

22 September 2014

Mark Grayson
Director
Knight Frank Town Planning
P O Box 248
Civic Square ACT 2608

Dear Mark

RE: Preliminary Planning Enquiry – North Terrace

I refer to your correspondence of 9 September 2014 regarding the land at North Terrace and our recent meeting on the same. A rezoning request for the land has been considered by Council and staff at length in 2008 and 2009. A copy of the report to Council's Planning & Development Review Committee as well as the relevant extract from the minutes is enclosed. Also enclosed is the most recent correspondence to GA Morris date 5 November 2009.

It is noted that your correspondence questions the justification for the land being zoned E2 Environmental Conservation. The zoning is based on more than simply ecological values of the land. The site provides an important biodiversity corridor across Queanbeyan's western ridge line. The site has high scenic values and is highly visible from Queanbeyan and Canberra and is located adjacent to the important Mount Jerrabomberra Reserve.

One of the reasons for not supporting the rezoning was that the proposal is inconsistent with the *Queanbeyan Tomorrow Community Vision 2021* in that land of environmental, scenic and amenity value will not be protected from development. The Community Visions was reviewed in 2012 and the principles contained within the Visions were reaffirmed. These principles include:

- Preservation and active management of Queanbeyan's numerous natural assets to ensure that protection of the natural environment remains an ongoing and important priority for the community;
- The need to ensure the sustainability of our natural environment which includes the escarpment, biodiversity, waterways, woodlands and grasslands;
- Minimise the impact of urban development on natural areas and ensure these are sensitive to the natural topography with the goal to strengthen areas where no or very limited development is allowed;

- Protection of the natural environment as an ongoing and important priority for the community.

It does not appear that the reasons for zoning the land to E2 under the *Queanbeyan Local Environmental Plan 2012* have changed and it is unlikely that if a planning proposal was considered the outcome would be different. However should you wish to pursue this matter further you will be required to submit a formal Rezoning Enquiry which needs to be accompanied by a \$1028 fee. The relevant application form can be found by following the link on Council's website:

<http://www.qcc.nsw.gov.au/Building-and-Planning/Strategic-Land-Use-Planning>

Also under the above weblink is a guide is a document setting out the requirements for planning proposal. The relevant fees and charges can be found in Council's schedule of fees and charges 2014/15

(<http://www.qcc.nsw.gov.au/Publications/Reports--Plans---Registers/Integrated-Plans/Integrated-Plans-2>)

Yours sincerely,



Beate Jansen

Strategic Planner

Strategic Land Use & Economic Development

Ph: 62856105

Enc.: Letter to GA Morris dated 05/09/09

Report to Planning & Development Review Committee 10/12/08

Minutes of Planning & Development Review Committee 10/12/08



5 November 2009

Glenn A. Morris
Director
North Terrace Development Pty. Ltd.
Suite 11, 46-48 Urunga Parade
MIRANDA NSW 2228

Dear Mr. Morris

RE: Rezoning Lots 180 – 193 and Lots 235 – 246 Plan No 8708 North Terrace

I refer to your correspondence dated 30 September 2009 (received 2nd November 2009) regarding a rezoning request at North Terrace.

The rezoning request for the land at North Terrace was considered by Council's Planning Development Review Committee in December 2008. The Committee at that time resolved:

1. That the rezoning request for North Terrace comprising Lots 180 – 193 and Lots 235 – 246 in DP8708, from 7(b) Environmental Protection B to Zone 2(e) Residential E (or equivalent) not be supported for the following reasons:
 - (a) The proposal is not consistent with the relevant legislative framework including Section 117 Direction 2.1 Environmental Protection Zones.
 - (b) The proposal will set an undesirable precedent for similar sites zoned 7(b) Environmental Protection B or 7(a) Environmental Protection A.
 - (c) The proposal will reduce the visual and biodiversity significance of the adjacent Mount Jerrabomberra reserve.
 - (d) The proposal is inconsistent with the *Queanbeyan Tomorrow Community Vision 2021* in that land of environmental, scenic and amenity value will not be protected from development.
2. That the land, Lots 180 – 193 and Lots 235 – 246 in DP8708 North Terrace, remain as an Environmental Protection zone. This will be *Zone E2 – Environmental Conservation* under the Standard Instrument.

