone objectives to: enable land to be used for private open space and recreational purposes; enable a range of recreational settings and activities; and protect and enhance the natural environment for recreational purposes.

The applicant subsequently amended the proposed development to remove the 20m encroachment of residential development into RE2 zoned land.

Clause 5.4 - Controls relating to miscellaneous permissible uses

No miscellaneous permissible uses are proposed.

Clause 5.8 - Conversion of fire alarms

The conversion of fire alarms is not proposed.

Clause 5.9 - Preservation of trees or vegetation

This clause applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this clause by a development control plan made by the Council. As there is currently no DCP applicable to South Tralee this clause does not apply to this DA.

Clause 5.9AA - Trees or vegetation not prescribed by development control plan

This clause applies to any tree or other vegetation that is not of a species or kind prescribed for the purposes of clause 5.9 by a development control plan made by the Council.

The ringbarking, cutting down, topping, lopping, removal, injuring or destruction of any tree or other vegetation to which this clause applies is permitted without development consent. The proposed conceptual application identifies existing trees and vegetation on the land that will be removed to facilitate urban development. This is discussed in detail previously in this Report under Section 5A of the *Environmental Planning and Assessment Act 1979*.

Clause 5.10 - Heritage conservation

The objectives of this clause are as follows:

- a) *To conserve the environmental heritage of South Tralee,*
- b) *To conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- c) *To conserve archaeological sites,*
- d) *To conserve Aboriginal objects and Aboriginal places of heritage significance.*

Development consent is required for any of the following:

- a) *Demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):*
 - (i) *a heritage item,*
 - (ii) *an Aboriginal object,*
 - (iii) *a building, work, relic or tree within a heritage conservation area,*
- b) *(Altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,*
- c) *Disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,*
- d) *Disturbing or excavating an Aboriginal place of heritage significance,*
- e) *Erecting a building on land:*
 - (i) *on which a heritage item is located or that is within a heritage conservation area, or*

(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,

f) *Subdividing land:*

(i) on which a heritage item is located or that is within a heritage conservation area, or

(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

Background

Several heritage investigations have been conducted in recent years that include the area of land known as South Tralee.

In April 2003, Navin Officer Heritage Consultants (NOHC) prepared the cultural heritage component of the Local Environmental Study (LES) for the rezoning of North and South Tralee. This allowed for a change from the existing rural zoning to urban land uses. It was proposed that the rezoning would provide land for new residential development. The 2003 assessment presented site-specific management recommendations for all the heritage recordings. The recommendations were subject to review following the development of more detailed planning and land use proposals.

In 2010 NOHC undertook a further cultural heritage assessment of South and North Tralee in support of the rezoning of the land and a development application that sought consent to demolish various existing buildings within South Tralee, including a part of Tralee Homestead Complex (H6) (Shearer's Quarters) and the Tralee Woolshed (H7) – see DA 157-2010. Consent was granted to demolish several buildings associated with the Tralee Homestead Complex (H6) with the following exceptions:

- The Shearer's Quarter's – Cookhouse (H6B); and
- The Tralee Woolshed (H7).

The Shearer's Quarter's – Cookhouse and the Tralee Woolshed (H7) were identified during the course of the assessment of DA 157-201 as having heritage significance. While there are currently no heritage listed items in the South Tralee LEP, these two structures have been recommended to be considered for inclusion as Heritage Items when the LEP is amended.

European Heritage

There are six identified historical sites within the subject site. Two of these sites were identified during site inspections conducted in the context of preparation of additional reports relating to Aboriginal heritage as outlined later in this Report. The historical sites almost all relate to the use of the land as a grazing property as listed below:

- H6 – Tralee Homestead Complex;
- H7 – Tralee Woolshed;
- H8 – Sheep Dip;
- H9 – Tralee Landing Ground;
- STRH 1 - European Midden (Rubbish Dump); and
- STRH 2 - Potential Well.

It should be noted that the sheep dip and Tralee landing ground are identified in the Queanbeyan LEP 1998 as heritage items of local significance. These sites occur within

land now zoned under the South Tralee LEP, however, they were not transferred as listed heritage items and have been assessed by the applicant's heritage consultants and during the rezoning process as having minimal cultural significance.

Council's Heritage Advisor has assessed the proposed concept development of South Tralee and has raised no objections to the destruction of the sheep dip and landing ground.

The European midden (STRH1) consists of an area approximately 10 x 5 metres. The visible objects on the site are car parts and metal drums. The site is presumed by NOHC to have been recently created (within the last 50 years). It was assessed by NOHC against the NSW Heritage Branch's methodology and criteria for cultural heritage significance as having no significance.

An assessment of the significance of the potential well (STRH2) required further research. An additional field assessment including some clearing of weeds was undertaken in July 2014. This included consultation with Anne Forrest a descendant of the original property owner of Tralee, John Morrison. This additional assessment is summarised as follows below.

- This site was originally recorded as a possible well, which was heavily overgrown by vegetation. Wooden beams, plastic polymer pipe and pieces of concrete were visible.
- The subsequent assessment confirmed that this is the location of the well, which was orally confirmed by Anne Forrest. The well was constructed by Anne's father, John Morrison as a water source for the Tralee Homestead probably in the 1920s. Anne Forrest stated that it was known that rubbish was thrown into the well.
- Weed removal revealed that the well has been filled and rock and fill were visible under the cleared surrounding weeds. It is no longer a usable well.

The well was assessed by NOHC against the NSW Heritage Branch's methodology and criteria for cultural heritage significance as not meeting any of the criteria for attribution of heritage significance. The Statement of Significance by NOHC is reproduced below:

The item is associated with John Morrison and the Morrison family who are important to the development of Tralee. Wells can contain some archaeological deposits that have the potential to yield information that can contribute to an understanding of NSW's cultural or natural history. However the well will not document the early history of Tralee but later history that is still in living memory and the impact to the well from filling has greatly detracted from the significance and function of the item.

It is recommended by NOHC that no further mitigative actions are required for this site, and that it poses no heritage constraints to the South Tralee project.

Council's Heritage Advisor has assessed the proposed concept development of South Tralee and has raised no objections to the destruction of the midden and well.

This DA included a desktop assessment by NOHC that summarised previous findings in regards to Aboriginal and European cultural heritage across South Tralee. Also submitted was an assessment specifically of the Tralee Homestead (H6) and the Tralee Woolshed (H7) prepared by Eric Martin (2013), a historical architect.

The applicant's preferred options for the Woolshed and Shearer's Cookhouse structures include the demolition of both structures and the re-use of some elements within new buildings.

Council's Heritage Advisor notes the following salient points from the Eric Martin (2013) Report:

- The Woolshed was constructed between 1921 and 1924 using recycled timbers and has undergone little change since then;
- Failed structural flooring elements could be easily rectified, otherwise the Woolshed is in reasonable condition;
- The Woolshed has survived for at least 90 years and could be strengthened for on-going use;
- The Woolshed's size is uncommon, significant, and should be conserved if possible. Furthermore, it is capable of adaptation, relocation, reconstruction or reuse of critical elements.

Council's Heritage Advisor has recommended that the Woolshed be, at the very least, relocated/reconstructed to a nominated location and adapted for use. For the Shearer's Cookhouse, the Heritage Advisor has recommended that it be restored and adapted for re-use in situ.

Heritage Advisory Committee

Council's Heritage Advisory Committee considered the subject application and resolved as follows:

- *Tralee Woolshed – That the woolshed should be retained in situ and adapted for a new use.*
- *Shearer's Quarter's (Cookhouse) – That the building is clearly of historic significance and would respond well to restoration. It is located between the arterial road easement and Road 42 and has excellent capacity for functional reuse without being moved.*

Pursuant to the Heritage Advisor's assessment and the above resolution of Council's Heritage Advisor the applicant was requested to amend the proposed development to allow for the retention of the Woolshed and Cookhouse structures. While the applicant is not supportive of the retention of these structures they have amended slightly the location of the entry road into South Tralee to accommodate the Heritage Committee's recommendations. The ongoing management and ownership of these structures is the subject of negotiations between the developer and Council in the context of a Voluntary Planning Agreement. The two structures are located within Stage 1, therefore, further considerations relating to their ongoing management will need to be made during the course of assessing the DA for Stage 1.

Aboriginal Heritage

Six Aboriginal sites containing surface artefacts were known to exist on the site before the lodgement of this DA. The applicant's heritage consultant had previously assessed these sites as being of low local archaeological significance, hence, they were not considered by the applicant to pose a constraint to development. However, regardless of an artefact or site's significance, any work that will impact on known Aboriginal objects requires an Aboriginal Heritage Impact Permit (AHIP) to be issued under the *National Parks and Wildlife Act 1974*.

Pursuant to Section 91(2)(a) of the *Environmental Planning and Assessment Act 1979* the application was referred to the NSW Office of Environment and Heritage (OEH) as Integrated Development. This was required because there were known Aboriginal objects on the site, and therefore the OEH would need to issue their General Terms of Approval (GTAs) for any **required** permits to impact on Aboriginal sites.

The desktop assessment by the applicant's heritage consultant that summarised previous findings in regards to Aboriginal and European cultural heritage across South Tralee stated that it was likely that the known objects would be disturbed by the works associated with the urban development of South Tralee. It was further stated that when development impact is anticipated in the area of Aboriginal sites (subject to subsequent DAs in the staged development of South Tralee) then an application should be made for an AHIP.

The OEH reviewed the information submitted with the development application and advised Council that they could not issue their GTAs in relation to Aboriginal cultural heritage matters as the current application is for a concept design that may or may not subsequently impact Aboriginal objects following completion of detailed designs. The OEH then went on to recommend that the applicant consider defining a development envelope to cover all stages of the concept design and undertake all necessary archaeological investigations—and required Aboriginal consultation, so as to adequately consider the potential impacts to Aboriginal cultural heritage values.

Once the required investigations and consultation are completed and a final Aboriginal Cultural Heritage Assessment Report (ACHAR) submitted, the OEH advised that they would then be in a position to consider issuing GTAs and a subsequent area-wide AHIP. The benefits of this approach are:

1. Subsequent DAs that involve actual subdivision and infrastructure works would not need to have separate GTAs issued;
2. Delaying the required detailed archaeological (sub-surface) investigations and consultation with the Aboriginal community until after the approval of the concept development application could result in modifications to the development consent being required if a site is discovered that warrants amendments to the concept design; and
3. The likelihood of additional Aboriginal sites being found during construction works would be reduced, thus avoiding potential delays to subdivision and infrastructure works.

The applicant was forwarded the OEH's above response and proceeded to begin the necessary archaeological investigations and consultation for the preparation of an Aboriginal Cultural Heritage Assessment Report (ACHAR) that would cover the whole of South Tralee and the land affected by the Northern Entry Road (DA 175-2013). As a result, a Technical Paper prepared by the applicant's heritage consultants was submitted to Council in July 2014. This contained details of sub-surface investigations and identified additional Aboriginal objects and a potential archaeological deposit (PAD). The OEH

reviewed this Technical Paper and advised that it identified twelve Aboriginal sites likely to be impacted by the proposed development. The OEH therefore considered that the current concept design required an AHIP unless avoidance of the objects could be achieved through detailed design.

In response to the above advice the applicant submitted an amended Technical Paper and a Draft Aboriginal Cultural Heritage Assessment Report (ACHAR) in October 2014. The final ACHAR for the whole development site is anticipated to be completed within the next few weeks. The main task that requires completion is the last stage of the required consultation with the Aboriginal community. The OEH have advised that there are other minor issues with the content and structure of the Draft ACHAR, but that these can be easily remedied by the applicant before submission of the final ACHAR.

Without the completion of the required consultation with the Aboriginal community, the OEH will not issue GTAs. This means that pursuant to Section 91A(4) of the *Environmental Planning and Assessment Act 1979* (“the Act”) the OEH have given notice that they will not issue GTAs, at least until the final stage of consultation with the Aboriginal community has been completed and a final ACHAR submitted. This has the effect of requiring the consent authority, (the Joint Regional Planning Panel in this case), to refuse this DA pursuant to Section 91A(5) of the Act. However, it should be noted that this development application is the subject of a ‘deemed refusal’ appeal in the NSW Land and Environment Court. Unlike the consent authority, the Court will still be able to hear and dispose of the appeal despite the notice from the OEH.

Pursuant to Section 39(6A) of the *Land and Environment Court Act 1979*:

Notwithstanding any other provision of this section, if an appeal relates to an application made to a council within the meaning of the Local Government Act 1993 or a consent authority within the meaning of the Environmental Planning and Assessment Act 1979 and that council or consent authority may not approve of, consent to, or deal with, or grant a permission in respect of, the application except after consultation with, or with the concurrence or approval of, any person or body:

(a) the Court may determine the appeal whether or not the consultation has taken place and whether or not the concurrence or approval has been granted, and

(b) in a case where the concurrence or approval has been granted—the Court may vary or revoke any conditions imposed by that person or body or may impose any conditions that could have been imposed by that person or body.

Regardless of the notice from the OEH under Section 91A (4) of the Act, Council has received legal advice that if the Panel forms the view that this concept DA does not actually trigger the requirement for GTAs to be issued by the OEH for the development proposed to be lawfully carried out, then the Panel is **not** required to refuse the application under Section 91A(5). Recall that this concept application does not seek approval to carry out any works, rather, it is for the general layout and land use as identified in the submitted Structure Plan and Master Plan. Subsequent detailed development applications will be lodged for five separate subdivision and construction stages.

It is Council’s considered opinion that although there are benefits to the preparation of an area wide ACHAR before the determination of this DA as outlined previously, it can be reasonably argued that it is more appropriate to obtain the GTAs for any required AHIPs

when subsequent DAs that will directly impact Aboriginal objects are made. This interpretation can be supported for the following reasons:

1. As indicated in the OEH's first response to Council regarding the Integrated Development referral dated 3 March 2014, the level of detail provided in the application as lodged was not adequate to enable it to assess the impacts on Aboriginal objects because it is a "concept application";
2. Despite the subsequent archaeological investigations uncovering additional Aboriginal sites and it being clear that avoiding impacts to Aboriginal objects is unlikely to be achievable, approving this DA will not approve any actual impacts, as it will not approve any works on the site;
3. The final ACHAR for the whole development site is anticipated to be completed within the next few weeks. This can be submitted for consideration with the development application for Stage 1 of South Tralee and this DA referred to the OEH for the issuing of GTAs;
4. The relevant provisions of the *National Parks and Wildlife Act 1974* are able to be satisfied. If, as a result of the submission of the final ACHAR for the Stage 1 DA, area wide GTAs are able to be issued, the further stages will not require GTAs. However, until such time as GTAs are issued that cover each specific Stage, each DA will have to be referred to the OEH as Integrated Development for the consideration of the issuing of GTAs; and

Conditions can be imposed on this DA and subsequent Staged DAs to ensure in the unlikely event that the results of the final ACHAR mean that changes to the concept design are required, these can—and will, be implemented. Pursuant to Section 80A(1)(b) of the Act the consent authority can impose a condition on any consent for the subsequent Stages requiring the modification of the concept approval to be consistent with any changes made to the Stage. This would ensure compliance with Section 83D of the Act which requires the subsequent DAs in the staged development of South Tralee to be consistent with the concept approval.

Note: Legal advice indicates that unlike a modification application made by an applicant under Section 96 of the Act, a consent modified under Section 80A(1)(b) does not need to be "substantially the same" as the original development.

Final Recommendation

Council's recommendation to the Panel is that although this DA was correctly referred to the Office of Environment and Heritage as Integrated Development for the issuing of any **required** General Terms of Approval pursuant to Section 91(2)(a) of the Act, the issuing of GTAs are not actually required for the conceptual proposed development to be lawfully carried out as it does not propose any actual works. Therefore, the Panel is not required to refuse this DA as any impacts to Aboriginal objects from subdivision and construction works will need to have GTAs issued from the OEH prior to the determination of subsequent DAs in the staged development of the South Tralee urban release area. Furthermore, if amendments to the overall concept development are required as a result of further considerations of impacts to Aboriginal objects, the consent authority can ensure this occurs by imposing conditions to subsequent consents requiring the modification of the overall concept to be consistent with the changes.

