



Australian Government
National Capital Authority

File No: 08/774
Our Ref: 38967

Mr **Mick** Gentleman MLA
Chair
Standing Committee on Planning and Environment
ACT Legislative Assembly
GPO Box 1020
CANBERRA ACT 2601

Dear Mr Gentleman MLA

I would like to bring to the attention of the Standing Committee on Planning and Environment (the Committee) points of correction in regard to alleged comments provided to the Committee by Mr Neil Savery, Chief Planning Executive of the ACT Planning and Land Authority (ACTPLA), as reported in the Canberra Times on 30 July 2008.

The National Capital Authority (NCA) have not yet had access to the **Hansard** record of the public hearing's proceedings, however I would like to clarify some matters of fact contained in the Canberra Times article.

The article claims that 'ACTPLA *had been shut out of the assessment process by consultants NGH Environmental*, with Mr Savery being quoted as saying:

"The consultants did not consult with us, we had limited access to the brief, we had limited access to the report until it was essentially committed and finalised."

I attach a chronology of events in relation to the report as evidence of ACTPLA's considerable involvement in the development of the environmental report by consultants **nghenvironmental**, including in the development of the consultant brief, selection of the consultant, and comments on drafts of the report.

Please also find attached a letter received from **nghenvironmental** today that responds to the article in today's Canberra Times.

The article also suggests that the NCA has '*ruled out urban development altogether*'. This is inaccurate. On 15 July 2008 Mr Todd **Rohl**, Managing Director of Planning and Urban Design at the NCA presented evidence to the Committee that:

"after further consideration of the environmental report, it was the National Capital Authority's decision in July that it should be removed at this time from urban areas"

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In regard to Draft Amendment 63 to the National Capital *Plan for Molonglo and North Weston* (DA 63) the Authority considered the matter (among others) of Central Molonglo on 29 May 2008. At that meeting the Authority:

- Agreed to amend the General Policy Plan – Metropolitan Canberra by:
 - removing Central Molonglo from Urban Areas on the basis of the **nghenvironmental** report. The Authority does not support identifying this area in the Plan as an '*area under investigation for urban use*' as ACTPLA have requested. The Authority was of the view that as this area would still require amendment to the Plan at some time in the distant future (given that the land will not be required for 20 years) this could cause undue **concern** with the community and diminish confidence in the objectivity of the environment investigations when they are undertaken.

ACTPLA was advised of this decision via a letter dated 10 June 2008.

On 8 July 2008 (in response to further correspondence from ACTPLA) the Authority met to consider DA 63 again. In regard to Central Molonglo, the Authority:

- Noted that there was no additional planning justification offered by ACTPLA to justify the inclusion of Central Molonglo as '*an area under investigation for urban use*' in the National Capital Plan; and
- Noted again that a provision proposed by ACTPLA in the draft amendment to the National Capital Plan would not obviate the need for an amendment to change the land use at another time, and that this approach could cause undue concern with the community and diminish **confidence** in the objectivity of the additional environmental investigations when they are undertaken.

ACTPLA was advised of this decision via a letter dated 14 July 2008.

The NCA trusts that this clarifies the matter for the Committee.

Yours sincerely



Annabelle Pegrum AM
Chief Executive
30 July 2008

CC Neil Savery

Annabelle Pegrum
Chief Executive
National Capital Authority
GPO Box 373
Canberra ACT 2601

30 July 2008

Dear Annabelle,

Article in Canberra **Times**, "**Planning** chief dlsowns report", 30 July 2008

nghenvironmentalis disappointed with Neil Savery's comment as reported in the Canberra Times on 30 July in relation to the review of environmental studies undertaken to Inform the urban planning of Molonglo and North **Weston**:

- "The consultants did not consult with us we had limited access to the brief, we had limited access to the report until it **was** essentially committed **and finalised**"

nghenvironmentalis also disappointed with the other assertion in the article:

- **ACTPLA** had been shut out of the assessment process by consultants **NGH** Environmental

The following comments are made by nghenvironmental in relation to these assertions:

One of the requirements of **nghenvironmental's** project brief was to liaise with the consultant appointed by ACTPLA to review the Preliminary Assessment (completed to inform Draft Variation 281). At an early stage of the project, the **NCA** requested ACTPLA to assist nghenvironmental in undertaking this consultation, and a copy of the report completed by the consultant was requested. The report was not provided to the **NCA** or to nghenvironmental at that time. It was then necessary for nghenvironmental to review the Preliminary Assessment in the absence of this report.