Planning and Development Review Committee:**10 December 2008**

Rezoning Expression of Interest - North Terrace (Ref: SF060226; Author: Carswell/Blacklock/Jansen)

Introduction

Council at its meeting of 2 July 2008 considered a report on a number of Rezoning Expressions of Interest (EOIs) that staff recommended not to proceed nor be supported in the comprehensive local environmental plan (LEP), as well as those which were recommended for further investigation. Included was a proposal to rezone Lots 180 – 193 and Lots 235 – 246, DP 8708 at North Terrace (refer to map Attachment 1) from 7(b) to a residential zone, similar to the current Zone 2(e) Residential E to permit residential subdivision and subsequent development.

In relation to this proposal Council resolved at that meeting to:

B. NORTH TERRACE (LOTS 180-193 AND LOTS 235-246 IN DP8708), QUEANBEYAN

346/08 **RESOLVED** on the motion of Crs White and Taskovski that this matter be deferred for further consideration between Council staff and the applicant and a further report be brought back to Council.

This report reports on the actions taken since this resolution and provides the opportunity for Council to again consider this Rezoning Expression of Interest (EOI) together with further information.

Comment

The owner of the land is North Terrace Land Development Pty. Ltd. and the application was lodged on behalf by Des Page of Link Management Pty. Ltd. on behalf of North Terrace Land Development Pty. Ltd.

This section provides a brief history of the consideration of Rezoning EOIs, together with the assessment methodology, further consideration as required by the resolution of 2 July 2008 and then progressing into the actual assessment of the North Terrace Rezoning EOI.

History

- To ensure adequate resourcing of the comprehensive Local Environmental Plan (LEP), Council has not been accepting the lodgement of spot draft local environmental plan (rezoning) applications for some years. This is consistent with Department of Planning Circulars PS 05-005 and PS 06-015 issued 19 August 2005 and 15 June 2006.

Rezoning Expression of Interest – North Terrace (Ref: SF060226; Author: Carswell/Blacklock/Jansen) (Continued)

- Given the timeframe involved in completing the strategic planning work it was accepted to have proposals for rezonings submitted as Rezoning Expressions of Interest (EOIs). The rezonings can then be considered in the context of the comprehensive LEP and on a city wide basis on the receipt of a Rezoning EOI.
- A Council workshop was held on thirteen (13) Rezoning EOIs on 2 April 2008 including this one.
- The workshop included an overview of the assessment methodology and the strategic implications for the rest of the city and the comprehensive LEP for the Rezoning EOIs. This included:
 - an outline of how the Strategic Landuse Plan (which will also inform the comprehensive LEP) is to be developed to guide future land use and landuse decisions in the local government area for the next 25 years; and
 - proposals and rezonings that set undesirable precedents which undermine and are not considered to be consistent with:
 - the *Queanbeyan Tomorrow Community Vision 2021*,
 - State and Local Policyand have not been supported.
- A further workshop was held on Wednesday 4 June 2008 to further review the Rezoning EOIs that were not supported or warranted further investigation. Again this included this site.
- Site inspections by Councillors of a number of properties including the North Terrace site were undertaken to, amongst other things, gauge the likely visual impacts of development in the event of rezoning EOI's in these localities being supported by Council.
- Council considered a report on 2 July 2008 to consider the sites workshopped on the 4 June 2008.
- In relation to this EOI the applicant has undertaken preliminary investigations and submitted a rezoning submission in 2005. The applicant's consultant has also submitted further submissions (see later in the report).

Assessment of Rezonings

In order to meet Council's obligations under the *Environmental Planning and Assessment Act 1979* when dealing with draft local environmental plans (rezonings) a rigorous and systematic assessment methodology has been used. The criteria is listed below and has been adapted from the Department of Planning's Local Environmental Plan LEP Panel assessment Pro Forma. This Panel reviews both applications for, and draft local environmental plans from a Departmental perspective at various stages during the process.

Rezoning Expression of Interest – North Terrace (Ref: SF060226; Author: Carswell/Blacklock/Jansen) (Continued)

The criteria for Council's assessment process is listed below:

- 1 Will the rezoning be compatible with agreed State policy guidance and regional strategic direction for development in the area?
- 2 Will the rezoning be consistent with State and regional policies (SEPPs & REPs) and Ministerial (s.117) Directions?
- 3 Will the rezoning be consistent with Council's local strategy and studies (including the Queanbeyan Tomorrow community Vision 2021)?
- 4 Will the rezoning facilitate permanent employment generating activity? Will there be no loss of employment lands?
- 5 Will the rezoning be compatible / complimentary with surrounding land uses?
- 6 Will the rezoning set an undesirable precedent; or change the expectations of the landowner?
- 7 Is the rezoning considered to be suitable in terms of urban capability (slope, salinity, soils and drainage)?
- 8 Can the rezoning be economically serviced in a sustainable manner?
- 9 Does the rezoning satisfy the principles of Ecological Sustainable Development (ESD) including climate change?