Clause 5.11 - Bush fire hazard reduction

This clause states that bush fire hazard reduction work authorised by the *Rural Fires Act 1997* may be carried out on any land without development consent. The proposed development does not involve any bush fire hazard reduction.

Clause 5.12 - Infrastructure development and use of existing buildings of the Crown

The LEP does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development, by or on behalf of a public authority, that is permitted to be carried out with or without development consent, or that is exempt development, under *State Environmental Planning Policy (Infrastructure) 2007*. Some infrastructure development in South Tralee will be carried out by or on behalf of Council.

The LEP does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown. No existing buildings of the Crown exist on the land.

Queanbeyan Local Environmental Plan (South Tralee) 2012 (cont)

Part 6 – Urban release areas

Clause 6.1 - Arrangements for designated State public infrastructure

The proposed development is located within the South Tralee urban release area as identified on the Urban Release Area map.

The objective of this clause is to require satisfactory arrangements to be made for the provision of designated State and Territory public infrastructure before the subdivision of land in an urban release area to satisfy needs that arise from development on the land. Before development consent is granted for the subdivision of land at South Tralee, unless it is for land that is to be reserved or dedicated for public open space, public roads, public utility undertakings, educational facilities or any other public purpose, the Director-General needs to have certified in writing that satisfactory arrangements have been made to contribute to the provision of designated State and Territory public infrastructure in relation to the land.

The Director-General of the NSW Department of Planning and Environment has not issued a satisfactory arrangements certificate for the provision of designated State and Territory public infrastructure. However, the Department advised before the lodgement of this DA that satisfactory arrangements certification is not required for the conceptual development application as the issuing of development consent will not authorise the carryout out of subdivision. However, subsequent staged applications that involve the subdivision of land will not be able to be determined unless satisfactory arrangements have been certified.

Clause 6.2 - Public utility infrastructure

Development consent must not be granted for development on land in an urban release area unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available, or that adequate arrangements have been made to make that infrastructure available when it is required.

Council's Senior Engineer—Development has assessed the provision of public utilities and advises as follows.

Water Supply and Sewerage Infrastructure

Council is formulating masterplans for the major supply infrastructure required for South Jerrabomberra and associated Developer Servicing Plans (DSPs) to provide for future collection of S64 water and sewer headworks contributions. The developer has offered to construct the required infrastructure to service this development on behalf of Council and a draft Infrastructure Deed of Agreement is currently being formulated in this regard. At the time of writing this Report it is anticipated that the Deed will have been signed by both the applicant and Council.

The Voluntary Planning Agreement (VPA) will need to provide recognition that the infrastructure will also service other future developments in South Jerrabomberra and provide for reimbursement of S64 contributions to the value of the over-sizing component of the infrastructure to be constructed by the developer.

The potable water and sewer concept plans are accepted in principle. It is noted that the works depicted do not form part of this concept DA. The developer will be responsible for the construction of all other reticulation within the subdivision area as per normal

subdivision practice. Engineering Specifications for water and sewer are currently being drafted for South Jerrabomberra and will be referenced in the South Jerrabomberra DCP.

Utilities

The developer will be responsible for the supply of underground utility services – electricity, phone, telecommunications and gas. Electricity is able to be supplied for the initial stages of South Tralee via underground connection to a substation in Jerrabomberra. At some stage a new overhead cable from Googong will need to connect to a new substation at South Tralee that will also service the rest of South Jerrabomberra. This will be the subject of separate applications and other relevant legislative requirements.

Assessing Officer's Summary

Given the comments from Council's Senior Engineer—Development and the imminent signing of an Infrastructure Deed of Agreement between the applicant and Council it can be concluded that Council is satisfied that any essential public utility infrastructure for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required. In the unlikely event that the Infrastructure Deed has not been signed by the date of the Panel's determination meeting consideration of this DA will need to be deferred.

Clause 6.3 - Development control plan

The objective of this clause is to ensure that development on land in an urban release area occurs in a logical and cost-effective manner, in accordance with a staging plan and only after a development control plan that includes specific controls has been prepared for the land.

Development consent must not be granted for development on land in an urban release area unless a development control plan that provides for all of the following matters has been prepared for the land.

- (a) a staging plan for the timely and efficient release of urban land, making provision for necessary infrastructure and sequencing,*
- (b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,*
- (c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,*
- (d) a network of active and passive recreation areas,*
- (e) stormwater and water quality management controls,*
- (f) amelioration of natural and environmental hazards, including bush fire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected,*
- (g) detailed urban design controls for significant development sites,*
- (h) measures to encourage higher density living around transport, open space and service nodes,*
- (i) measures to accommodate and control appropriate neighbourhood commercial and retail uses,*

- (j) *suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.*

When this DA was lodged there was no DCP applicable to South Tralee. However, at the time of writing, the Draft South Jerrabomberra DCP 2014 was on public exhibition in accordance with Section 18 of the *Environmental Planning and Assessment Regulation 2000*. This Draft DCP has been prepared in accordance with Clause 6.3 and includes South Tralee.

Pursuant to *Section 83C – Staged development applications as alternative to DCP required by environmental planning instruments*, of the *Environmental Planning and Assessment Act 1979* this staged DA was able to be lodged prior to the adoption of a DCP for South Tralee, provided that the application included the information required to be included in the development control plan by the LEP.

The applicant has satisfied this requirement by the submission of a set of Development Guidelines, ‘South Tralee Release Area Development Guidelines (January 2014)’, and supporting plans/documents for the development of South Tralee that contain the required information.

Note: The originally submitted Development Guidelines were superseded by an amended version submitted to Council in January 2014 which reflected amendments to the staging of the development.

Part 1 – Preliminary, of the applicant’s Development Guidelines (2014) states:

The purpose of these development guidelines is to establish objectives, design guidance and controls to inform and achieve desirable development outcomes for the South Tralee Release Area.

In addition, the guidelines incorporate a Master Plan for the release area which outlines the overarching structure for the future development of South Tralee including its future staging, land-use framework, transport and movement hierarchy, neighbourhood centre location in addition to future open space and recreation areas.

Pursuant to Section 83C of the Environmental Planning and Assessment Act, 1979 the guidelines and associated master plan documentation have sought to address and largely satisfy clause 6.3 of the Queanbeyan Local Environmental Plan (South Tralee) 2012.

The Development Guidelines refer to future development in South Tralee needing to comply, or be consistent, with numerous plans and documents that were submitted by the applicant with this DA, some of which have been superseded during the course of Council’s assessment, including:

- Street Hierarchy and Typical Cross Section Locations drawings;
- Street Tree Hierarchy plan;
- Noise and Air Assessment;
- South Tralee Traffic Report;
- Bushfire Protection Assessment;
- Heritage Desktop Assessment; and

- Site Contamination Summary Report.

The DA was also accompanied by a Structure Plan, Master Plan and associated Development Structure Plans prepared by Peter Andrews + Associates Pty Ltd (November 2013). These plans are listed below:

- Site Analysis Plan;
- Planning Principles Plan;
- Structure Plan;
- Constraints Plan;
- Master Plan Presentation;
- LEP Zone Boundaries;
- LEP Visual and Acoustic Buffer;
- Staging Plan;
- Lot Size Plan;
- Proposed Terrace Dwelling Locations;
- Walkable Neighbourhood;
- Pedestrian/Bicycle Path Network;
- Indicative Local Park Locations; and
- Public Transport.

All of the above plans, except for the Site Analysis Plan and Planning Principles Plan have been superseded during the course of the assessment and replaced by amended plans.

The submission of the Development Guidelines and supporting plans/documents has facilitated the lodgement of this DA, however, Council does not support the inclusion of the specific content of the Development Guidelines as a part of the development consent (should it be granted), for the following reasons:

1. The Development Guidelines are outdated. They reference that future development in South Tralee needs to comply, consider, or be consistent, with numerous plans and documents that were originally submitted with the DA in December 2013. Since lodgement there has been further work done by the applicant and Council in relation to such matters as traffic modelling, noise assessment guidelines and heritage. This has resulted in additional reports being produced and the results incorporated into a Draft Development Control Plan that includes South Tralee;
2. The Draft South Jerrabomberra Development Control Plan 2014 that includes South Tralee is, at the time of writing, on public exhibition. Once adopted by Council it will satisfy the requirements of Clause 6.3 of the LEP. This Draft DCP has been modelled on Council's DCP for the Googong urban release area, which has been applied over the past four years and regularly reviewed to ensure good quality development outcomes for the urban release area; and
3. There are numerous specific development controls in the applicant's Development Guidelines relating to subdivision and residential development that Council do not support and which have not been incorporated into the Draft DCP. The unsupported controls are largely inconsistent with those that have been successfully applied in the Googong urban release area.

The Draft South Jerrabomberra Development Control Plan 2014 (DCP) includes South Tralee and introduces the following:

1. The context of how development at South Jerrabomberra will proceed and contains a South Jerrabomberra Master Plan and Staging Plan;
2. Requirements for the preparation of Neighbourhood Structure Plans; and
3. Guidelines and standards for development in South Jerrabomberra.

Pursuant to Section 18 of the *Environmental Planning and Assessment Regulation 2000* the Draft DCP was placed on public exhibition from 14 November 2014 to 12 December 2014. Additional traffic modelling conducted since the adoption of the South Jerrabomberra Structure Plan 2013, the ACT Government's confirmed position on Sheppard Street, relevant resolutions of Council, and the recently issued development consent for the conceptual Northern Entry Road, have all informed the Master Plan for South Jerrabomberra contained in the Draft DCP. Furthermore, should development consent be granted to this DA, the approved Master Plan and Staging Plan for South Tralee, and any other relevant approved plans, will form part of the DCP.

The Draft South Jerrabomberra DCP 2014 represents the current policy position of Council in relation to South Tralee. It has been modelled on Council's DCP for the Googong urban release area, as well as including elements specific to South Tralee. The development controls in the Googong DCP have been tested over the past four years. In particular, controls relating to subdivision, street hierarchy and residential development have been applied to numerous developments. Overall, the controls in the Googong DCP have worked well. Some minor amendments have been made to improve the workability of some controls and these are also reflected in the Draft South Jerrabomberra DCP.

The applicant's Development Guidelines depart from the Googong DCP in a number of specific controls relating to subdivision design and residential development. The controls in the Development Guidelines in effect allow for higher density residential development than what is permitted in the Googong DCP or the Draft South Jerrabomberra DCP. This is mainly due to reduced building setbacks and increased building site coverage. Furthermore, the Development Guidelines propose smaller private open space areas and reduced solar access requirements.

There are no compelling reasons as to why the development controls applicable to South Tralee should differ widely from the controls applicable to the Googong urban release area, particularly in relation to subdivision design principles and residential buildings.

Pursuant to Section 83D(2) of the *Environmental Planning and Assessment Act 1979*, while any consent granted to a staged development application for a site remains in force the determination of any further development application in respect of that site cannot be inconsistent with that consent. Therefore, to ensure that subsequent stages of development at South Tralee are subject to the provisions of the South Jerrabomberra DCP provisions rather than the applicant's Development Guidelines, it is recommended that a condition be imposed on the development consent for this DA (should it be granted), that provides that, to the extent that the Development Guidelines submitted with the development application are inconsistent with the provisions of the South Jerrabomberra DCP, the provisions of the DCP shall prevail and that future development applications containing detailed proposals for separate parts of the site must be prepared having regard to the provisions of the DCP.

Clause 6.4 - Relationship between Part and remainder of Plan

A provision of Part 6 of this Plan prevails over any other provision of this Plan to the extent of any inconsistency. In the context of this DA there are no inconsistencies between this Part and the other relevant provisions of the LEP.

Queanbeyan Local Environmental Plan (South Tralee) 2012 (cont)

Part 7 – Additional local provisions

Clause 7.1 – Earthworks

This concept DA does not include any actual physical earthworks at the site. Separate DAs and Subdivision Construction Certificates will be required that will include specific details of the earthworks required to facilitate the development of South Tralee. However, the broad extent and nature of earthworks proposed to facilitate the subsequent Stages of the development of South Tralee can be ascertained from the conceptual plans, therefore, consideration of this clause is warranted.

The DA was accompanied by a preliminary geotechnical assessment, engineering designs for stormwater management, an existing slope plan and a proposed design contours plan post earthworks in the steeper southern section of the site. While the submitted Statement of Environmental Effects (SEE) provides a brief overview of the earthworks that will be required to develop South Tralee, the SEE did not address the provisions of this clause, presumably because the applicant did not consider it to be relevant to a concept DA.

Before considering in detail the provisions of this clause, an overview is provided of the earthworks that will be required to facilitate the proposed development of South Tralee, including comments from Council's Senior Engineer – Development.

Existing Landform – Land Zoned for Development

The site's landform consists of gently sloped terrain in the north and north-west of the site with moderate and steeply sloped terrain in the eastern and southern parts. At its extreme, the variation in elevation across the site from the northernmost tip to the southernmost part of land zoned for residential development is approximately 105m. There is also an incised gully and steeply sided rocky tor in the southernmost part of the site zoned for residential development (within Stage 2). This gully runs diagonally from south-east to north-west over this part of the site, beginning to flatten out as it crosses into adjoining land (Morrison) before it ends at the far south-west of the subject site (still within Stage 2).

Proposed Earthworks

As with the development of any urban release area earthworks will be necessary for the development of South Tralee to facilitate drainage and to achieve suitable landforms for residential allotments, roads et cetera. The design of urban development should take into account the existing landform, aim to take advantage of and retain obvious natural features for drainage and recreation, minimise the alteration of significant natural landscape features, and create residential allotments that are not constrained by steep slopes or large depths of fill.

Geotechnical Assessment

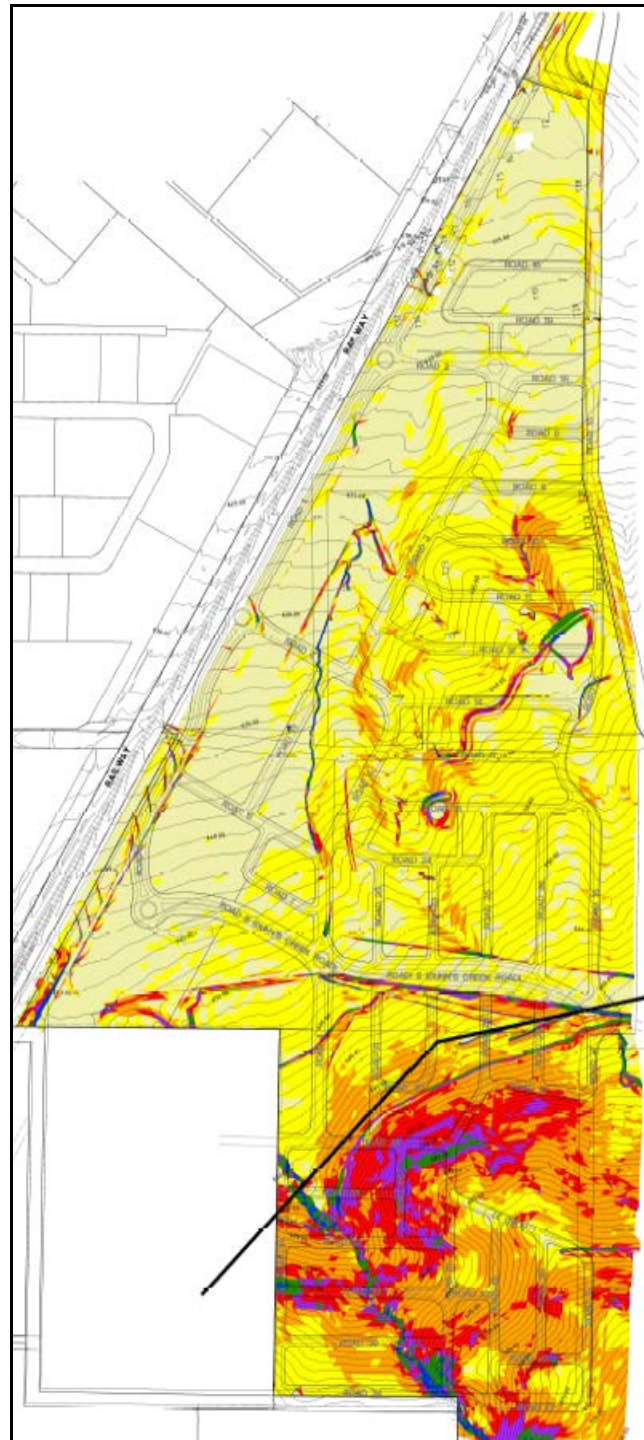
The submitted geotechnical assessment is based on a very preliminary assessment of the site that involved a walk-over by suitably qualified geotechnical engineers and a desktop assessment. The landform and soils were broadly characterised and potential options for ensuring the land is made suitable for urban development were outlined. It is recommended that detailed geotechnical investigations be undertaken across the site to inform detailed

earthworks design. These investigations will need to accompany subsequent Staged DAs and applications for subdivision works.