It was not until late in the review process (after the provision of nghenvironmental's first draft of the report to ACTPLA via the **NCA**) that ACTPLA provided the review of the Preliminary Assessment to nghenvironmental. nghenvironmental considered that the findings of this report did not alter the findings of its own review. The review commissioned by ACTPLA is referred to in the nghenvironmental review.

nghenvironmental rejects the claim that it did not consult with **ACTPLA** for the following reasons:

- nghenvironmental (through the **NCA**) consulted with ACTPLA by requesting a copy of the review of the Preliminary Assessment (as discussed above).
- nghenvironmental consulted with ACTPLA through a telephone conversation with **Bruce** Frazer (before the submission of the **first** draft). The purpose of this conversation was to **find** out what other ecological studies, additional to those that had already been provided to nghenvironmental

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for the review, had been commissioned by ACTPLA. The information conveyed by Mr Frazer was included in the report produced by nghenvironmental.

- nghenvironmental consulted with ACTPLA through the provision of two draft reports. Where appropriate, changes requested by ACTPLA were incorporated in the report. After the provision of the second draft to ACTPLA, a table was prepared detailing a response to every one of the issues raised by ACTPLA. Where ACTPLA provided additional information that was relevant to the review, it was agreed that this should be included in the report. Where ACTPLA requested a change to the report that nghenvironmental considered unnecessary or inappropriate, a response was given, with the reason for why the change was not implemented. This table of responses was provided to the NCA.
- After the provision of the first draft report to ACTPLA, a meeting was held between the NCA, nghenvironmental and ACTPLA in which a number of issues relating to the review were discussed. All parties had the opportunity to raise the issues they considered critical to the review. nghenvironmental gave due consideration to the issues raised by ACTPLA.

nghenvironmental rejects the claim that ACTPLA "had limited access to the report until it was essentially committed and finalised". The first draft of the report was provided to ACTPLA on 2 April **2008**, the second draft was provided to ACTPLA on 22 May **2008**, and the final draft was completed on 6 June **2008**, before being provided to ACTPLA on 11 June **2008**. There was therefore a period of two months during which time ACTPLA were consulted, and the issues raised by ACTPLA were considered, responded to, and where appropriate, incorporated in the report.

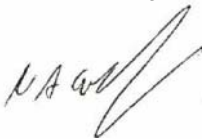
nghenvironmental rejects the statement that "ACTPLA had been shut out of the assessment process" by nghenvironmental. At no time did nghenvironmental attempt to exclude ACTPLA from the assessment process. Indeed, nghenvironmental sought to consult with ACTPLA, as required by the terms of the project brief and as described above.

In regard to ACTPLA's access to the project brief, nghenvironmental is not in a position to comment on this.

nghenvironmental believes that its approach to the review has been professional and valid. It has sought consultation with various government agencies, including the NCA and ACTPLA, nghenvironmental has demonstrated objectivity in its review of the Draft Amendment **63** and Draft Variation 281 by seeking to gather information from all appropriate sources. In so doing, nghenvironmental has delivered a review that is independent and thorough.

If you have any further queries, please do not hesitate to contact Nick Graham-Higgson **02 6492 8333**.

Yours faithfully,



Nicholas **Graham-Higgs**
Director
nghenvironmental

Nghenviromental report in relation to the **Molonglo** Valley and North **Weston** – Chronology

23 November 2007 – End of formal public consultation period. In light of submissions received during the public consultation period, the NCA identified the need for an independent review of previous environmental work undertaken to determine if the proposed urban boundary is justified in terms of biological and environmental conservation.