Any deviation from the recommendations outlined will need to be supported with an assessment including justification for any inconsistency with s117 directions if that is the case.

Conflicts of Interest

In considering strategic planning functions and particularly rezonings it is very important to identify any conflicts or potential conflicts of interest.

Further Consideration of North Terrace EOI

Following the resolution of Council to defer this proposal for further consideration between council staff and the applicant, a meeting with the applicant on 14 August 2008 was held. On Council's side it was attended by representatives of Engineering, Environmental Services and Strategic Planning with applicants consultant attending. Discussion at the meeting centred around issues arising from the report to Council on 2 July 2008 including:

- Road access
- Servicing particularly drainage
- Environmental values.

However subsequent to this meeting, the following information was provided by letter to the applicant's consultant:

Rezoning Expression of Interest – North Terrace (Ref: SF060226; Author: Carswell/Blacklock/Jansen) (Continued)

1. Proposed Road Access

Road access to the site is proposed via the adjoining property, 120 Southbar Road which is owned by Council. This land is classified as "Community Land" and to enable road access as proposed the land would need to be reclassified from Community Land to "Operational Land". The process will involve resolution by Council, Public Notification and a Public Hearing chaired by an independent person.

The proposed road access will also need to be considered by the Local Traffic Committee and there may be concerns with regard to access off Southbar Road and sight distances.

2. Retention Basin

Impact from development of the site on the adjacent retention basin will need to be addressed in the engineering design, should the rezoning be supported.

3. Overview of DECC issues

Much of the Red Stringybark – Red Box Woodland (listed as an endangered ecological community) has been cleared and that remaining in the proposal area is a significant proportion of what remains on Jerrabomberra Mountain. Thus although it is in a poor condition it is of significance within the local context.

The woodland can also be viewed as of regional conservation significance for the following reasons:

- The vegetation of the site best fits within vegetation community 119, which is a dry grass forest dominated by Red Stringybark and Red Box, and it is more correctly viewed as an eastern outlier of Western Tablelands Dry Shrub/grass Forest of which only 27.9% of its original estimated extent remains.
- Benson in a 1987 report considered that Red Stringybark – Red Box woodland was vulnerable within NSW.
- Two listed vulnerable bird species (Brown Treecreeper and Speckled Warbler) have been recorded within or immediately adjacent to the area and breeding habitat remains for these species within the proposal area. A third listed vulnerable bird, the Hooded Robin, has also been recorded close to the site, but it is probably now extinct from the Jerrabomberra area – due to the housing development.
- The area also provides habitat for several bird species that have undergone substantial regional declines and which have either been recorded within or nearby the proposal area. These include the Crested Shrike-tit, Varied Sitella, Dusky woodswallow, Scarlet Robin and Yellow Robin.
- The area may be part of a home range of the vulnerable Rosenberg's goanna, which have been recorded at Jerrabomberra.

Rezoning Expression of Interest – North Terrace (Ref: SF060226; Author: Carswell/Blacklock/Jansen) (Continued)

- *Several regionally uncommon plants occur on Mt Jerrabomberra and may occur within the area. These include two orchids (Caladenia tentaculata, Diuris semilunulata), Grevillea ramosissima and Golden Wattle.*
- *There is also the possibility that the area contains cultural features of significance – both Aboriginal site and evidence of a eucalypt distillery are known from the vicinity.*

4. Draft Biodiversity Study

Council's draft Bio Diversity Study indicates that the subject site forms part of a regional Biolink. A copy of the draft report is attached for your information.

5. Environmental Advisory Committee

The rezoning proposal was considered by Council's Environmental Advisory Committee who is strongly opposed to the rezoning, giving consideration to:

- *The visual effect relative to Mount Jerrabomberra Reserve;*
- *It is contiguous with Mount Jerrabomberra Reserve and other areas close by and is important to the ecological integrity of Mount Jerrabomberra Reserve;*
- *That further development close to the Reserve would introduce weeds, disturbances, fire and other risks to the Reserve itself;*
- *The Committee notes that in the opinion of the Committee this area would be an important potential future acquisition to the Mount Jerrabomberra Reserve;*
- *The fire protection measures that would be necessitated by further residential development would necessarily entail further clearing on the adjacent Mount Jerrabomberra Reserve;*
- *The parcel of land in question contains a stand of Hakea sericea and native orchids;*
- *Connectivity to adjacent and other nearby areas would be interrupted;*
- *Spot rezoning of such parcels of land zoned Environmental Protection, in the view of the Committee, would set a precedent for such requests in future.*