Existing Slope and Proposed Design Contours – Southern R1 Zoned Land

The existing slope plan shows that the steepest areas of land in South Tralee zoned for residential development are concentrated in the far south within Stage 2, correlating with the Lot Size Map's 600m² minimum lot size area – see Figure 13 below.

Figure 13 - Existing Slopes



As previously outlined in this Report the land in this part of South Tralee is characterised by 10 to 25% slope grades, with some patches of land having 25 – 35% grades. The gully running diagonally from south-east to north-west across this land is deeply incised and characterised by rocky outcrops. A steeply sided rocky tor is located directly east of the gully line and is characterised by mature eucalypt trees. The gully and associated tor are important site constraints for the development of this part of South Tralee for residential allotments and associated roads and infrastructure – refer back to Figures 12 and 13.

The proposed design contours for the southern part of the site show extensive cut and fill up to 5m in depth to achieve the required grades for roads and future residential allotments, particularly adjacent to the incised gully. Note: The originally submitted design contour plan showed that some residential areas would have a slope of >20%. Council requested the applicant to review this in line with Council's standards for residential development elsewhere in Queanbeyan. Finished slopes are now proposed to be <20%.

Council's Senior Engineer – Development has assessed the proposed design contours for the southern part of the site zoned R1 and has made the following comments.

- The submitted design in this area is a totally engineered product that fails to give due regard to proper subdivision design principles that seek to retain obvious natural features and to develop a subdivision layout that is sympathetic to these natural features. The layout will produce residential lots over areas of fill up to 5m in depth, which poses serious design considerations for future dwellings. The layout in this area needs to be totally redesigned. It is considered that the revised layout should provide edge roads to the gully and that the gully and tor be incorporated into a reserve area.
- The lot size map in this area provides for a minimum lot size of 600 m². The topography in the area suggests that a number of lots will require larger lot sizes to provide for minimisation of site cuts for building platforms and to provide suitable driveway gradients. Further details in this regard should be provided with the Stage 2 DA.

Stormwater Management

South Tralee is located within three identified stormwater catchments – the Central, Raws and Sheppard's catchments. The Central catchment contains the incised gully discussed previously. The site drains north-west towards the ACT/NSW border.

The proposed stormwater management concept shows the creation of one overland flow detention basin and three water quality control ponds and detention basins. It is designed to detain post development flows within the site so that discharge across the railway line and into the ACT is kept to pre-development flow rates at existing discharge locations. It is also proposed to pipe the flow from the gully in the Central catchment through the proposed future primary school site rather than discharging over adjoining grazing land or by providing on-site detention.

Council's Senior Engineer – Development has assessed the proposed stormwater management concept and has made the following comments.

- The concept stormwater layout is supported in principle with the exception of the works proposed in the Central Catchment. The proposed filling would require all stormwater to be directed down residential streets as a combination of piped drainage and overland flow. While this is accepted practice in residential areas where there are

no natural drainage lines, it is considered inappropriate not to utilise the steeply incised natural drainage line as the major overland flow path.

- The gully flattens out toward Road 4 and the developer has elected to pipe the flow through the future school site rather than seeking consent from the adjoining land owner to discharge the post development flow over the existing grazing land or by providing on-site detention. Piping is considered inappropriate here, particularly as it may result in large stormwater mains pipes being located in the yards of residential allotments. The alternative options should be explored in further detail before this part of Stage 2 within this concept DA is approved.

Earthworks Considerations (Clause 7.1)

The objective of Clause 7.1 – Earthworks, is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

Note: The earthworks associated with subdivision and infrastructure works as outlined in this concept DA will all require development consent and will be considered in detail during each subsequent DA Stage.

The proposed development of the South Tralee urban release area as outlined in this concept DA generally satisfies the objectives of this clause, except that it will have a detrimental impact on a feature of the land with the extensive alteration of a prominent incised drainage line and rocky tor. Furthermore, the proposal does not satisfy all of the matters listed for consideration below.

Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:

(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,

Drainage patterns and soil stability of land in the locality of the South Tralee site are unlikely to be disrupted or detrimentally effected by the development should the earthworks envisioned in this concept DA be implemented.

The stormwater management plan has been designed to detain post development flows within the site so that discharge across the railway line and into the ACT is kept to pre-development flow rates at existing discharge locations. The overland flows to adjoining grazing properties in general will not be reduced, thus protecting in-flows to dams and the like. A part of the existing overland flow of stormwater over the Morrison land that adjoins the south-west border of the development site is proposed to be diverted and piped through the site. While this overland flow does not drain into a dam or pond on the Morrison land Council's Development Engineer does not support the piping of this natural drainage gully as outlined previously.

Any impacts on the soil stability of land in the locality of the site will be able to more accurately ascertained when detailed geotechnical investigations are carried out for each Stage and applications are made for Subdivision Construction Certificates. Appropriate conditions relating to the management of subdivision works will also be placed on any subsequent Stage approvals.

(b) the effect of the development on the likely future use or redevelopment of the land,

The proposed development of the South Tralee urban release area as outlined in this concept DA, and the earthworks required to facilitate it, are generally in accordance with the desired future character and use of the site as envisioned in the South Tralee LEP and various strategic planning policies—except for elements of Stage 2 of the development as outlined previously.

(c) the quality of the fill or the soil to be excavated, or both,

This provision will be considered during subsequent DAs for the separate Stages of the development of South Tralee. As far as is practical, excavated material will be reused on-site.

(d) the effect of the development on the existing and likely amenity of adjoining properties,

While the development of South Tralee as an urban area will obviously result in a greatly altered landscape when viewed from adjoining properties, the proposed development of the South Tralee urban release area as outlined in this concept DA, and the earthworks required to facilitate it, should not adversely affect their existing and likely amenity. Access to adjoining properties through the site will be maintained at all times during subdivision and infrastructure works. While the drainage patterns of adjoining properties will remain largely unaltered, the conceptual earthworks in Stage 2 of the development require further consideration before approval can be recommended.

(e) the source of any fill material and the destination of any excavated material,

This provision will be considered during subsequent DAs for the separate Stages of the development of South Tralee.

(f) the likelihood of disturbing relics,

The impacts on relics of the proposed development of the South Tralee urban release area as outlined in this concept DA, and the earthworks required to facilitate it, have been considered previously in this Report in relation to European and Aboriginal heritage. Appropriate conditions relating to the management of any relics discovered during subdivision works will be placed on any subsequent Stage approvals.

(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,

It is accepted that the development of rural land for urban development will necessarily change the existing landform to facilitate the construction of roads, infrastructure and suitable allotments for residential and other urban uses. It is important that in designing the urban development appropriate measures are taken to avoid adverse impacts to environmentally sensitive areas.

The part of Stage 2 that contains the upper parts of an incised gully where it is particularly steep with rock outcrops and associated steeply sided rocky tor and native trees is considered to be an environmentally sensitive area, despite the fact that it is zoned R1 – General Residential, for the following reasons:

1. This part of the site is located within a mapped regional bio-link. The bio-link is identified in the Queanbeyan Biodiversity Study 2008 and largely correlates with the large area of land in South Tralee that is zoned E2 – Environmental Conservation. However, it does extend to a small extent into the R1 – General Residential zoned land where the gully and tor are located; and
2. This part of the site contains a clump of native trees that have been identified as being of high value that should be retained if possible in the Ecological Assessment submitted with the DA.

The earthworks identified in this concept DA as being required to specifically facilitate the design of this part of Stage 2 of South Tralee will result in adverse impacts on this environmentally sensitive area.

The concept design proposes to simply fill the gully, flatten the tor, remove the trees and pipe the overland stormwater flow. It clearly hasn't attempted to avoid adverse impacts to this area or consider incorporating its natural features into the design. It would appear that in preparing the concept design the applicant has focussed on the LEP zoning map while perhaps not fully taking into account that land use zone boundaries are necessarily based on large scale considerations. While this part of the site may be zoned R1 – General Residential and permit a minimum lot size of 600m², this does not mean that all of the land zoned as such is suitable for lots of this size, or that natural constraints and features of the land should not be taken into account and in some cases preserved.

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Details of appropriate measures to avoid, minimise or mitigate the impacts of earthworks will be required to be shown in DAs for subsequent Stages and Subdivision Construction Certificates.

Clause 7.2 – Airspace operations

This clause requires development that will penetrate the Obstacle Limitation Surface (OLS) for the Canberra Airport to be referred to the Commonwealth Department of Infrastructure and Regional Development.

The OLS for the site is 720m AHD. There are areas within Stage 5 where the existing ground level penetrates the OLS, whereas the land closer to the ACT border is between 615m and 645m AHD (approximately). It is possible that some future built form in Stages will penetrate the OLS or possibly require the use of cranes that will temporarily penetrate the OLS. Subsequent staged DAs for the subdivision of land that will result in built form penetrating the OLS (or if they include built form that will penetrate the OLS) will need to be referred to the Commonwealth.

Clause 7.3 – Development in areas subject to aircraft noise

The objectives of this clause are:

- (a) to prevent certain noise sensitive developments from being located near the Canberra Airport and its flight paths,*
- (b) to assist in minimising the impact of aircraft noise from that airport and its flight paths by requiring appropriate noise attenuation measures in noise sensitive buildings,*

- (c) to ensure that land use and development in the vicinity of that airport do not hinder or have any other adverse impacts on the ongoing safe and efficient operation of that airport.*

Before determining a DA relating to any land subject to the South Tralee LEP the consent authority:

- (a) must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and*
- (b) must consider the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021—2000, and*
- (c) must be satisfied the development will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021—2000.*

Clearly, the development of the South Tralee urban release area will result in an increase to the number of dwellings and people affected by aircraft noise. However, changes to the originally proposed rezoning ensured that housing in South Tralee would be restricted to areas outside of the Australian Noise Exposure Forecast (ANEF) 20 – 25 contour levels for the Canberra Airport. Any future DA that includes built form will need to demonstrate how compliance with AS 2021—2000 and the objectives of this clause have been satisfied. The Draft South Jerrabomberra DCP 2014 contains detailed Aircraft Noise Assessment Guidelines that provide suggested measures for development (particularly dwellings) to be able to comply with AS 2021—2000.

Future development within the Visual and Acoustic Buffer Land will also be subject to additional noise abatement considerations as discussed below under Clause 7.4.

Clause 7.4 - Land adjoining Hume Industrial Area and Goulburn/Bombala Railway Line

This clause applies to land identified as “Visual and Acoustic Buffer Land” on the LEP’s Local Clauses Map. The buffer is a 200m wide strip of land adjoining the Hume Industrial Estate and the Goulburn/Bombala Railway Line. It contains land zoned RE2 – Private Recreation, B1 – Neighbourhood Centre and B4 – Mixed Use. There is also an Additional Development Area that permits food and drink premises, hotel or motel accommodation, office premises, service stations and signage with development consent (refer to Schedule 1 of the LEP). When the rail corridor is taken into account, the buffer to the Hume industrial area is at least 250m, which is the width of land recommended in the Local Environmental Study for the rezoning of South Tralee.

The objectives of this clause are:

- (a) minimise the impact of any noise, vibration or other emissions on the land to which this clause applies, and*
- (b) require certain land uses on the land to which this clause applies to include, or to be the subject of, appropriate noise mitigation measures.*

Before determining a DA relating to any land subject to the South Tralee LEP the consent authority must assess the following matters:

- (a) the impact of any noise from any nearby land uses, having regard to any noise attenuation measures proposed,*

- (b) the visual impact that any nearby land uses would have on the proposed development,*
- (c) the impact that noise and other emissions from any nearby industrial land uses and associated activities would have on the proposed development.*

For this conceptual DA it is appropriate to consider the suitability of any specific land uses indicated on the submitted Master Plan as being in the Visual and Acoustic Buffer Land in accordance with the above matters. Any subsequent DAs that include the subdivision of land for specific land uses and/or built form within the Buffer will be subject to a more detailed assessment regarding noise, vibration, odour and visual impacts from Hume.

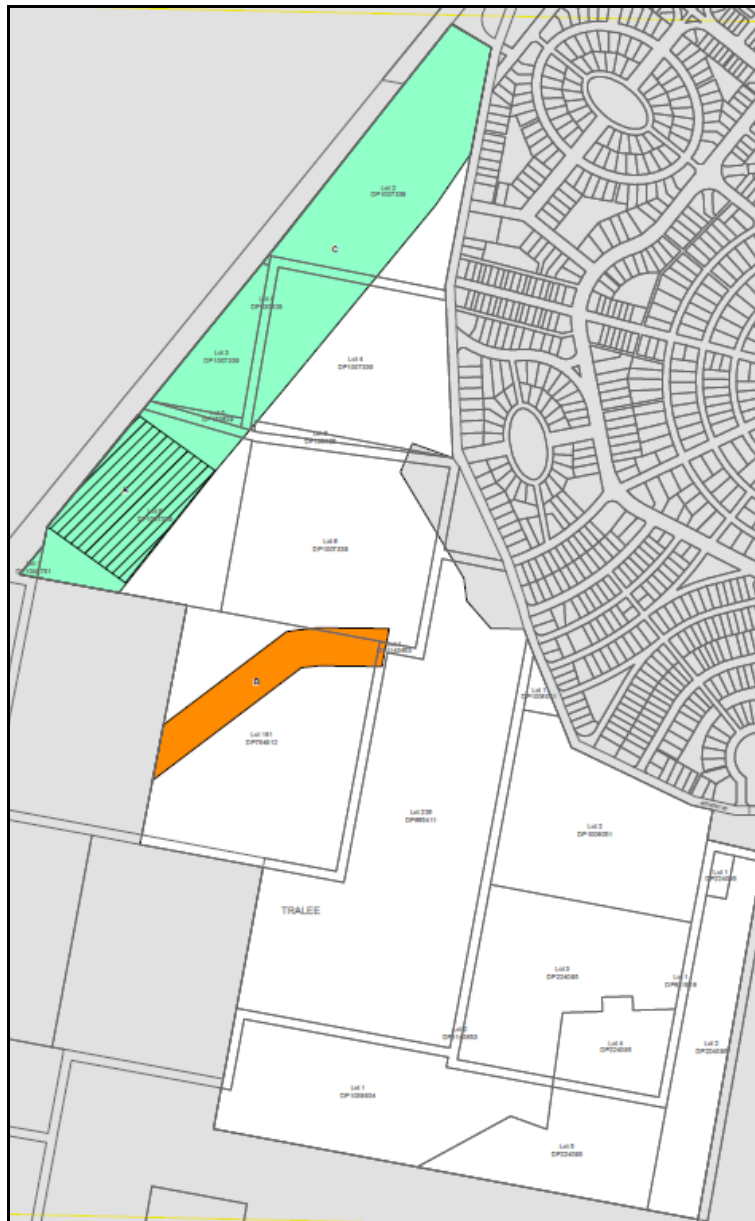
As well as broadly identifying areas within the Buffer that correlate with the land use zones, such as “Neighbourhood Centre Superlot”, the submitted Master Plan also specifically identifies an area of land for a multi-purpose centre and a child care centre. The multi-purpose centre will likely be used for community purposes, in accordance with the South Jerrabomberra Structure Plan 2013 and subject to current Voluntary Planning Agreement negotiations. While there will likely be demand for a child care centre at South Tralee, it is not specifically identified as a main piece of community infrastructure required for the first stage of the development of South Jerrabomberra.