10 December 2007 - Minute paper signed by Todd Rohl agreeing to proceed with seeking Expressions of Interest from three suitably qualified consultants to undertake the environmental review.

19 December 2007 – NCA (Todd Rohl) wrote to ACTPLA requesting participation in proposed environmental review.

9 January **2008** – comments sought from ACTPLA (**Bruce** Frazer, Neil Savery) regarding **draft** letter requesting expressions of interest (**EOI**) from three suitably qualified consultants.

11 January 2008 – letter from ACTPLA (Neil Savery) to NCA (Todd Rohl) in response to NCA letter of 19 December **2007** and **email** of 9 January **2008**. Letter advised that ACTPLA would be willing to contribute half the cost of engaging the consultant, subject to a number of things including the opportunity to review the scope of works, liaison between NCA, consultant and ACTPLA, NCA managing contractual and invoicing arrangements, intellectual property resting with both NCA and ACTPLA.

Letter also suggested the formulation of a 'working group'.

15 January **2008** – **email** to ACTPLA (**Bruce** Frazer) requesting comments on updated letter seeking expressions of interest (letter now advises of PA review and liaison requirements **between**s consultants).

16 January 2008 – **email from** ACTPLA (**Bruce** Frazer) with attached letter containing tracked changes.

22 January 2008 – letters sent to three consultants **seeking EOI**

31 January 2008 – Procurement Plan signed off

5 February 2008 –EOI received from nghenviromental (remaining two consultants also provided EOIs).

5 February **2008** - minute paper to Todd Rohl regarding selection of nghenviromental as preferred consultant. Signed off by Todd Rohl advising that selection is agreed to '**subject to confirmation by ACTPLA.**'

6 February 2008 – email to ACTPLA (Bruce Frazer) attaching minute paper signed by Todd Rohl and EOI received from nghenvironmental. Email requested support for the confirmation in order to proceed with contract.

7 February 2008 – email from ACTPLA (Bruce Frazer) advising that *'the engagement of nghenvironmental is supported:*

11 February 2008 – contract accepted by nghenvironmental.

22 February 2008 – contact details for consultant undertaking ACTPLA PA review forwarded to NCA

22 February 2008 – ACTPLA (Bruce Frazer) advised that NCA and consultants would be undertaking a site inspection of the **Molonglo/North Weston** area. ACTPLA expressed no interest to attend, however did offer to provide keys for access to parts of the Molonglo area.

25 February 2008 – site inspection undertaken and keys collected from ACTPLA (Bruce Frazer).

27 February 2008 – nghenvironmental (Reuben Robinson) advised NCA via email that they have contacted consultant undertaking **Preliminary** Assessment review for ACTPLA. Reuben **Robinson** advised that while the consultancy for ACTPLA had been completed, the consultant (Peter **Wright** from **HLA envirosciences**) was **unwilling** to provide information on their findings as the report is the property of ACTPLA.

27 February 2008 - NCA (**Rebecca Sorensen**) requested PA review report from ACTPLA (Bruce Frazer). Advice **from** ACTPLA notes that as the authors of the PA they are at arm's length from the PA evaluation. Advised to contact Ray Brown.

13 March 2008 – first **draft** of report forwarded to NCA by consultants. NCA provided preliminary comments.

26 March 2008 – NCA and environmental consultant (nghenvironmental) met to discuss progress and outcomes of report to NCA.

2 April 2008 – second **draft** of report forwarded to NCA by consultants. Draft report forwarded to ACTPLA (Paul **Lewis**; cc Bruce Frazer) requesting comments.

8 April 2008 – meeting between NCA and ACTPLA to discuss the outcomes of the environmental report and provide ACTPLA with an indication of where the NCA is heading with **the Draft Amendment**. It was agreed that the outcomes of the study require further consideration by ACTPLA, and formal comments are to be provided to the NCA for consideration.