In response to Council's correspondence the applicant's consultant has submitted that:

- *Reclassification of the proposed road access to operational land is not unusual and the process is well defined.*
- *Assessment of any impact on the adjacent retarding basin would be normal procedure in the design of the proposed road access.*

Rezoning Expression of Interest – North Terrace (Ref: SF060226; Author: Carswell/Blacklock/Jansen) (Continued)

- *DECC observations are essentially the same as the views of their consultant which is that there are no serious impediments to developing in terms of flora and fauna.*
- *Draft Bio-Diversity study is a broad scaled document and the next phase of the rezoning would address any specific references in the draft Bio-Diversity Study.*
- *Issues raised by the Environmental Advisory Committee would be addressed in detailed site examination that would be undertaken as part of the rezoning.*
- *They understand that by proceeding to the next stage there are no guarantees that the proposal will achieve the required rezoning.*

Most of the points raised above are covered in this report, however a few summary points are added:

- There is a process to reclassify land from Community Land to Operational Land, however the process is a complex one and requires resolution by Council, public notification and a public hearing. In addition there are engineering issues which need to be considered with regard to the appropriateness of the proposed access.
- There is no argument with regard to the point raised regarding the retention basin.
- Although the DECC comment does state that much of the land is in poor condition they are of the view that the land is important in a local context.
- The Biodiversity Study has identified the land a regional Biolink and once the land is rezoned for urban purposes the integrity of this regional Biolink could be lost. The study also identified the land together with Mt Jerrabomberra as high conservation value and not suitable for development.
- The Environmental Advisory Committee is opposed to the proposed rezoning for the reasons set out above.
- Although the Consultant's letter states that they understand there are no guarantees that the proposal will achieve the required rezoning, once Council supports the rezoning there will be an expectation that some or all of the land will be rezoned. Once Council supports the rezoning the applicants will be required to undertake further detailed studies at their expense as well as pay Council a rezoning application and assessment fee. These further detailed studies and fees can be quite substantial and would be unreasonable to expect an applicant to pay for such costs if Council is of the view that there are major concerns with the proposed rezoning which are unlikely to be overcome. In addition rezoning proposals will need to be referred to government agencies including DECC and the Department of Planning (DOP) as part of the process. Both Departments will expect that Council has made a thorough assessment of the proposal prior to the rezoning being referred to them. It is also important to note that should Council support the rezoning, the Department of Planning and the New South Wales Minister for Planning have the final determination.

Rezoning Expression of Interest – North Terrace (Ref: SF060226; Author: Carswell/Blacklock/Jansen) (Continued)

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NORTH TERRACE REZONING EOI ASSESSMENT

The following is largely reproduced from the report to Council of the 2 July 2008 as it relates to the North Terrace Rezoning EOI. It provides a description of the land and proposal and a summary of the assessment. However some of the issues have been expanded upon in response to a further meeting with and a submission from the consultant for the applicant (see earlier).

Description of site

This site contains Lots 180 – 193 and Lots 235 – 246 in DP 8708 and has frontage to Southbar Road, North Terrace. It is also part of the land known as 3R Kavanagh St which is residue land from the North Terrace subdivisions. The site is owned by North Terrace Development Pty. Ltd and amounts to 10.2 hectares in area. The site is located on the mid to lower slopes of Mount Jerrabomberra on land fronting Southbar Road in North Terrace. The site is bounded to the west by residential development, to the east by an off lead dog area which is known as the scar and to the south by the undeveloped part of Mount Jerrabomberra.

Proposal

The proposal is to rezone part of this property with an area of approximately 4.6 ha. The land is zoned 7(b) Environmental Protection which prohibits the development of amongst other things, dwellings. As noted above preliminary investigative work for the rezoning of this site has been carried out. This included preliminary discussions with the Department of Environment and Climate Change who indicated at the time that they were unlikely to support a draft local environmental plan.

The owners wish to rezone the land below the 670m AHD for residential development 2(e) under a Residential E zone with allowance for a minimum lot size of 1000 square metres - approximately 24 lots. The balance of the land is proposed to be dedicated to Council which would expand Council's holdings and control over the undeveloped part of Mt Jerrabomberra. It should be noted that the land to the west of the site is subject to clause 26(4) of the current local environmental plan which requires a minimum lot size of 3000 square metres. It is the Consultants understanding that this clause only applied specifically to the land zoned Rural 1(c) 1 and is not relevant to the subject site.