As previously discussed in this Report in regard to the rail corridor, at this conceptual stage in the process for the development of South Tralee there is not enough detailed information to allow for the proper consideration of whether specific land uses, especially a sensitive one like a child care centre, should be approved in the Buffer. Any future applications for development in the Buffer will be subject to this clause and may require detailed acoustic investigations and the implementation of noise attenuation measures. Therefore, it is considered warranted at this conceptual stage to amend the submitted plans to label these areas as generic super-lots.

Clause 7.5 - Land in vicinity of proposed Dunn’s Creek Road

This clause applies to the land in the vicinity of “Dunn’s Creek Road” on the LEP’s Local Clauses Map. The Map identifies a 90m wide strip of land in the southern half of the land in South Tralee zoned R1 – General Residential. It was envisioned in preparing the LEP that the final road alignment would form the boundary between the E2 conservation zone and steeper R1 zoned lands, and the downslope urban uses in the eastern part of the site – refer to orange strip in Figure 14 below.

Figure 14 - Dunn's Creek Road on the LEP Local Clauses Map (Orange Strip)



The location of Dunn's Creek Road in the originally submitted application did not correlate with the LEP map, rather, it was shown starting in the east approximately in the same location as in the LEP, but rather than swinging to the south-west, the road is proposed to proceed more directly west up to approximately 450m to the north of the location in the LEP. It also forms the main boundary between Stage 2 and 3. This was done by the applicant to facilitate a more direct future connection with Isabella Street in the ACT and to avoid steeper terrain. The relocation was supported by the applicant's Traffic Study (Arup 2013). Amendments have subsequently been made to the design of this road in response to issues raised by Council staff, however, the general location remains unchanged from what was originally submitted.

Purpose of Dunn's Creek Road

Dunn's Creek Road is identified in Council's adopted 'Googong and Tralee Traffic Study' (2031) as a sub-arterial link road between the Tralee and Googong urban release area, albeit it one that would not likely to be required in the current 2031 planning horizon. Since this Traffic Study was completed the purpose, location and design of Dunn's Creek Road has been the subject of additional traffic modelling and considerable reassessment. The issues surrounding Dunn's Creek Road are also related to the future need to provide a second access road to South Jerrabomberra from the ACT. Several recent resolutions of Queanbeyan City Council are also relevant.

Council Resolutions Relating to Dunn's Creek Road

- 24 September 2014 – Resolved that Council adopt Sheppard Street as the preferred southern access point to the South Jerrabomberra area. Council recognises that the ACT Government has not given support to Sheppard Street being the southern access point and accordingly the South Jerrabomberra Development Control Plan 2014 provides for Dunn's Creek Road being directly connected to Isabella Drive. Council's policy position continues to be that Sheppard Street is the preferred southern access point to the South Jerrabomberra area.
- 8 October 2014 – Resolved that as a matter of Policy Council agree to:
 - Prepare a planning proposal to alter the position of Dunn's Creek Road as shown on the Local Clauses Map of Queanbeyan Local Environmental Plan (South Tralee) 2012.
 - Support the creation of a single corridor through the South Tralee urban release area to allow for the future proposed Dunn's Creek Road to be directly connected to Isabella Drive.

Council support:

- The provision of a 29m wide road corridor for the future Dunns Creek Road connection through the proposed South Tralee urban release area.

Engineering Assessment

Council's Senior Engineer – Development provides the following comments regarding Dunn's Creek Road.

- The proposed realignment of Dunns Creek Road from the location indicated on the LEP map is to a location deemed by the developer to be flatter terrain more conducive to construction of a major road link and the provision of the road on an alignment that is directed toward the Isabella Drive / Monaro Highway intersection in the ACT.
- The proposed alignment of Dunns Creek Road (Road 5) is considered satisfactory in principle subject to the LEP map being amended to facilitate the proposed alignment and further detailed investigations.
- The developer has adopted a 29m road reserve for the road as supported by Council, but where it is proposed to have lots facing toward the road a service road has also been included to eliminate direct lot access to the arterial road and to provide on-street parking outside these future residences. It is appropriate that the service roads

be designated as “one-way” roads in the same direction as the adjacent arterial road. The service roads also eliminate a number of direct connections from adjacent residential streets to Dunn’s Creek Road as requested by Council. Detailed design of their connection to the arterial road will need to be undertaken as part of the future DA and Subdivision Construction Certificate process.

- The alignment of Road 2 has been adjusted to provide a future arterial road link through the subdivision in the event that the Dunn’s Creek Road link to Sheppard Street is accepted by ACT government. The road is proposed to be provided with a 29m road reserve but only half constructed as part of this subdivision to create a Collector Street.

The objectives of this clause are:

- (a) minimise any visual or acoustic impacts on development proposed in the vicinity of the land to which this clause applies, and*
- (b) ensure that development proposed in the vicinity of that land will not compromise, restrict or otherwise prevent the future use of that land as a road.*

Sub-clause 7.5(3) states that before determining a DA relating to land in the vicinity of Dunn’s Creek Road the consent authority must assess the following matters:

- (a) the impact of noise, vibrations and other emissions from any future construction and the ongoing use of that land as a road,*
- (b) if the proposed development is subdivision, whether or not the development would prejudice or otherwise restrict the future construction (including the provision of any public utility infrastructure) and operation of the proposed road.*

Council’s Senior Engineer - Development have assessed the revised location of Dunn’s Creek Road as proposed in this DA and its design and have raised no objections subject to the imposition of recommended conditions and the LEP Local Clauses Map being amended. Furthermore, Council resolved in October 2014 to prepare a Planning Proposal to amend the Local Clauses Map to reflect the altered location of this Road.

Council has obtained legal advice which states that this clause does not specifically require Dunn’s Creek Road to be constructed in the location shown on the Local Clauses Map. However, while this conceptual DA does not involve the actual subdivision of land, subsequent stages will include subdivision. Sub-clause 7.4 (3)(b) needs to be considered for this DA because the proposed road layout and land use pattern, if approved, would necessarily prejudice and restrict the future construction and operation of Dunn’s Creek Road as currently mapped. This is because the current proposal shows residential development and local streets where the current LEP Local Clauses Map shows a corridor for Dunn’s Creek Road.

Sub-clause 7.4(3) states that the consent authority must assess the matters listed at sub-clauses (a) and (b). It does not state that a development cannot be approved even if it would restrict the future construction of the road. Given the acceptance of the proposed relocation of Dunn’s Creek Road by Council’s Engineering section and the elected Councillors, it is considered that provided that LEP’s Local Clauses Map is amended to reflect the revised location, this concept DA does not prejudice or otherwise restrict the future construction and operation of Dunn’s Creek Road, and the objectives of this clause are not compromised. Prior to the DA for Stage 2 being determined the LEP’s Local Clauses Map will need to be amended (condition recommended).

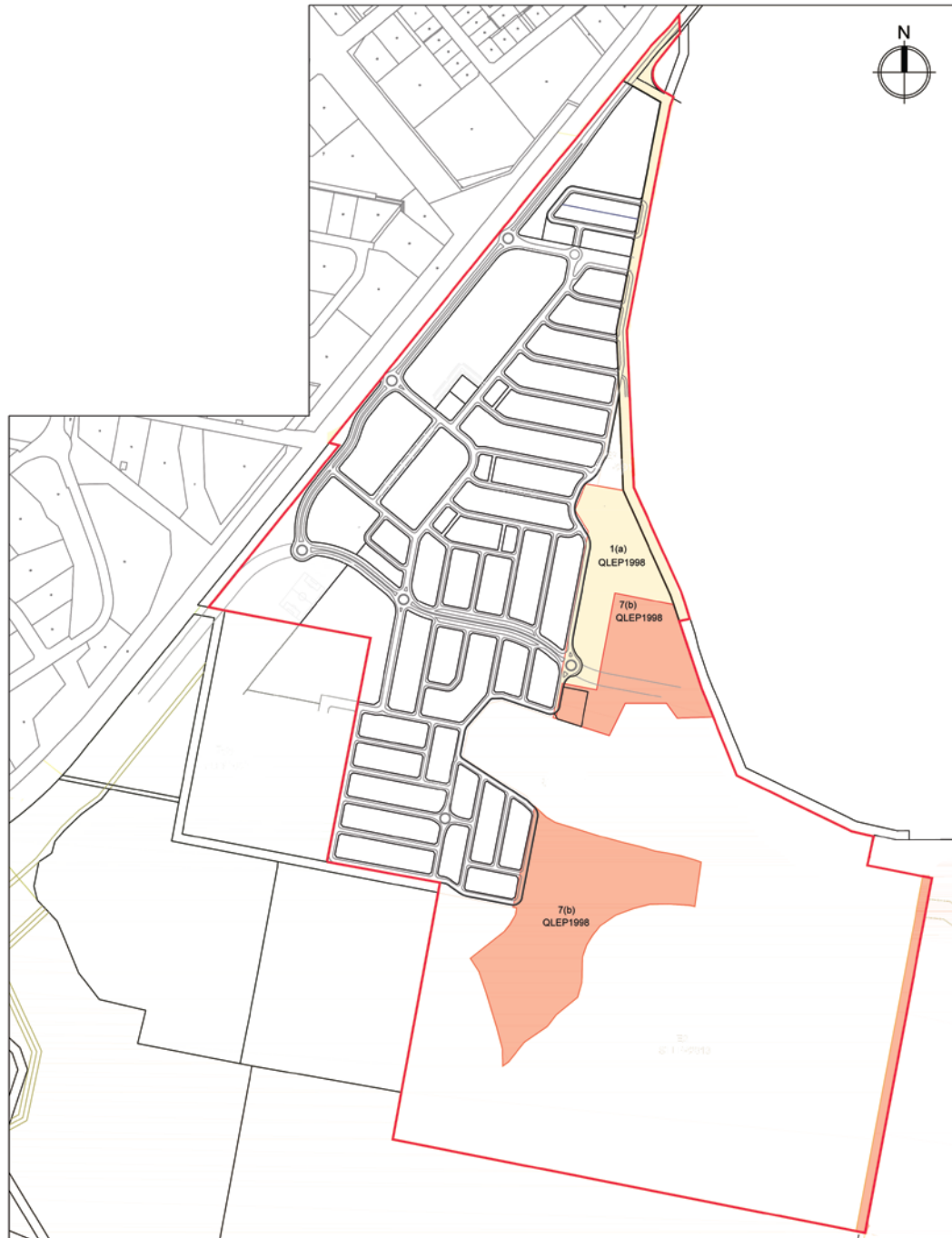
The impact of noise, vibrations and other emissions from any future construction and the ongoing use of the land containing Dunn's Creek Road will be considered as part of subsequent Stage DAs. Changes to the configuration of Dunn's Creek Road requested by Council staff and shown on amended plans has resulted in reduced potential impacts on surrounding future residential development. However, by relocating Dunn's Creek Road away from a zone boundary between R1 – General Residential and E2 – Environmental Conservation to be surrounded on both sides by R1 land, it may be necessary for the developer to incorporate additional measures to reduce the impact of noise, vibrations and other emissions from the road on residential development in the vicinity. This will be assessed in detail in any future DA for Stage 2 and 3—for which Dunn's Creek Road is the major Stage boundary line.

It should be noted that the final status of Dunn's Creek Road in the broader context of road infrastructure required to service South Jerrabomberra and more broadly the Queanbeyan Local Government Area has not been finalised. It may be that this road does not end up being a sub-arterial road and it is possible that further amendments to the LEP in relation to Dunn's Creek Road may be required in the future.

Queanbeyan Local Environmental Plan 1998

The Queanbeyan Local Environmental Plan 1998 (the Queanbeyan LEP) was gazetted on 16 October 1998. The Queanbeyan LEP applies to part of the subject site, specifically the areas deferred during the rezoning process for South Tralee and identified in black outline in Figure 15 below.

Figure 15 - Land to which Queanbeyan Local Environmental Plan 1998 Applies



Queanbeyan Local Environmental Plan 1998 (cont)

Part 1 – General provisions

Clause 2 – Aims and general objectives of Plan

The aims and general objectives of this plan are:

- (a) to consolidate and update former planning instruments that applied to the City of Queanbeyan, and*
- (b) to recognise and protect Queanbeyan's cultural and archaeological heritage, including environmentally sensitive areas such as Queanbeyan's native grasslands, the Queanbeyan fault escarpment, the Queanbeyan River and Jerrabomberra Creek, and*
- (c) to ensure that development occurs in locations and at scales that are sensitive to heritage, and to other environmental and planning constraints, and*
- (d) to ensure that development is well designed and has minimal adverse impact on adjoining development and natural areas, and*
- (e) to provide for a diversity of housing throughout the City, and*
- (f) to recognise the main shopping centres of the City as the Queanbeyan City central business district and the proposed Jerrabomberra shopping centre as well as the importance of the Karabar shopping centre, and*
- (g) to encourage additional employment opportunities for the City, and*
- (h) to encourage functional and economically viable industrial development which does not pollute or adversely affect the adjoining land or water or the amenity of nearby residents, and*
- (i) to enable provision of a range of community and social facilities to serve the population, and*
- (j) to provide natural areas, open space and a range of recreational facilities to meet the needs of current and future generations, and*
- (k) to encourage and promote ecologically sustainable development strategies in the development and redevelopment of the City, and*
- (l) to recognise the proximity of the City of Queanbeyan to the Australian Capital Territory and Yarralumla local government area and the relationships between them, and*
- (m) to provide specific objectives for each zone created by this plan.*

The proposed development of land which is subject to this LEP and forms a part of this DA is considered to be generally consistent with the aims and general objectives of the Plan. The part of the site zoned 1 (a) Rural A and 7 (b) - Environmental Protection B is largely free of environmental constraints and nearly all of this land was originally recommended to be rezoned for residential purposes. The portion of this land further identified in the Supplementary Local Environmental Study (LES) for South Tralee as having environmental values relating to the presence of native grassland ("Area 1") has been assessed in more detail as part of this DA, and proposed infrastructure works have been located to avoid distinct areas of native grassland.

Clause 5 – Dictionary

The proposed development of in land which is subject to this LEP and forms a part of this DA is defined as:

- Excavation or filling;
- Road; and
- Utility undertaking.

Note: **utility undertaking** means any undertaking carried on by or by authority of any Government department, or in pursuance of any Commonwealth or State Act, for the purposes of:

- (a) railway, road, water or air transport, or wharf or river undertakings, or
- (b) the provision of sewerage or drainage services, or
- (c) the supply of water, hydraulic power, electricity or gas, or
- (d) telecommunications facilities.

Clause 6 – Model Provisions

Only the model provision that relate specifically to the proposed development are discussed below. All others do not apply to the proposed development.

Clause 8 – Preservation of trees

The proposed development of in land which is subject to this LEP and forms a part of this DA is subject to a Tree Preservation Order as per this clause and Clause 8 of the QLEP 1998. The ringbarking, cutting down, topping, lopping, removal, injuring or destruction of any tree or other vegetation to which this clause applies is permitted only with the consent of Council. This DA identifies existing trees and vegetation on the land that will be removed to facilitate urban development. This is discussed in detail previously in this Report

Clause 6A - Development that does not require consent

Under this clause a person may carry out development of any description specified in Schedule 1 to the *Environmental Planning and Assessment Model Provisions 1980* without development consent. Schedule 1 of the Model Provisions 1980 includes the carrying out by persons carrying on public utility undertakings, being water, sewerage, drainage, electricity or gas undertakings. This means that in accordance with the Infrastructure Deed of Agreement discussed previously in this Report, the conceptually proposed public utility undertakings in the land subject to this LEP will be subject to a separate consideration under Part 5 of the *Environmental Planning and Assessment Act 1979*.

Clause 7 – Consent authority

As provided for under Schedule 4A of the *Environmental Planning and Assessment Act 1979*, the Joint Regional Planning Panel is the consent authority for the purposes of this LEP.

Clause 7A – Exempt and complying development

The provisions of this clause do not apply to the proposed development as it does not include exempt or complying development as defined in this clause.

Clause 8 – Tree preservation order

The proposed development of land which is subject to this LEP and forms a part of this DA is subject to a Tree Preservation Order under this clause. The ringbarking, cutting down, topping, lopping, removal, injuring or destruction of any tree or other vegetation to which this clause applies is permitted only with the consent of Council. This DA identifies existing trees and vegetation on the land that will be removed to facilitate urban development. This is discussed in detail previously in this Report

Clause 10 – Availability of services

The proposed development will not result in the erection of a habitable building or the human habitation of land the subject of this Plan. As such, this clause does not apply.

Clause 11 – Exceptions to general development control clauses

Neither the proposed development nor the land, is listed in the clause and as such it does not apply.

Clause 12 – Zones indicated on the map

The land under this plan is zoned 1(a) - Rural A, and 7 (b) - Environmental Protection B

Clause 13 – Zone objectives and general development controls

Except as otherwise provided by this LEP, the consent authority must not consent to development on land within a zone unless it is of the opinion that the development is consistent with the objectives of the relevant zone(s).

Queanbeyan Local Environmental Plan 1998 (cont)

Parts 2 – 10 - Rural zones, Residential zones, Business zones, Industrial zones, Special use zone, Open space zones, Environmental protection zones, National park zone and Road zones

The part of the land subject to the Queanbeyan LEP is zoned 1 (a) Rural A and 7 (b) Environmental Protection B, as such, Parts 3, 4, 5, 6, 7, 9 and 10 of the Plan are not applicable to the proposed development. However, Part 2 – Rural zones and Part 8 – Environmental protection zones are applicable.

Part 2 – Rural zones

Clause 14 - General Development Controls—Zone 1 (a) Rural A

1 (a) – Rural A

The objectives of this zone are:

- (a) to enable the continuation of restricted forms of agricultural land use and occupancy, and*
- (b) to ensure that the type and intensity of development will not prejudice the likely future uses of the land for either environmental protection, open space or urban purposes.*

The proposed development of land in South Tralee zoned 1 (a) - Rural A for the purposes of roads, utility undertakings and an open space area is consistent with the objectives. Some of this land is already public road, while the remaining portion does not constitute a viable agricultural holding. The construction of a road will not result in any prejudice to the likely future uses of the land.

Permitted Development:

Roads and utility undertakings are permitted in the 1(a) Rural A zone with development consent.

Clause 18 – Subdivision of rural land—minimum and average area requirements

This clause specifies that each allotment created by subdivision of land in the 1(a) zone must have a minimum area of 80 hectares where it is not within a scenic protection area as is the case with the subject land. Given that this concept DA indicates that no new allotments will be created, but instead a road, the proposal can comply.

Part 8 – Environmental protection zones

Clause 46 - General Development Controls—Zone 7 (b) - Environmental Protection B.

7 (b) – Environmental Protection B

The objectives of this zone are:

- (a) to identify and provide for the protection of privately owned land which is environmentally sensitive and of visual significance, and*
- (b) to maintain the intrinsic scientific, scenic, habitat and educational values of natural and semi-natural environments, and*

- (c) to protect river, creek and gully ecosystems, and*
- (d) to protect threatened species.*

The proposed development of land in South Tralee zoned 7 (b) – Environmental Protection B for the purposes of roads, utility undertakings and an open space area is generally consistent with the objectives. Some of this land is already public road, while any utility undertakings can be located to avoid any identified areas of environmental value.

Permitted Development:

Utility undertakings are permitted in the 7 (b) – Environmental Protection B zone with development consent. Utility undertakings include the provisions of roads provided they are constructed by or on behalf of a public authority.

Part 11 - Advertising structure and displays

The proposed development does not include advertising structures or displays as defined under this plan. As such, clauses 51-55 do not apply.

Part 12 - Heritage Conservation

Clause 56 - Heritage Conservation

There are no listed Heritage Items or any items or places of historical or Aboriginal significance on the part of the land subject to this LEP.

Clause 57 - Saving of development applications under former Part 12

The savings provisions of Clause 57 do not apply to this development proposal given that it was not lodged before the commencement of QLEP 1998 Amendment No 38.

Queanbeyan Local Environmental Plan 1998 (cont)

Part 13 - Special provisions

Clause 64 - Acquisition of land in Zone 6 (b), 9 (a) or 9 (b) and Clause 65 - Interim development of land within Zone 6 (b), 9 (a) or 9 (b)

The part of the land subject to this LEP does not include the land use zones referenced in these clauses, hence they are not applicable.

Clause 66 – Development along arterial and other specified roads—matters for consideration

There are no roads as specified in this clause on the site. The part of the land subject to this LEP does not show development with direct vehicular access or access within 90m, to an arterial road or possible future arterial road.

Clause 67 - Development near zone boundaries

This DA does not propose that any development be facilitated by this clause.

Clause 68 – Development of land shown as unzoned on the map

This clause does not apply to the part of the land that is the subject of this plan as it does not adjoin any other zones in this plan nor are there unzoned lands under this plan.

Clause 69 – Development exceeding the obstacle height limitation or on land within the 20-25 ANEF contour

(1) Regardless of any other provision of this plan, development consent is required for a building with a height which exceeds the obstacle height limitation surface and for residential development under a flightpath and within the 20–25 ANEF contour.

(2) The Council may grant development consent for the erection of a building on land with a height which exceeds the obstacle height limitation surface for Canberra (Fairbairn) Airport as determined by the Commonwealth Department of Defence from time to time only if it is satisfied that the building will not constitute an obstruction, hazard or potential hazard to aircraft flying in the vicinity. Before granting such a consent, the Council must notify that Department of its intention to do so and take into consideration any comments made by that Department and received within 28 days after the notice was sent.

(3) Where the proposed development is located under a flight path and is within the 20–25 ANEF contour and is for residential purposes or for the purposes of hospitals, schools, churches and public buildings, the Council may grant development consent only if it is satisfied that any building to be constructed will satisfy the provisions of AS 2021–1994 (Acoustics—Aircraft Noise Intrusion—Building Siting and Construction).

The majority of the part of the land that is subject to this LEP is within the 20 + ANEF contour. No residential development is proposed in these areas. There are also areas where the existing ground level penetrates the obstacle height limitation surface. Any future built form will be subject to this clause.

Clause 70 – Development within two kilometres of Bonshaw Radio Station

This clause does not apply to the part of the land that is the subject of this Plan is not within 2km of Bonshaw.

Clause 71 – Development near Jerrabomberra Creek or Queanbeyan River or within floodprone land

This clause does not apply to the part of the land that is the subject of this Plan as it is not identified as bushfire prone.

Clause 72 – Land subject to bushfire hazard—matters for consideration

A small portion of the part of the land that is the subject of this Plan is identified as bushfire prone. However, as there is no subdivision or building work proposed in this area, the provisions of this clause are not applicable.

Clause 73 - Development within scenic protection areas or Residential E Zone—matters for consideration

This clause does not apply to the part of the land that is the subject of this Plan as it is not identified as scenic protection, nor is it within a Residential E Zone.

Clause 74 - Subdivision of land—matters for consideration

This clause specifies that consent for subdivision in a rural zone may only be granted upon a number of matters being satisfied in relation to allotment design and provision of serving and suitable building areas. However, as there is no subdivision of the land zoned 1 (a) – Rural A, the provisions of this clause are not applicable.

Clause 76 – Air, water and noise pollution and disposal of stormwater and other liquid discharges

This clause relates to minimising the environmental impacts of non- residential development on the surrounding lands and requires the consent authority to be satisfied that the development is not likely to give rise to significant air, water or noise pollution, and that stormwater and other liquid discharges will be properly discharged.

Council is satisfied that the development of the land that forms a part of this DA and which is subject to this LEP for non-residential development will not likely give rise to significant air, water or noise pollution. Furthermore, stormwater and any other liquid discharges from this land will be properly discharged. Concerns relating to stormwater drainage discussed previously in this Report do not relate to the land subject to this LEP.

Clause 77 – Land which may be contaminated by virtue of previous development

This clause permits the granting of consent only when Clause 7 of SEPP 55 has been complied with. Refer to comments under SEPP 55 earlier in this Report.

Clause 78 – Greenhouse Emissions

The consent authority may grant development consent for development that has an estimated value in excess of \$500,000 and that will result in the consumption of non-renewable energy and the production of greenhouse gases only if it has made an assessment of:

- (a) *details of the possible measures that could be incorporated in the development to reduce the consumption of non-renewable energy and the production of greenhouse gases, and*
- (b) *any measures incorporated in the proposed development to minimise the energy requirements of the proposed development, including building design, construction methods, materials, solar orientation, plant and equipment technology, space heating, cooling and lighting systems, and landscaping, and*
- (c) *whether conditions should be imposed on the consent aimed at reducing the consumption of non-renewable energy or the production of greenhouse gases.*

The proposed development of land which is subject to this LEP and forms a part of this DA will likely result in the consumption of some non-renewable energy and the production of some greenhouse gases from the provision of some infrastructure, such as roads, detention basin and water pipes. The proposed uses of the land zoned under this LEP are minor when compared to the whole South Tralee development. No conditions aimed at reducing the consumption of non-renewable energy or the production of greenhouse gases are warranted.

Clause 79 – Waste minimisation and disposal

The proposed conceptual development of South Tralee will not generate any waste. Works associated with subsequent Stages are unlikely to result in any substantial waste being generated other than through poor construction techniques. Standard conditions will be imposed of each Staged DA requiring the applicant to minimise waste generated from the site during construction activities.

Clause 80 – Covenants and agreements

The land does not contain any covenants or agreements that affect the proposed development.

Clause 81 – Advertised development

The proposed development is not identified as advertised development for the purposes of this clause.

Clause 81 A – Land transferred from Yarrowlumla

The equivalent zone for the QLEP 1(a) zone is the 1(a) zone under Yarrowlumla LEP 1993. Roads were permitted with consent under the 1(a) zone in Yarrowlumla LEP 1993 as they are now permitted under this plan.

Part 14 – Public Land

Clause 82 – Classification and reclassification of public land as community land, and Clause 83 - Classification and reclassification of public land as operational land

Both clauses 82 and 83 do not apply to the land or the proposed development as no public land is required to be reclassified.

Section 79C – Evaluation Continued

Clause (1)(a)(ii) – Any Draft Environmental Planning Instruments

The draft SEPP (Competition) 2010 applies to the land however is not relevant as the development does not involve a commercial development as defined in the draft SEPP.

Clause (1)(a)(iii) – Any Development Control Plan

The land within the subject site that is zoned under the Queanbeyan Local Environmental Plan 1998 is subject to the relevant provisions of the Queanbeyan Development Control Plan 2012 (QDCP). The remainder of the site that is zoned under the South Tralee LEP is not subject to any DCP, however, at the time of writing the Draft South Jerrabomberra DCP had been placed on public exhibition. This contains specific draft development controls for South Tralee and will be considered as a public interest criterion under Section 79C (1)(e).

Queanbeyan Development Control Plan 2012

Part 1 – About this Development Control Plan

Clause 1.8 - Public Notification of a Development Application

The proposed development was advertised as Integrated Development from 29 January 2014 to 27 February 2014. Adjoining property owners and occupiers were also notified by mail. Four written public submissions were received during this period. The ACT Government also made a late submission. Refer to the community consultation section of this Report for consideration of the relevant issues raised in the submissions.

Part 2 – All Zones

Clause 2.2 - Car Parking

The proposed conceptual development does not specifically require any car parking. The conceptual road hierarchy incorporates street types that include on-street car parking.

Clause 2.3 - Environmental Management

Detailed construction management plans (CMPs) will be required to be prepared for all stages of the development prior to release of any subsequent Stage development consents. The CMPs will need to address such issues as (but not limited to): noise, dust, management of construction traffic, erosion and sediment control, and protocols for managing complaints.

Clause 2.4 - Contaminated Land Management

Refer to the commentary in the SEPP 55 part of this Report.

Clause 2.5 - Flood Management

The proposed development is not on land that is the subject of flooding controls under QLEP 2012. As such, this clause does not apply.

Clause 2.6 - Landscaping

The applicant has submitted conceptual landscaping plans for road reserves and public spaces. As part of the construction of the individual Stages, detailed landscape plans must be submitted for consideration.

Clause 2.7 - Soil, Water and Vegetation Management Plan (SWVM Plans)

Separate soil, water and vegetation management plans will be required for the DAs for the construction works of Stages 1 – 5.

Clause 2.8 - Guidelines for Bushfire Prone Areas

The land is located partially within a bushfire prone area, in the far south of the site in a small portion of the land zoned E2 – Environmental Conservation. The NSW rural Fire Service has issued a Bushfire Safety Authority (BSA) for this concept DA. It contains recommendations that will be applicable to future Stage DAs (condition required). It should be noted that the RFS require public roads to comply with ‘Planning for Bushfire Protection 2006’. There are some roads proposed which do not currently comply with this document. The applicant states

that Council's Engineering Specifications should take precedence; however, the requirements of the BSA override the Specifications. The roads that do not currently comply are able to be designed to comply.

Clause 2.9 - Safe Design

The principles of Crime Prevention Through Environmental Design (CPTED) will need to be considered during the assessment of each Stage DA that will show detailed subdivision layouts and potentially built form.

Clause 2.10 – Subdivision

This concept DA indicates that no new allotments will be created over land the subject of this DCP.

Clause 2.11 - Height of Buildings

The proposed development does not involve the erection of any buildings.

Clause 2.13 - Preservation of Trees and Vegetation

Refer to LEP assessment (Clause 8).

Part 3A – Urban Residential Development

This part does not apply to the proposed development.

Part 3B – Secondary Dwellings in Residential Zones

This part does not apply to the proposed development.

Part 3C – Dual Occupancy, Multiple Dwelling Housing and Residential Flat Buildings

This part does not apply to the proposed development.

Part 4 – Heritage and Conservation

This part does not apply to the proposed development. There are no heritage listed items or any items or places with any heritage significance located on the land which is subject to this DCP.

Part 5 – Local Area Provisions

This part does not apply to the proposed development.

Part 6 – Rural and Environmental Zones

The provisions of this Part relate to the subdivision of land and the erection of dwellings and ancillary structures. However, they are not applicable to this DA as the part of the land that is subject to this DCP does not propose subdivision or the erection of dwellings.

Part 7 – Central Business District and Other Business Zones

This part does not apply to the proposed development.

Part 8 – Industrial Zones

This part does not apply to the proposed development.

Section 79C – Evaluation Continued

Clause (1)(a)(iiia) – Any Planning Agreement

The subject site is not subject to any planning agreements although it is anticipated that a Local Voluntary Planning Agreement will be negotiated between the developer of South Tralee and Queanbeyan City Council.

Clause (1)(a)(iv) – The Regulations

No matters prescribed in the Regulation are relevant in the consideration of the subject application.

Clause (1) (a) (v) – And Coastal Zone Management Plan

The site is not subject to any Coastal Zone Management Plan.

Clause (1)(b) – The Likely Impacts of the Development

Context and Setting

The proposed development of the South Tralee urban release area as outlined in this concept DA is considered to be in context with the surrounding rural land, much of which is envisioned to be developed for urban purposes as part of South Jerrabomberra. The development is also designed to take into account the constraints posed by the adjoining Hume Industrial Estate and any impacts on adjoining land use activities will be able to be suitably mitigated.

The proposed development is generally designed to complement the scenic qualities and landscape features of the locality due to the fact that the highest ridgelines and areas with high conservation values are located with an environmental conservation zone. However, the proposed extensive earthworks in the steeper sections of Stage 2, involving the filling and piping of a deeply incised gully and removal of a steeply sided rocky tor, is an inappropriate treatment to this landscape feature of the site and locality.