State and Regional Strategic Direction

The proposal is not considered consistent with the Sydney to Canberra Corridor Regional Strategy. The Strategy requires council's to:

- Direct new urban development away from land assessed as being of high conservation value,
- Include provisions in LEP's to protect and enhance areas of high biodiversity value including use of environmental protection zones,
- Identify and zone land of landscape value to protect those values.

Rezoning Expression of Interest – North Terrace (Ref: SF060226; Author: Carswell/Blacklock/Jansen) (Continued)

The land has been identified as High Conservation Value along with adjoining Mt Jerrabomberra in the *Queanbeyan Biodiversity Study 2008* and is currently an Environmental Protection Zone. The biodiversity study which was done in consultation with Department of Environment and Conservation also identifies this land as not suitable for development. The land also forms part of the regional biolink for Mt Jerrabomberra. As such the rezoning is not considered consistent with the *Sydney – Canberra Corridor Regional Strategy* (SCCRS). The land is also part of the landscape values of Mt Jerrabomberra.

The strategy also encourages the retention of highly attractive rural landscapes. In response the Consultants have submitted that “this land is definitely not attractive rural landscape.” It is however part of the attractive non urban backdrop which Mount Jerrabomberra provides for part of the city and which came out as being valued by the community in the *Queanbeyan Tomorrow Community Vision 2021*. One of the key directions of the community vision is to continue to minimise the impact of urban development on natural areas and ensure that these are sensitive to the natural topography (including scenic qualities) with the goal to strengthened regarding zones where no or very limited development is allowed. The proposed rezoning is not considered to meet this key direction.

The proposal is not consistent with the relevant Memorandums of Understanding (MoUs) regarding cross border settlement and water supply. The MoUs promote the economic provision of services which is unlikely to be achieved on this site. Again in response it has been submitted that this comment is not relevant given that this land is immediately adjacent to existing urban development with all services economically available. This has been further explored and the advice that has been received from Council’s Engineers is that servicing of the site and access to the site can be attained but there are site constraints. Although engineering solutions may be possible to address servicing of the site, due to the topography and other constraints servicing the site will be costly. This will have an impact on the viability of the project and may result in requests for a higher lot yield/smaller lot sizes to make to project viable. This in turn will result in more houses, the need for further vegetation removal and higher visual impact.

State and Regional Policies including s117 Directions

The proposal is inconsistent with the relevant Section 117 Direction 2.1 relating to Environmental Protection Zones in that the rezoning seeks to reduce the environmental protection standards that currently apply to the land.

Rezoning Expression of Interest – North Terrace (Ref: SF060226; Author: Carswell/Blacklock/Jansen) (Continued)

In response the Consultant has submitted that the lands are subject to this proposal is highly disturbed with poor quality vegetation and with significant gravel tracks. Nevertheless the land is currently zoned 7(b) Environmental Protection, forms part of the non urban Mount Jerrabomberra backdrop and could be rehabilitated. The Section 117 direction is concerned with land with an existing environment protection zone and states that a LEP shall not reduce the environment protection standards that apply to the land. The Section 117 direction applies to all land zoned Environment Protection, no matter what the quality of such land may be. It also should be noted that previous comments made by the Department of Environment and Climate Change indicated that although much of the land is in a poor condition it is of significance in a local context.

Section 117 Direction 4.4 Bushfire Protection also applies and requires:

- having regard to *Planning for Bushfire Protection 2006*,
- avoiding placing inappropriate developments in hazardous areas and
- ensuring bushfire hazard reduction is not prohibited within the Asset Protection Zone APZ (a cleared and reduced fuel area around development).

The site is identified as bushfire prone – Category 1 vegetation (this is the highest hazard category) and to achieve the necessary APZ for any residential development will require vegetation to be cleared to provide protection for dwellings.

Whilst the APZs can be achieved and provided on the site in accordance with the *Planning for Bushfire Protection 2006*, the appropriateness of developing in the area identified as Category 1 bushfire hazard is questionable in the first instance. As other areas have been identified in *Queanbeyan Residential and Economic Strategy 2031* for residential development that is free of such hazards, this site is not considered appropriate.

Local Strategy and Studies

The rezoning is not consistent with Council's local strategy and studies. These include the *Queanbeyan Tomorrow Community Vision 2021* as well as the endorsed *Residential and Economic Strategy 2031* which seek to retain the scenic and environmental values of local areas.

Strategy 7 of the Community Vision seeks to continue to minimise the impact of urban development on natural areas and ensure that these are sensitive to the natural topography (including scenic qualities) with the goal of strengthening zones where no or limited development is allowed.

A 'development' of approximately 24 lots is going to have a significant impact. Also on at least part of the site the impact of development should be considered in the context of the current Environmental Protection zoning which allows very limited opportunities for development and their associated impacts.

Rezoning Expression of Interest – North Terrace (Ref: SF060226; Author: Carswell/Blacklock/Jansen) (Continued)

In addition, the site is bushfire prone and any residential development will require clearing of vegetation to allow for dwellings, driveways, ancillary uses and an appropriate Asset Protection Zone. Each individual allotment (approximately 24 are proposed) will require vegetation removal for excavation, siting of dwellings, driveways and ancillary uses as well as appropriate asset protection zones. The requirements for clearing for development and bushfire management will significantly alter the outlook onto the site and its biodiversity and landscape values. The cumulative impact of clearing of this area, together with North Terrace development will have a significant impact on the visual amenity of the locality.

Notwithstanding that housing will be below the 670m contour, it is considered that housing in this location will still be highly visible and will change the character of this approach to Queanbeyan from Southbar Road.

Being part of the base and lower slopes the site forms part of the visual approach to Mount Jerrabomberra and the proposed rezoning is not considered to be compatible with the adjoining land use and will result in a loss of amenity.

The applicant's consultant has submitted that the rezoning is considered compatible with the previous development of North Terrace, however it should be noted that allotments at North are generally over 3000m² in area.

The applicant's consultant strongly disagrees with the visual role of the site and instead submits:

"Quite the contrary:-

- *It is misleading to suggest that the site 'forms the visual approach to Mount Jerrabomberra'. The site is a relatively small part of the lower slopes of Mount Jerrabomberra and immediately adjoins existing residential development. It is not prominent in any views, either local or distant.*
- *The site will be bounded on two sides by established (though degraded) vegetation and on another by residential development. The fourth frontage is Southbar Road.*
- *Landuse to west: – residential – compatible*
- *Landuse to east: - public reserve, off leash dog area – compatible*
- *Landuse to south: Mount Jerrabomberra will gain a significant access point by virtue of the subdivision access road. Further, the subject site is in the same relative position to Mount Jerrabomberra as the adjoining lands – compatible.*

There would be undoubtly an absolute gain of amenity resulting from rezoning."

Rezoning Expression of Interest – North Terrace (Ref: SF060226; Author: Carswell/Blacklock/Jansen) (Continued)

Notwithstanding this it is still considered that the site by being undeveloped forms part of the visual approach to Mount Jerrabomberra and the backdrop to the city that the Mountain provides. Rezoning to enable residential development up to the 670m contour would sever the non-urban part of this backdrop and convert it to an urbanised one (Refer to Attachment 2 for photos of site from vantage points in the vicinity).

The rezoning will also set an undesirable precedent for other similar scenic and high amenity areas.

Also although the reserve on the northern side of Southbar Road is physically separated by the road, if development goes ahead on the subject site any future possibility to achieve a substantive link to the open space with Mount Jerrabomberra will be severely compromised.

Precedent

A rezoning EOI as the one for the land at North Terrace cannot be viewed in isolation and Council must consider the issue of a precedent being set for other land zoned for Environmental Protection under the current Queanbeyan LEP 1998 and Yarrowlumla LEP 2002. This is particularly important as these zones have been in place to protect environmental values within Queanbeyan LGA. The acceptance of a rezoning of Environmental Protection zoned land has a very real potential to be the catalyst for further submissions of rezoning EOI's on similar land in Queanbeyan. This could include the other areas around Mt Jerrabomberra, Gale and the Escarpment lands east of Greenleigh and the Ridgeway.

This is significant as this affects most of the land that provides the vegetated and elevated backdrop to the City of Queanbeyan. Such a precedent would not achieve the goal in the *Queanbeyan Tomorrow Community Vision 2021* of 'open space is a feature' throughout Queanbeyan and development has not impeded on the natural vistas'. The precedent created would also significantly affect the protection of environmental values of lands within Queanbeyan LGA and reduce the integrity and value of the areas remaining. Enquiries have occurred already on other Environmental Protection zoned lands.

Other matters raised by the Applicant's Consultant

Following Council's workshop on 4 June 2008 the applicant's consultant made a submission which raised a number of points. These include the following with Council's responses being the dot points.