Access, Transport and Traffic

The proposed development's impact in relation to access, transport and traffic has been satisfactorily addressed by the applicant and is discussed in detail throughout this Report. Council's Senior Engineer – Development has raised no objections in relation to this consideration, subject to the imposition of recommended conditions. It is noted that a more detailed consideration of these matters will be required during the subsequent Stage DAs.

Public Domain

The proposed development will provide for adequate recreational opportunities, public spaces and pedestrian linkages for future residents.

Utilities

Council's Senior Engineer - Development is satisfied with arrangements to service the land as detailed earlier in this Report.

Heritage

Issues relating to Aboriginal and European heritage have been satisfactorily addressed – refer detailed assessment earlier in this Report. Two historical buildings on the site that have heritage values, (Tralee woolshed and Shearer's Cookhouse) will be retained. Council's Heritage Advisor and Heritage Advisory Committee have raised no objections to the proposal subject to the retention of these structures.

Other Land Resources

The proposed development will not adversely impact on valuable land resources for productive agriculture land and mineral and extractive resources.

Soils

The proposed development is unlikely to adversely impact soil conservation. A geotechnical engineer's report submitted by the applicant confirms soils are appropriate for the proposed development and land is not affected by salinity.

Water

The proposed development will not adversely impact on the conservation of water resources and the water cycle. The site does not contain any riparian corridors and the stormwater management plan has been designed to detain post development flows within the site so that discharge across the railway line and into the ACT is kept to pre-development flow rates at existing discharge locations. The overland flows to adjoining grazing properties in general will not be reduced, thus protecting in-flows to dams and the like. A part of the existing overland flow of stormwater over the Morrison land that adjoins the south-west border of the development site is proposed to be diverted and piped through the site. While this overland flow does not drain into a dam or pond on the Morrison land Council's Development Engineer does not support the piping of this natural drainage gully as outlined previously in this Report.

Air and Microclimate

The construction stages of the proposed development will likely cause the emission of dust from earthworks. Management of this issue is to be addressed by the submission of a Construction Management Plan prior to issue of any Construction Certificates for subdivision works. This will be a condition imposed on any future Stage DAs that approve subdivision works.

Flora and Fauna

The potential impacts of the proposed development on the maintenance of biodiversity has been extensively discussed earlier in this Report. The proposed development will not result in a significant impact to any threatened flora and fauna species. A Flora and Fauna Management Plan will need to be prepared and submitted to Council prior to commencement of any works. This will be a condition imposed on any future Stage DAs that approve subdivision works.

Waste

A Waste Management Plan will need to be submitted and approved prior to the issue of a Construction Certificate (Subdivision) for any subsequently approved Stages.

Hazards

Natural hazards affecting the site are from bushfire and contamination. These issues have been satisfactorily addressed in this Report and appropriate conditions recommended. The NSW Rural Fire Service has issued a Bushfire Safety Authority for the development.

There are no technological hazards affecting the site.

Social and Economic Impact in the Locality

The proposed development is not expected to pose any negative social or economic impacts to the locality. There will be local economic benefits through employment opportunities during construction of future stages and provision of added housing stock opportunities and choice for the City to meet regional and local demands.

Energy

Measures to conserve energy and matters relating to energy efficiency will be considered during subsequent Stage DAs and any other DAs for South Tralee that include built form.

Noise and Vibration

The construction stages of the proposed development will likely cause the emission of noise and vibration from earthworks. Management of this issue is to be addressed by the submission of a Construction Management Plan prior to issue of any Construction Certificates for subdivision works. This will be a condition imposed on any future Stage DAs that approve subdivision works.

Safety, Security and Crime Prevention

Measures to ensure safety and security will be considered during subsequent Stage DAs and any other DAs for South Tralee that include built form.

Site Design

The design of proposed conceptual development of the site for urban development is considered to be generally sensitive to environmental conditions and site attributes, except for the land within Stage 2 in the southern part of the site zoned for residential development that is characterised by slopes of 10 to 25% with some patches of land having a slope of 25 – 35%. As outlined previously in this Report, there is a gully running diagonally from south-east to north-west across this land which is deeply incised and characterised by rocky outcrops. A steeply sided rocky tor is located directly east of the gully line and is characterised by mature eucalypt trees. The gully is a significant drainage line that begins to flatten out as it crosses into adjoining land (Morrison) before it ends at the far south-west of the site (also in Stage 2).

It is considered that the part of the proposed development identified as Stage 2 is not sensitive to the environmental conditions and site attributes of the land. It is proposed to fill the gully and pipe its stormwater flows, flatten the tor and remove the trees in order to create suitable grades for the proposed subdivision layout. It is also proposed to pipe the stormwater flow of this gully down residential streets as a combination of piped drainage and overland flow. While this is accepted practice in residential areas where there are no natural drainage lines, Council's Senior Engineer – Development considers it to be inappropriate not to utilise the steeply incised natural drainage line as the major overland flow path.

The design of urban development should take into account the existing landform, aim to take advantage of and retain obvious natural features, minimise the alteration of significant natural landscape features, and create residential allotments that are not constrained by steep slopes or large depths of fill.

The current proposal will result in the following undesirable outcomes within Stage 2 of South Tralee:

1. Extensive cut and fill up to 5m in depth to achieve the required grades for roads and future residential allotments, particularly adjacent to the incised gully;
2. Residential lots being created with the geotechnical constraint of up to 5m of fill to accommodate in building designs. This will create a number of difficulties in construction dwellings in terms of the piercing and retaining walls that will be required to stabilise any buildings as well as the site;
3. It is likely that the piping of the gully may result in large stormwater mains infrastructure being located within the yards of individual residential allotments, which is considered unsuitable in a Greenfield development site; and
4. Significant unnecessary alteration of natural landscape features.

The conceptual design of Stage 2 does not appear to have attempted to avoid adverse impacts to the existing characteristics of the land or considered incorporating the natural features into the design. It would appear that in preparing the concept design the applicant has focussed on the LEP zoning map while perhaps not fully taking into account that land use zone boundaries are necessarily based on large scale considerations. While this part of the site may be zoned R1 – General Residential and permit a minimum lot size of 600m², this does not mean that all of the land zoned as such is suitable for lots of this size, or that natural constraints and features of the land should not be taken into account and in some cases preserved.

Council acknowledges that the amount of land at South Tralee originally earmarked for urban development was reduced by the NSW Government during the final stages of the rezoning process due to aircraft noise considerations. It is also acknowledged that a large area of South Tralee that was otherwise highly suitable for residential development was not able to be zoned as such due to proximity to the Hume Industrial Estate. Clearly, the South Tralee urban release area is a constrained site. It also will not yield the amount of residential allotments originally envisioned in the early stages of the rezoning process, thus putting pressure on the economic viability of the development. However, this does not negate the need for the proper consideration of environmental constraints and principles of subdivision design. It is appropriate for the Panel to be satisfied that the works identified in this concept DA as being required to facilitate the development of South Tralee are in accordance not only with the objectives of this clause but with longstanding principles and objectives of good subdivision design as expressed in this LEP, Council's Development Control Plans and indeed, in the applicant's submitted Development Guidelines.

Land in Stage 2 contains obvious natural features that may not be appropriate for residential development or should be subject to a re-design that is more sympathetic to the natural features within Stage 2. Council is also open to the applicant making a case for the acceptance of the current design with the submission of additional information in support of it. While not every specific part of Stage 2 is considered to be problematic, the areas of concern cover a large enough portion of the land identified as Stage 2 to warrant this stage not being included in the development consent (should it be granted).

Should the Stage 2 part of this concept DA not be included in the development consent the lodgement and assessment of a DA for Stage 1 will be able to proceed while the applicant and Council continue to negotiate a suitable outcome for the conceptual design of Stage 2. It will

also be open to the applicant to create sub-stages within Stage 2 to isolate more specifically the area of concern (if viable). It is important to note that if a part of a DA is not approved pursuant to Section 80(4) of the *Environmental Planning and Assessment Act 1979*, it remains undetermined, i.e., not refused, and it is open to the consent authority to approve the remainder of the application at a later time.

Construction

Any approval for subsequent stages that involve works will be conditioned to ensure construction activities do not unreasonably impact on the adjoining properties and the environment by way of noise, erosion, dust and the like. These types of conditions are routinely imposed on development consents that involve construction.

Cumulative Impacts

Cumulative impacts relate to the small impacts of developments in an area that when considered in unison can result in detrimental impact on the natural or built environment. Generally, it is considered that with adherence to recommended conditions of consent that the proposal will not give rise to any adverse cumulative impacts. However, there are concerns about the possible cumulative impacts of the extensive earthworks in the steeper parts of Stage 2 and the proposal to fill and pipe the incised gully rather than incorporate this natural feature into this natural drainage line which may result in large stormwater mains infrastructure being located within the yards of residential allotments.

The cumulative impacts of the above works on the over time relates to:

1. Difficulties and extra costs for building of residences on land containing up to 5m of fill; and
2. Adverse impacts from any failure of the infrastructure on residential buildings and amenity and costs and difficulties for Council in maintaining this infrastructure

Section 79C – Evaluation Continued

Clause (1)(c) – The Suitability of the Site for the Development

Does the proposal fit the locality?

There are no significant constraints to the proposed development from adjacent land. The proposed development will not give rise to unmanageable transport demands, adequate recreational opportunities will be provided and utility services available.

Are the site attributes conducive to development?

The site attributes are generally conducive to development, with the most environmentally sensitive areas protected by a conservation zoning that greatly restricts development. The conceptual design has generally taken into account the physical, heritage and flora and fauna constraints of the site except for in Stage 2 where the design is not sensitive to the site constraint posed by the deeply incised gully, rocky tor and the steeper land zoned for residential development.

Section 79C – Evaluation Continued

Clause (1)(d) – Any Submissions made in relation to the Development

External Referrals

1. NSW Office of Environment and Heritage (OEH)

This DA was referred to the OEH as Integrated Development. This was required because there were known Aboriginal objects on the site, and therefore the OEH would need to issue their General Terms of Approval (GTAs) for any **required** permits to impact on Aboriginal sites. The Assessment has concluded that GTAs are not required to be issued at this stage. Refer to detailed discussion earlier in this Report.

The OEH were also asked to assist Council with assessing the potential biodiversity impacts of the proposed development. The OEH's comments were taken into consideration and are discussed in detail earlier in this Report.

2. NSW Department Planning and Infrastructure

Clause 6.1 of the LEP requires satisfactory arrangements to be made for the provision of designated State and Territory public infrastructure before the subdivision of land in an urban release area. The Director-General of the NSW Department of Planning and Environment has not issued a satisfactory arrangements certificate for the provision of designated State and Territory public infrastructure. However, the Department advised before the lodgement of this DA that satisfactory arrangements certification is not required for the conceptual development application as the issuing of development consent will not authorise the carryout of subdivision. However, subsequent staged applications that involve the subdivision of land will not be able to be determined unless satisfactory arrangements have been certified.

3. NSW Rural Fire Service (RFS)

This DA was referred to the RFS as Integrated Development as the site is partially bushfire prone. The RFS have issued a Bushfire Safety Authority (BSA) for this concept DA. It contains recommendations that will be applicable to future Stage DAs (condition required).

4. NSW Roads and Maritime Services (RMS)

The response from the RMS in relation traffic generating development is detailed in the section on the State Environmental Planning Policy (Infrastructure) 2007 earlier in this report.

5. John Holland Rail

The response from John Holland Rail in relation to impacts on the rail corridor is detailed in the section on the State Environmental Planning Policy (Infrastructure) 2007 earlier in this report.

Internal Referrals

1. Building Surveyor

Council's Building Surveyor advises that the aircraft noise mitigation methods proposed in the applicant's Development Guidelines are very restrictive and are not

supported. The measures proposed in the Draft DCP for South Jerrabomberra offer more building choices for achieving noise mitigation and this is considered a better solution. Also, the amount of cut and fill proposed in the southern part of the site appears excessive. This will create a number of difficulties in construction dwellings in terms of the piling and retaining walls that will be required to stabilise any buildings as well as the site.

2. *Development Engineer*

The Development Engineers comments have been incorporated into the discussion on various issues previously in this report.

3. *Environmental Health*

Council's Environmental Health Officer has satisfactorily addressed as contamination issues as outlined earlier in this Report. Amenity issues such as noise, dust and erosion control can all be dealt with by way of conditions of consent on subsequent Stage DAs that include actual works.

4. *Parks and Recreation*

Council's Parks and Recreation Manager has raised no objections to the development and no conditions are recommended. Some concerns initially raised about the recreation structures shown in parkland and the size of some parks have been satisfactorily addressed. Subsequent Stage DAs will need to include detailed landscape plans for public space and road reserves, which will also be referred to Parks and Recreation.

5. *Heritage Advisor and Heritage Advisory Committee*

Council's Heritage Advisor and Advisory Committee have assessed the proposal and have raised no objections subject to the retention of the Tralee Woolshed and Shearers' Cookhouse. The applicant has submitted amended plans to show this.

Community Consultation

The application was publicly notified and exhibited as integrated development from Integrated Development from 29 January 2014 to 27 February 2014 and adjoining property owners and occupiers were notified by mail. Four written public submissions were received during this period and one late submission was made by the ACT government. The issues raised in these submissions are summarised below, with comments provided from the applicant and the Assessing Officer as relevant. Note: The applicant did not respond to the issues raised in the submission made by the ACT Government.

Issue 1: *The Dunn's Creek Road alignment, as shown in the South Tralee LEP, is not followed by the proposed Master Plan, rather an alternative route is proposed with a residential specification which will potentially undermine the future role of this road as a connection between the Monaro Highway and Old Cooma Road.*

Assessing Officer's Comment – The location of Dunn's Creek Road has been the subject of more detailed investigations since this DA was on public notification. Council has resolved to prepare a Planning Proposal to amend the location of this road. This will require even more investigations and there will be opportunities for public comment.

Issue 2: *Concerns raised about the maintenance of existing easements for access over the subject site into adjoining properties and the impacts of future construction traffic et cetera on amenity and ease of access. Also, concern about the future use of land adjacent to one of these easements for passive recreation.*

Applicant's Comment – Access easements were referenced in Section 2.4 of the SEE. This DA does not seek to extinguish the existing access easements, rather the intention is for the future public road network to connect with and continue these access arrangements. Roads 1 and 2, as part of Stage 2 works, will replace part of the access easements and the existing rural road within Stage 5 is to be converted to a public road.

It appears as though this submission is largely focussed on the easement which traverses Stage 5. If Council concur with our proposal that a large portion of land zoned E2 is gifted to Council as regional reserve along with this track as part of Stage 5, then as part of Stage 5's more detailed DA and re-grading/resurfacing of this track, its fencing and any shared use, can be considered in more detail at that time. It should be noted that the section of the easement within Stage 5 may well remain as it is, with the land ownership being transferred from the proponent to Council.

Assessing Officer's Comment – Diagram's submitted by the applicant in response to this issue show that the access easements will only be extinguished at such time as they are replaced by new public roads, otherwise they will be retained.

Any passive recreation in Stage 5 will be likely be quite limited due to the large amount of E2 land. It may be appropriate for this access track to be fenced or otherwise improved, however, this will be considered in detail during the assessment of any DA for Stage 5.

Should development consent be granted to this DA, it is recommended that suitable conditions be imposed to ensure the retention and protection of the existing access easements to adjoining properties until such time as any are replaced by public roads.

Issue 3: *Greater description of how the five stages of development proposed will evolve in particular in relation to the rest of South Jerrabomberra is warranted to ensure the appropriate framework is established for the detailed stages. This is of further importance as the design guidelines submitted by the applicant satisfy the requirement for a DCP, where a DCP would have a broader context of South Tralee and the South Jerrabomberra area currently in the process of being rezoned.*

Applicant's Comment – The SEE and Appendices 1, 2, 3, 5, 13 and 18 lodged with the DA have all considered the ultimate development across South Jerrabomberra and not just the development of South Tralee in isolation. This has been done to ensure that the development of South Tralee does not prejudice any potential future development across South Jerrabomberra.