The use of land below 670m contour will not have any adverse visual impact on the approach to the land

Rezoning Expression of Interest – North Terrace (Ref: SF060226; Author: Carswell/Blacklock/Jansen) (Continued)

- It is considered that while the site maybe adjacent to urban areas, it is not zoned as urban land and is considered to be part of a scenic rural landscape at the foot of Mount Jerrabomberra. The site has environmental, scenic and visual qualities and although there are some cleared areas, the site is not beyond rehabilitation. In addition the Department of Environment Climate Change has previously assessed the site and has stated that although much of the land is in poor condition it is significant in a local context.

The scenic quality is of limited significance and can be addressed with DCP

- It has been Council's experience with similar sites that although Development Control Plans have attempted to minimise the impacts of development, development on these sites is quite visually prominent. This would be the case for up to 24 dwellings.
- It is still the view that the site has visual significance, provides views from the approaches of Southbar Road and forms part of the visual approach to Mount Jerrabomberra and backdrop that it provides to the city.

Bushfire protection can be undertaken without impacting on vegetation worth of protecting

- The point with regard to bushfire issues is that the provision of an Asset Protection Zone will require clearing of vegetation and the maintenance of the APZ which will significantly alter the character and environmental value of the area.

The rezoning would not compromise the linkage to reserve to the north of Southbar Road as it is opposite Council owned land

- Although there are two (2) allotments fronting Southbar Road owned by Council (Lots 318 and 319), the remainder of the land is privately owned and in order to provide an effective link to Mount Jerrabomberra, it will involve the private land as well as the two small lots owned by Council.

Acquisition of the site (land below 670m AHD) would be at residential values

- With regard to land acquisition, the land will be valued at the zoning that is current at the time of valuation.

Environmental Implications

The environmental implications have been assessed in the rezoning assessment and comments section above. These include the issue of an undesirable precedent that would be set for other environmentally zoned land within the local government area (LGA), should a rezoning for residential development be supported on this site.

Rezoning Expression of Interest – North Terrace (Ref: SF060226; Author: Carswell/Blacklock/Jansen) (Continued)

Financial Implications

No fees have been charged for the work done on any of the Rezoning Expressions of Interest which have so far involved considerable administrative work with associated costs. Where a rezoning is allowed to proceed separately to the comprehensive LEP, fees will be charged in accordance with the Management Plan for a rezoning application.

Where Council determines and justifies through its own assessment that it wishes to investigate this Rezoning Expression of Interest further and allow the applicant to progress it as part of the comprehensive LEP, there will also be fees payable in accordance with the Management Plan.

In some cases applicants will also have to meet the costs of further investigative work which will have to meet Council specifications.

Community Consultation

There has been considerable consultation and discussion between the applicant's consultant and Council officers.

Conclusion

The Rezoning Expression of Interest (EOI) for Lots 180 – 193 and Lots 235 – 246, DP 8708 at North Terrace cannot be considered in isolation. This EOI together with the others received, are being considered strategically and as part of the overall landuse pattern, demand, supply, suitability and capability for Queanbeyan. This rezoning has significant implications for the strategic land use planning of the Queanbeyan LGA and as such, the drafting and preparation of Comprehensive LEP. Most significant is principally from the precedent for other 7(b) and 7(a) zoned land that will be placed under pressure to be rezoned, should this proposal be supported. This is significant as this affects most of the land that provides the vegetated and elevated backdrop to the City of Queanbeyan. Such a precedent would not achieve the goal in the *Queanbeyan Tomorrow Community Vision 2021* of 'open space is a feature throughout Queanbeyan and development has not impeded on the natural vistas'. The precedent created would also significantly affect the protection of environmental values of lands within Queanbeyan LGA.

Aside from the precedents created, the rezoning is also inconsistent with state and local policy. These inconsistencies are not considered justified. In particular, s117 Direction 2.1 Environmental Protection Zones requires that:

- LEPs include provisions that facilitate the protection and conservation of environmentally sensitive areas
- LEPs shall not reduce the environmental protection standards that apply to the land.

Rezoning Expression of Interest – North Terrace (Ref: SF060226; Author: Carswell/Blacklock/Jansen) (Continued)

The proposal to rezone 7(b) Environmental Protection Land at North Terrace will not achieve the protection and conservation of environmentally sensitive areas due to clearing, earthworks and cumulative effects of developing part of it for approximately 24 lots that will occur. The proposal will also reduce the current environmental standards that apply to the land by removing the Environmental Protection zoning and allowing residential development. However, it also needs to be recognised that if the rezoning proceeded Council could gain an area of approximately 5000m² that it could add to its holdings on Mount Jerrabomberra and retain as a natural area.

The proposal is considered inconsistent with the *Queanbeyan Tomorrow Community Vision 2021* as it relates to the communities' stated value of the environment – *The natural setting that surround Queanbeyan and the river, the waterways, the flora and fauna and the open space that has been created within the built environment.*

The proposed rezoning will not achieve the following outcomes and directions associated with the Vision:

- *Council plans and policies to support the environmental attributes of Queanbeyan which enhances its positive image*
- *The natural beauty, regional setting and biodiversity are core to the image of Queanbeyan and are therefore valued, preserved and enhanced*
- *Continue to minimise the impact of urban development on natural areas and ensure that these are sensitive to the natural topography (including scenic qualities) with the goal to strengthened regarding zones where no or very limited development is allowed.*

Further to this, preliminary advice received from Department of Environment and Climate Change (DECC) indicating (partly reproduced in the letter to the applicant's consultant) that they are unlikely to support the proposal based on the environmental values of the land. This is important as State Government agencies play a key role in informing Council and the Department of Planning on rezoning matters in their areas of expertise. Where an agency objects to a rezoning and a compromise or alternate solution cannot be reached the rezoning is very unlikely to be recommended by the Department of Planning to the NSW Planning Minister to be approved.

It is considered that the rezoning EOI for this site from 7(b) Environmental Protection to a residential zone to facilitate residential development like that of North Terrace is not appropriate and fails to achieve the community's aspirations as detailed in the *Queanbeyan Tomorrow Community Vision 2021*. The proposal should not be supported.

Rezoning Expression of Interest – North Terrace (Ref: SF060226; Author: Carswell/Blacklock/Jansen) (Continued)

Recommendation

1. That the rezoning request for North Terrace comprising Lots 180 – 193 and Lots 235 – 246 in DP8708, from 7(b) Environmental Protection B to Zone 2(e) Residential E (or the equivalent) not be supported for the following reasons:
 - (a) The proposal is not consistent with the relevant legislative framework including Section 117 Direction 2.1 Environmental Protection Zones.
 - (b) The proposal will set an undesirable precedent for similar sites zoned 7(b) Environmental Protection B or 7(a) Environmental Protection A.
 - (c) The proposal will reduce the visual and biodiversity significance of the adjacent Mount Jerrabomberra reserve.
 - (d) The proposal is inconsistent with the *Queanbeyan Tomorrow Community Vision 2021* in that land of environmental, scenic and amenity value will not be protected from development.
2. That the land, Lots 180 – 193 and Lots 235 – 246 in DP8708 North Terrace, remain as an Environmental Protection zone. This will be a *Zone E2 – Environmental Conservation* under the Standard Instrument.

Minutes of Planning & Development Review Committee held in the Council Chambers on Wednesday, 10 December 2008 at 5.30pm

5. Rezoning Expression of Interest – North Terrace

PDR 032/08

RESOLVED on the motion of Crs Mavec and Whelan that:

1. The rezoning request for North Terrace comprising Lots 180 – 193 and Lots 235 – 246 in DP8708, from 7(b) Environmental Protection B to Zone 2(e) Residential E (or the equivalent) not be supported for the following reasons:
 - (a) The proposal is not consistent with the relevant legislative framework including Section 117 Direction 2.1 Environmental Protection Zones.
 - (b) The proposal will set an undesirable precedent for similar sites zoned 7(b) Environmental Protection B or 7(a) Environmental Protection A.
 - (c) The proposal will reduce the visual and biodiversity significance of the adjacent Mount Jerrabomberra reserve.
 - (d) The proposal is inconsistent with the *Queanbeyan Tomorrow Community Vision 2021* in that land of environmental, scenic and amenity value will not be protected from development.
2. That the land, Lots 180 – 193 and Lots 235 – 246 in DP8708 North Terrace, remain as an Environmental Protection zone. This will be a *Zone E2 – Environmental Conservation* under the Standard Instrument.

A **DIVISION** was called and resulted as follows:

The 'Ayes' – Crs Overall, Whelan, Mavec, White, Rocca, Barilaro, Trajanoski, Taylor and Bray
The 'Nays' - nil

D. INFORMATION ITEMS

The Following item was tabled for information:

- (a) Council Site Inspection – 102 Gilmore Road (Author: Thompson, Ref: DAF080312)

PDR 033/08

RESOLVED on the motion of Crs Mavec and White that Item (a) be received for information.