The design guidelines submitted with the DA only apply to South Tralee in accordance with Section 83C (2) of the Environmental Planning and Assessment Act 1979. It is at Council's discretion and any other South Jerrabomberra developer's prerogative to create any DCP for other lands within the South Jerrabomberra development area.

Assessing Officer's Comment – The design guidelines submitted with the development application only needed to refer to South Tralee for the purposes of the Act and *Clause 6.3 – Development control plan* of the South Jerrabomberra LEP. Since the submission was made Council has continued to progress the making of a Development Control Plan (DCP) for South Jerrabomberra. At the time of writing the Draft South Jerrabomberra DCP was on

public exhibition. The design guidelines submitted by the applicant have not been adopted by Council in the Draft DCP.

The Draft DCP contains detailed controls for the development of South Jerrabomberra. It includes a Master Plan that broadly establishes the ultimate development outcomes for the South Jerrabomberra area, including road links, water and sewer infrastructure and broad land use patterns. As the development of other areas outside of South Tralee is progressed the DCP will be amended to include the required Staging Plans and Neighbourhood Structure Plans to guide development.

The proposed development is consistent with the Master Plan for South Jerrabomberra and will not compromise the development of other parts of South Jerrabomberra.

Issue 4: *One submission has raised numerous issues relating to the provision of active transport modes within South Tralee including: providing better east-west links; grade separation of roads; wider paths; reducing intersections; compliance with Austroads Standards; and that, generally, the proposed development is biased towards vehicles*

Assessing Officer's Comment – Council's Senior Engineer – Development has reviewed this submission and provides the following response:

- The developer has revised the submitted plans to provide shared paths 2.5 m wide and on-road cycle lanes 1.8m wide throughout the subdivision. These widths are in accordance with Council's adopted Queanbeyan Bike Plan and it is intended that these widths be utilised in the South Jerrabomberra DCP and associated Engineering Specifications.
- A number of recreational paths are proposed in the Stage 5 area (zoned as Environmental Protection).
- The submission relates to the original subdivision plans and requests consideration of a green belt corridor adjacent to Dunn's Creek Road, removal of bias towards vehicles, improved path / cycle widths and provision of off-road shared paths. Comment in relation to these matters is provided below: –
 - The proposed service road adjacent Dunn's Creek Road provides separation between the shared path and the road for the majority of the length of the road. The open space area west of the school site also provides separation. The path section adjacent the future school site needs to be further detailed as part of the Stage 2 DA to enhance separation as requested;
 - It is considered that the revised path network satisfies the concerns raised in regard to providing direct travel paths from/between residential areas and identified hubs (shops, school etc);
 - Substandard path widths have been revised as mentioned above. The request for 3.5m shared paths is not supported as this width is not adopted in the current bike plan; and
 - The topography is not conducive to grade separation for path intersections at arterial roads.

Issue 5: *Object to the demolition of the built heritage on the site. In particular, the Woolshed has significance and should be preserved.*

Assessing Officer's Comment – The Assessment of the proposed development has recommended that two historical structures, including the Tralee Woolshed, should not be demolished. Road designs have been amended to allow for their retention. Other historical built items on the site are supported to be demolished due to their low heritage significance.

Issue 6: *Suggested that a condition of approval should require the setting up of a working forum to deal with day-to-day management of the urban interface with the submitter's land. This forum should commence now at the pre-construction phase, continue through construction, post-completion and through to when the first South Tralee residents group is formed.*

Applicant's Comment – Whilst we continue to work collaboratively with our adjacent neighbours we do not support any working groups being conditioned to the development consent.

Assessing Officer's Comment – The consent authority cannot impose a condition on a development consent to require on-going consultation between landowners. The submitter will receive a copy of the development consent (should it be granted) and will be notified of the subsequent staged DAs as an adjoining landowner. Council encourages the developer of South Tralee to maintain an open dialogue with adjoining landowners.

Issue 7: *Maintenance of stormwater flow into adjoining Environs land.*

Applicant's Comment – The DA does not propose to alter that part of the Raws Catchment (refer to the Stormwater Management Plan at Appendix 3) which currently drains to Environs and over which there is currently no development proposed.

Assessing Officer's Comment – The submitted Infrastructure Servicing Report identifies five major stormwater catchments in the wider South Jerrabomberra development area, of which South Tralee forms a part. The Report states that as the majority of the Raws catchment lies outside of the South Jerrabomberra/South Tralee development the proposed development will not have a significant impact on the overall catchment flows. Council's Senior Engineer – Development agrees with the Report.

Issue 7: *What implications does the proposed sewerage pump station have on future development on Environs land adjacent to it, and how does it affect right-of-way?*

Assessing Officer's Comment – The originally proposed pump station in the northern part of South Tralee has been removed in revised plans.

Issue 8: *The 250m buffer between Tralee and Hume specified in the Queanbeyan Residential and Economic Strategy 2031 is now 200m. A further encroachment of 20m is indicated in the SEE. It is unclear why the buffer between Hume and South Tralee continues to be reduced.*

Assessing Officer's Comment – The buffer within the South Tralee boundary is 200m wide, however, this is 250m from the eastern edge of the Hume industrial precinct. The 20m encroachment of residential development was not supported by Council and has been removed by the applicant in amended plans.

Issue 9: *The SEE states on page 78 that:*

“...future industrial development should be conducted based on noise, vibration and air quality objectives that are appropriate for residential development.”

The ACT Government has continually raised concerns regarding residential development adjoining the ACT's primary industrial estate in Hume and in particular, the potential for land use conflict and impacts on South Tralee residents from existing and/or future activities at Hume. The ACT will retain and protect Hume's function as an industrial estate.

Assessing Officer's Comment – Hume's function as an industrial estate has been recognised during the rezoning process for South Tralee by the restriction of residential development in the vicinity of Hume and the adoption of a mapped Visual and Acoustic Buffer.

Issue 10: *The potential amenity impacts of from Hume, such as noise, hours of operation, odour, vibration, visual impact and an adverse incident do not appear to have been considered in sufficient detail within the SEE. The Territory Plan permits a wide range of heavy industrial activity that have the potential to affect the amenity of future residents of South Tralee through air, noise, vibration, visual impact and hours of operation.*

Assessing Officer's Comment – Any future applications for specific land uses in South Tralee in the vicinity of Hume will be required to address in detail the potential amenity impacts from Hume – refer to Clause 7.4 - Land adjoining Hume Industrial Area and Goulburn/Bombala Railway Line of the South Tralee LEP.

Issue 11: *There is a lack of specific controls identified to maintain amenity in the Neighbourhood Centre as a result of its close proximity to Hume. This area should be strengthened in the development guidelines produced for South Tralee.*

Assessing Officer's Comment – The Draft South Jerrabomberra DCP 2014 that is currently on public exhibition contains specific controls for the Neighbourhood Centre. The ACT Government has the opportunity to comment on the Draft DCP.

Issue 12: *The proposed location of a child care centre in close proximity to Hume and in particular a major asphalt plant is a concern. This facility also stores significant amounts of petroleum. The locations of authorised activities and industrial uses within Hume will change over time.*

Assessing Officer's Comment – The assessment of this DA has outlined that at this conceptual stage there is not enough information to enable a proper consideration of whether a sensitive land use like a child care centre should be located in the vicinity of Hume. Plans will be amended to remove specific reference to a child care centre. Future applications for specific land uses in South Tralee will have to take into account nearby land uses in Hume.

Issue 13: *The asphalt works is located immediately adjacent to the B1 zone in South Tralee. There is no buffer to the B1 zone, other than the railway corridor. It is noted that the B1 zone permits a number of sensitive uses. It is recommended that the location of the B1 zoning be reviewed accordingly.*

Assessing Officer's Comment – A review of the appropriateness or otherwise of the existing zoning of land in South Tralee does not form a part of the required assessment of this DA. The proximity of Hume to South Tralee was carefully considered during the rezoning process and is reflected in the gazetted zoning pattern and LEP clauses. Controls relating to the Neighbourhood Centre and development within the buffer land are also contained within the Draft DCP.

The proposed development identifies a neighbourhood centre super lot in the B1 – Neighbourhood Centre zone. Careful consideration of impacts from the proximity of Hume to specific development within the Neighbourhood Centre will form part of the assessment of

future DAs. It may be that some permissible land uses may not be appropriate or approved within the B1 zone.

Issue 14: The proposed northern access road is only sufficient for the initial stages of the development and would require widening after 2024. Upgrading of roads in the ACT will also be required. This will have cost implications that will need to be negotiated and agreed between the two jurisdictions before and final or detailed development application is approved.

Assessing Officer's Comment – Noted. The developer of South Tralee, Queanbeyan City Council and the Department of Planning and Environment will continue to liaise with the ACT Government regarding future road connections.

Issue 15: *The SEE mentions several times that a Sheppard Street connection to the ACT is preferred. The ACT Government has continually raised concerns over a number of years regarding this proposed connection. There are safety issues associated with the mixing of residential and industrial traffic. The connection would also operate at a lower level of service. ESDD reiterates its previous request to Council for additional traffic analysis and modelling data concerning the Sheppard Street connection.*

Assessing Officer's Comment – Additional traffic analysis supports a future connection to the ACT via Sheppard Street. This has been adopted by Queanbeyan City Council as its preferred option. The proposed conceptual development and the recently approved Northern Entry Road allow for multiple options in the future in regard to any future road duplication and connection with the ACT.

Section 79C – Evaluation Continued

Clause (1)(e) – The Public Interest

Generally, the proposed development is in the public interest as it will facilitate the development of an urban release area in a manner that is generally in accordance with the relevant statutory and policy framework. However, as previously discussed, there are concerns about how the steeper parts of Stage 2 have been proposed to be developed.

A criterion under this consideration is any relevant planning documents. The Draft South Jerrabomberra Development Control Plan 2014 is relevant.

The Draft South Jerrabomberra DCP 2014 includes South Tralee and introduces the following:

1. The context of how development at South Jerrabomberra will proceed and contains a South Jerrabomberra Master Plan and Staging Plan;
2. Requirements for the preparation of Neighbourhood Structure Plans; and
3. Guidelines and standards for development in South Jerrabomberra.

Pursuant to Section 18 of the *Environmental Planning and Assessment Regulation 2000* the Draft DCP was placed on public exhibition from 14 November 2014 to 12 December 2014. The Draft DCP represents the current policy position of Council in relation to South Tralee. It has been modelled on Council's DCP for the Googong urban release area, as well as including elements specific to South Tralee.

The proposed development of the South Tralee urban release area as outlined in the plans submitted for this concept DA is considered to be generally consistent with the Draft DCP, (excluding the applicant's Development Guidelines where they depart from the Draft DCP), however, the conceptual subdivision works in the steeper parts of Stage 2 does not satisfy a subdivision design principle in Part 4 – Subdivision Controls of the Draft DCP. *Clause 4.1 – Introduction* requires subdivision design to optimise the natural attributes of the site. The natural attributes of the steeper parts of Stage 2 and associated gully have not been optimised in the concept design.

It is not in the public interest to approve the part of this concept DA that is not in accordance with an established principle of subdivision design, at least until the applicant and Council can explore potential changes to the design to satisfactorily ameliorate Council's concerns.

Section 80 – Determination

Subsection 80(4) of the Act enables the consent authority to grant partial development consent for a proposed development, except for a specified part or aspect.

Subsection 80(4) states:

A development consent may be granted:

- (a) for the development for which the consent is sought, or*
- (b) for that development, except for a specified part or aspect of that development, or*
- (c) or a specified part or aspect of that development.*

It is intended that should the application be approved it will be pursuant to Section 80(4)(b), for approval of the development as proposed except for Stage 2, which is a specified part of this DA.

Subsection 80(5) states that development consent may subsequently be granted for that part or aspect of the development for which development consent is not initially granted under subsection (4). This part allows the consent authority to determine an application and allow some parts of the development to proceed while disregarding those parts for which there is insufficient information or which lack merit. It is important to note that the part of the application that is not approved remains undetermined, i.e., not refused, and it is open to the consent authority to approve the remainder of the application at a later time.

Division 2A – Special procedures concerning staged development applications, which includes

- ***Section 83A – Application of this Division***

This Division applies to staged development applications and to consents granted on the determination of those applications.

- ***Section 83B – Staged development applications***

A staged development application is a development application that sets out concept proposals for the development of a site, and for which detailed proposals for separate parts of the site are to be the subject of subsequent development applications. The application may also set out detailed proposals for the first stage of development.

Pursuant to Subsection (2) the applicant has requested this DA to be treated as a staged development application.

Pursuant to Subsection (3), if consent is granted to this staged development application it will not authorise the carrying out of development on any part of the site unless a further application is made and consent granted in relation to that part of the site. The DA has not included additional details to allow for consideration of granting consent to the first stage, therefore, additional applications will need to be submitted for each stage of South Tralee.

- ***Section 83C – Staged development applications as alternative to dcp required by environmental planning instruments***

The South Tralee LEP requires the preparation of a development control plan before any development consent is granted for land in South Tralee – refer to Clause 6.3. However, under this Section that obligation may be satisfied by the making and approval of a staged development application in respect of the land provided that the application included the information required to be included in the development control plan by the LEP.

The applicant has satisfied this requirement by the submission of a set of Development Guidelines, ‘South Tralee Release Area Development Guidelines (January 2014)’, and supporting plans/documents for the development of South Tralee that contain the required information. This has facilitated the lodgement of this DA, however, Council does not support the inclusion of the specific content of the Development Guidelines as a part of the development consent (should it be granted) where they are inconsistent with the provisions of the Draft South Jerrabomberra Development Control Plan 2014.

- ***Section 83D – Status of staged development applications and consents***

This Section states that while any consent granted on the determination of a staged development application for a site remains in force, the determination of any further development application in respect of that site cannot be inconsistent with that consent. However, this does not prevent the modification (in accordance with the Act) of a consent granted on the determination of a staged development application.

Section 91 – What is “integrated development”?

The proposed development required referral as Integrated Development to the NSW Office of Environment and Heritage (OEH) under Section 90 of the *National Parks and Wildlife Act 1974* as the site contains known Aboriginal objects. It also required referral as Integrated Development to the NSW Rural Fire Service (RFS) under Section 100B of the *Rural Fires Act 1997* as the site is partially shown as being bushfire prone on the Queanbeyan Bushfire Prone Land Map.

The assessment has concluded that General Terms of Approval (GTAs) from the OEH for the issuing of an Aboriginal Heritage Impact Permit (AHIP) are not required to be issued at this stage. Each subsequent Stage DA will be referred to the OEH as Integrated Development, and GTAs will have to be obtained from the OEH prior to the determination of any Stage, unless GTAs are issued to cover every Stage.

The RFS have issued a Bushfire Safety Authority (BSA) for the development which contains numerous conditions that will need to be complied with where relevant during future construction Stages of the development. Some recommendations regarding future dwellings on the site may need to be imposed via the creation of a Section 88B Instrument under the *Conveyancing Act 1919*. Should development consent be granted the terms of the BSA are to be included as an attachment to the consent and conditioned to be complied with, and that prior to the determination of any subsequent Stage DA the applicant is to submit details of how the development complies with the terms of the BSA that are relevant to that Stage.

Section 94 – Contribution towards provision or improvement of amenities or services

The Queanbeyan City Council Section 94 Contributions Plan 2012 is applicable to the subject site. Under the Plan, Council can charge contributions or require works from the developer of South Tralee, however, further information regarding road designs, costings and apportionment is required. Moreover, it is possible that Council and the developer of South Tralee will enter into a Voluntary Planning Agreement in the not too distant future that may or may not exclude the application of Section 94 to the development. Therefore, while it is not appropriate to require contributions as a part of a consent to the concept DA (if granted), the imposition of contributions will need to be considered during the assessment of DAs for the subsequent stages of the development of South Tralee. An advisory note to this effect is recommended to be attached to the consent (if granted).

Conclusion

Integrated Development Application 263-2013 has been nominated by the applicant as a staged development application in accordance with section 83B of the *Environmental Planning and Assessment Act 1979* for the conceptual development of the South Tralee urban release area. The proposal has been assessed under Section 79C of the *Environmental Planning and Assessment Act 1979* including the relevant provisions of Queanbeyan Local Environmental Plan (South Tralee) 2012, Queanbeyan Local Environmental Plan 1998 and the Queanbeyan Development Control Plan 2012. The development generally satisfies the provisions of these instruments except for a specified part of Stage 2 as detailed throughout this Report and in the Recommendation below.

Recommendation

1. That pursuant to Section 80(4) of the *Environmental Planning and Assessment Act 1979* (the Act) the proposed development be granted consent subject to recommended conditions listed below, **except** for the part of the proposed development identified as being within Stage 2 in Attachment 1 to this report for the following reasons:
 - a) This part of the proposed development contravenes the objects of the Act listed at *Section 5 - Objects*, specifically objects (a)(i) and (a)(ii) in that it involves the modification of an environmentally sensitive area and prominent landscape features through extensive earthworks and the piping and filling of a steeply incised gully. This is not considered to encourage the proper management, development and conservation of natural areas and water for the purpose of promoting the social and economic welfare of the community and a better environment;
 - b) This part of the proposed development is inconsistent with the aims of the Queanbeyan Local Environmental Plan South Tralee 2012 (the LEP) listed in *Clause 1.2 – Aims of the plan*, specifically aims (c) and (d) in that it does not protect and manage an environmentally sensitive area within South Tralee, and the indicative residential densities appear inconsistent with the environmental capacity of the land.;
 - c) This part of the proposed development is inconsistent with the objectives of *Clause 4.1 – Minimum subdivision lot size* of the LEP, specifically objectives (a) and (c) in that it is not sensitive to the environmental characteristics of the land and does not protect a prominent landscape feature;
 - d) This part of the proposed development is inconsistent with the objective of *Clause 7.1 – Earthworks* of the LEP, in that it will have a detrimental impact on a feature of the land;
 - e) Pursuant to Section 79C(1)(b) of the Act,
 - a. *Context and Setting* – This part of the proposed development includes an inappropriate treatment to this landscape feature of the site and locality;
 - b. *Water* – This part of the proposed development includes the inappropriate piping of a natural drainage gully;
 - c. *Site Design* - This part of the proposed development does not satisfactorily take into account the existing landform, aim to take advantage of and retain obvious natural features, minimise the alteration of significant natural landscape features, and create residential allotments that are not constrained by steep slopes or large depths of fill;
 - d. *Cumulative Impacts* - This part of the proposed development introduces likely adverse cumulative impacts relating to impacts on residential development from the design of stormwater infrastructure and difficulties and extra costs relating to building residences on land containing large amounts of fill.
 - f) Pursuant to Section 79C(1)(c) of the Act, this part of the proposed development is not sensitive to the site constraint posed by the deeply incised gully, rocky tor and the steeper land zoned for residential development; and

- g) Pursuant to Section 79C(1)(e) of the Act, this part of the proposed not in the public interest as it is does not satisfy a subdivision design principle in Part 4 – Subdivision Controls of the Draft South Jerrabomberra Development Control Plan 2014, being *Clause 4.1 – Introduction* which requires subdivision design to optimise the natural attributes of the site.

Conditions

GENERAL CONDITIONS

1. **CONSENT RELATES TO CONCEPT PLAN ONLY**

This consent does not permit the construction of any works associated with the development of the South Tralee urban release area and portion of Territory Parade and Boundary Road that form part of the land the subject of this development consent.

REASON: To ensure that appropriate consideration is given to the construction of the individual stages of South Tralee.

2. **INDIVIDUAL APPLICATIONS REQUIRED FOR STAGED WORKS**

A separate Development Application is required to be lodged for each of the five individual Stages of the development of South Tralee as shown on the Staging Plan approved under this development consent.

REASON: To ensure appropriate consideration is given to the construction works associated with the development.

3. **IN ACCORDANCE WITH THE APPROVED PLANS**

The development must be carried out generally in accordance with the documents accompanying the Development Application (as specified in the list below) and with the plans bearing the Queanbeyan City Council approval stamp, and any amended plans approved under subsequent modification(s) to the development consent, except where varied by notations made in red ink or conditions of approval.

- **Bushfire Protection Assessment for the South Tralee Urban Release Area prepared by Australian Bushfire Protection Planners Pty Limited (November 2013: Assessment No. B131950-1).**
- **Site Contamination Summary Report – South Tralee Development Site prepared by SMEC (December 2013: Revision No. 3).**
- **Landscape and Open Space Strategy prepared by Redbox Landscape Architects (December 2013: Final).**
- **Geotechnical Assessment Report prepared by Douglas Partners (August 2013: Project 46162.01, Document No. 2, Revision 0).**

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail.

REASON: To ensure the development is completed in accordance with the approved plans and the development consent.

4. **CONTENT OF DEVELOPMENT GUIDELINES**

Future Development Applications containing detailed proposals for different parts of the site must be prepared having regard to the provisions of the *Draft South Jerrabomberra Development Control Plan 2014* (the DCP), as publicly exhibited or, when it has been made, the DCP, as made. For the avoidance of

doubt, the provisions of the DCP shall prevail over the *South Tralee Release Area Development Guidelines* (January 2014) to the extent of any inconsistency.

REASON: To ensure that subsequent Stages of development at South Tralee are considered subject to the provisions of Queanbeyan City Council's South Jerrabomberra Development Control Plan (DCP), either under Section 79C(1)(a)(iii) of the Act as an adopted DCP, or, if the DCP has been publicly exhibited but not yet adopted, as a public interest criterion under Section 79C(1)(e) of the Act.

5. TIMBER FROM FELLED NATIVE TREES TO BE RETAINED ON SITE

Timber from the approved felling of any native trees during the course of the development of South Tralee is to be salvaged and moved to land in South Tralee zoned E2 – Environmental Conservation.

REASON: To provide habitat for native fauna as recommended by the NSW Office of Environment and Heritage.

6. TREE PLANTING IN PART OF STAGE 3

The planting of trees in the open space area in Stage 3 adjacent to Road 15 and in the vicinity of the detention basin that is characterised by wetland grasses may not be appropriate due to this area being naturally treeless. Any detailed landscaping plans for this area must demonstrate how this has been taken into account in the design.

REASON: To ensure that the natural characteristics of the land are taken into account during the landscaping of open space areas and as recommended by the NSW Office of Environment and Heritage.

7. TREE PLANTING IN PUBLIC OPEN SPACES

The detailed landscaping plans for public open spaces must demonstrate how the incorporation of native trees indigenous to the area has been considered.

REASON: To provide for suitable native tree plantings and as recommended by the NSW Office of Environment and Heritage.

8. ECOLOGIST TO CONSULT

Any works proposed in future Stage Development Applications to the large southern portion of the site zoned E2 – Environmental Conservation must demonstrate that a suitably qualified ecologist has been consulted in the design.

REASON: To ensure that the areas of the site that have high conservation values are taken into account and protected during the design of any development.

9. DETAILED CONTAMINATED SITE INVESTIGATION REQUIRED

A detailed environmental investigation to characterise the nature and extent of contamination associated with the areas of environmental concern (AEC's) identified in the *SMEC Site Contamination Summary Report* dated December 2013 is to be carried out. The results of the investigation shall be provided in a report consistent with the Stage 2 Detailed Site Investigation requirements set down in the NSW Office of Environment and Heritage's *Guidelines for Consultants Reporting on Contaminated Sites*. The report must be submitted to Council with the development application for each stage of the future subdivision covering the AEC's located within the land covered by the relevant staged development application.

The investigation report is to include a statement which describes whether the site is suitable for the proposed development or if remediation is necessary to make sure the site is suitable for the proposed use. If remediation is required, the report should list the remediation options available to remediate the site.

REASON: To ensure that the potentially contaminated sites identified in the preliminary contamination report are investigated and reported on so that Council can assess the environmental impacts of contamination on any future staged development.

PRIOR TO THE ISSUE OF CONSTRUCTION CERTIFICATE (SUBDIVISION)

10. SITE AUDIT STATEMENT

Prior to the issue of a Construction Certificate (Subdivision) for any stage of the proposal a Site Audit Statement (SAS) and Site Audit Report (SAR) must be prepared by an accredited site auditor and be submitted to Queanbeyan City Council. The SAS must state that the site has been remediated and validated to permit the use of the site for its designated landuse.

Any recommendations or conditions contained within the SAS must be implemented and evidence of their implementation must be submitted to Queanbeyan City Council prior to the issue of a Construction Certificate (Subdivision). Any ongoing management conditions will become enforceable under this consent.

Where any proposed remediation works are required to be carried out in conjunction with preparatory site works (i.e. after a Construction Certificate (Subdivision) is issued) an interim SAS confirming the suitability of the methodology to remediate the site is acceptable. In such a case the full SAS must be received prior to the issue of the subdivision certificate for the stage involved.

REASON: To ensure construction works only precede after a Site Audit Statement has been received confirming that the site is capable of being remediated for its future designated use.

ADVISORY NOTE: Although the site audit is a separate process from the investigation and remediation, it is recommended that the site auditor is engaged as soon as possible before the methodology for the next stage of the detailed investigation is developed. Communication between the applicant's environmental consultant and the site auditor from an early stage should ensure that the consultant does sufficient work to satisfy the site auditor and therefore minimise potential delays for the applicant.

PRIOR TO THE DETERMINATION OF DEVELOPMENT APPLICATION FOR ANY STAGE OF THE DEVELOPMENT

11. SUBMIT DETAILS ON RAIL CORRIDOR FENCING

Prior to the determination of any Development Application for any Stage of the development of South Tralee details about how the border of the rail corridor will be suitably fenced must be submitted to Queanbeyan City Council for assessment.

REASON: To ensure that the boundary between the development site and the rail corridor is suitably fenced and as requested by the Rail Authority.

12. SUBMIT GEOTECHNICAL ASSESSMENT

Prior to the determination of any Development Application for any Stage of the development of South Tralee a detailed Geotechnical Assessment prepared by suitably qualified person(s) must be submitted to Queanbeyan City Council for assessment.

REASON: To ensure that appropriate geotechnical investigations are carried out to inform the detailed design of subdivision works.

13. BUSHFIRE SAFETY AUTHORITY

The development must be carried out generally in accordance with the terms of the Bushfire Safety Authority (BSA) issued by the NSW Rural Fire Service as shown in Schedule 1. Prior to the determination of any Development Application for any Stage of the development of South Tralee details about how the development complies with the terms of the BSA which are relevant to that Stage must be submitted to Queanbeyan City Council.

REASON: To ensure compliance with the Bushfire Safety Authority issued by the NSW Rural Fire Service.

14. RETAIN AND PROTECT EXISTING ACCESS TO ADJOINING LAND

Prior to the determination of any Development Application for any Stage of the development of South Tralee details about how any existing easements for access to adjoining lands that traverse the development site will be retained and protected must be submitted to Queanbeyan City Council for assessment.

REASON: To ensure that access to adjoining properties is maintained.

PRIOR TO THE DETERMINATION OF DEVELOPMENT APPLICATION FOR STAGE 1

15. SUBMIT DETAILS ON TIMBER RETENTION

Prior to the determination of any Development Application for Stage 1 of the development of South Tralee as identified on the approved Staging Plan, details about how timber from the felling of any native trees during the course of the development of South Tralee is to be salvaged and moved to land in South Tralee zoned E2 – Environmental Conservation for use as habitat must be submitted to, and endorsed by, Queanbeyan City Council.

REASON: To provide habitat for native fauna as recommended by the NSW Office of Environment and Heritage.

16. LOCAL VOLUNTARY PLANNING AGREEMENT

Prior to the determination of any Development Application for Stage 1 the Local Voluntary Planning Agreement (VPA) between the developer of South Tralee and Queanbeyan City Council must be finalised and formally adopted.

REASON: To ensure that there is a legal framework for developer contributions for roads, infrastructure and community facilities.

17. ROADS

The proposed connection of Road 15 to Road 3 must be designed to meet the roundabout at Road 2.

REASON: To provide for appropriate intersections.

PRIOR TO THE DETERMINATION OF DEVELOPMENT APPLICATION FOR STAGE 2

18. SUBMIT MANAGEMENT PLAN FOR CONSERVATION LAND

Prior to the determination of any Development Application for Stage 2 of the development of South Tralee as identified on the approved Staging Plan, a detailed Management Plan for the ongoing management and conservation of the lands zoned E2 – Environmental Conservation in South Tralee (not including the small triangular northern portion of E2 zoned land), must be submitted to, and endorsed by, Queanbeyan City Council.

If, due to subsequent modifications, the staging of the development is altered, the Management Plan must be submitted to, and endorsed by, Queanbeyan City Council prior to the determination of any development application for the development of South Tralee that includes the E2 zoned land described.

REASON: To ensure the potential impacts of the development on environmentally sensitive land are satisfactorily addressed and mitigated through the implementation of an on-going Management Plan.

19. DUNN'S CREEK ROAD ALIGNMENT

Prior to the determination of any Development Application for Stage 2 of the development of South Tralee as identified on the approved Staging Plan the Queanbeyan Local Environmental Plan (South Tralee) 2012 must be amended to alter the location of Dunn's Creek Road on the 'Local Clauses Map' to the location approved under this development consent and as supported by Queanbeyan City Council's resolution to prepare a Planning Proposal to this effect.

REASON: To ensure consistency between the approved location of Dunn's Creek Road and the Queanbeyan Local Environmental Plan (South Tralee) 2012.

20. BUS INTERCHANGE AND SCHOOL SITE SET DOWN AREA

Prior to the determination of any Development Application for Stage 2 of the development of South Tralee as identified on the approved Staging Plan, details about the how the indicative bus interchange off Road 5 and set down area for the potential school site off Road 4 will function must be submitted to Queanbeyan City Council for assessment.

REASON: To ensure that the suitability of these conceptual parking treatments is able to be fully assessed.

PRIOR TO THE DETERMINATION OF DEVELOPMENT APPLICATION FOR STAGE 3

21. DUNN'S CREEK ROAD ALIGNMENT

Prior to the determination of any Development Application for Stage 2 of the development of South Tralee as identified on the approved Staging Plan the Queanbeyan Local Environmental Plan (South Tralee) 2012 must be amended to alter the location of Dunn's Creek Road on the 'Local Clauses Map' to the location approved under this development consent and as supported by Queanbeyan City Council's resolution to prepare a Planning Proposal to this effect.

REASON: To ensure consistency between the approved location of Dunn's Creek Road and the Queanbeyan Local Environmental Plan (South Tralee) 2012.

ADVISORY NOTES

22. DEVELOPMENT CONSENT DOES NOT CONSTITUTE ACCEPTANCE OF LAND FOR PUBLIC PURPOSES

This development consent does not in any way constitute the agreement of Queanbeyan City Council to the stated intention of the applicant to gift areas of land within the development site for public uses such as parklands and reserves.

23. IMPOSITION OF DEVELOPER CONTRIBUTIONS

The imposition of developer contributions under the Queanbeyan City Council Section 94 Contributions Plan 2012 for the development of South Tralee will be considered during the assessment of Development Applications for each Stage of the development.

24. SUBDIVISION OF LAND

Any future proposal for the subdivision of land the subject of this consent must meet the objectives of Clause 4.1 and 4.1A of the Queanbeyan Local Environmental Plan (South Tralee) 2012. In this regard, simply complying with the prescribed minimum lot size does not mean that the consent authority must approve the proposal.

25. ACT GOVERNMENT APPROVAL FOR ROAD CONNECTION

The approval of the ACT Government for a future road link from South Tralee to the Hume Industrial Estate will need to be obtained at an appropriate time during the development of South Tralee.

26. RMS APPROVAL

The approval of the NSW Roads and Maritime Services (RMS) for upgrades to the State road network will need to be obtained at an appropriate time during the development of South Tralee.

ATTACHMENT 1

SPECIFIED PART OF DEVELOPMENT APPLICATION 263-2013
RECOMMENDED TO NOT BE INCLUDED IN THE DEVELOPMENT
CONSENT

Part of Stage 2 Outlined in Black and with Red Hatching