28 April 2008 – meeting between the NCA and ACTPLA to discuss progress of environmental report and land use policy changes to Draft Amendment 63. ACTPLA generally accepted the loss of central Molonglo as urban and noted that provided appropriate ecological work is undertaken, urban development may not be excluded in

the **future**. Comments from both ACTPLA and NCA are to be sent to environmental consultants.

6 May **2008** – NCA met with ACTPLA and environmental consultants to review second draft of report and determine way forward. Consultants to produce final draft prior to revised amendment being submitted to Authority board for endorsement on 19 May 2008.

13 May **2008** – the ACT Chief Minister and Minister for Planning, **Andrew Barr**, jointly announced a 20 year moratorium on urban development in central Molonglo. This would allow **sufficient** time for planning and environmental studies to be completed.

22 May **2008** – next draft report forwarded to ACTPLA (Paul Lewis; cc **Bruce Frazer**) requesting comments

23 May **2008** – NCA (**Todd Rohl**) wrote to ACTPLA (Neil Savery) regarding proposed changes to DA63 and requested feedback prior to the Authority meeting on 28 May 2008.

28 May **2008** – Letter from ACTPLA (Neil Savery) to NCA (**Annabelle Pegrum**) regarding NCA letter of 23 May 2008. This letter sought NCA agreement to propose a land use policy of 'Areas Under Investigation for Urban Use' over the central Molonglo area; and argued that land to the west of the Tuggeranong **Parkway** is for consideration at a local level.

29 May **2008** – Authority meeting discussed proposed changes to DA63 in response to submissions received during the public consultation period and the environmental report. At this meeting the **Authority**:

- Agreed to amend the General Policy Plan – Metropolitan **Canberra** by:
 - removing Central Molonglo from Urban Areas on the basis of the **nghenvironmental** report;
 - changing the land use policy on the eastern side of North **Weston** adjacent to the Tuggeranong **Parkway** (between the Molonglo River to the **Weston** Creek Arboretum) from Urban Areas to Hills, Ridges and Buffer Spaces;
 - changing the land use policy for a 13 Ha parcel of land adjacent to the International Arboretum **from** Hills, Ridges and Buffer Spaces to Urban **Areas**;
 - identifying a future open space link between Mt **Stromlo** and the International Arboretum as a dashed line and adding a planning provision to Chapter 4 - Urban Areas to support the link,
 - creating an open space link between Cotter Road and the Molonglo River;

- Agreed to adjust the Designated Areas boundary adjacent to the International Arboretum to exclude a parcel from the Designated Area. This land includes the proposed location of **the Electrical** Substation;
- Agreed to add a planning provision to Chapter 4 - Urban Areas of the National Capital Plan to ensure that any areas potentially affected by Scrivener Dam flood inundation may only be developed where it is demonstrated that Scrivener Dam meets flood safety and operational requirements, based on the applicable Australian National Committee on Large Dams (**ANCOLD**) guidelines. The Authority noted that any changes to the Dam to accommodate such development would be a cost to the ACT Government unless agreed otherwise with the Commonwealth Government of the day;
- Agreed to include **Overnight Camping** and **Tourist Facility** as additional permitted land uses at **Stromlo** Forest Park; and
- Agreed to remove the special requirements for the Molonglo River **Corridor**, noting all development will need to comply with the principles and policies of **Appendix F** and all other relevant principles and policies of the National Capital Plan.

30 May 2008 – letter from ACTPLA (Neil Savery) to NCA (Todd Rohl) in relation to ngenvironmental report, stating that the latest version remains *'unacceptable and should not form the basis of any decisions about the nature and extent of future urban development in the lower Molonglo Valley.'*

2 June 2008 – ACTPLA provides NCA with comments on draft report. NCA forwarded comments to consultant.

6 June 2008 – final report ~~from~~ ngenvironmental received. The consultants also provided a table detailing their response to comments by ACTPLA on the report. Where **ACTPLA's** comments were not incorporated into the document, justification for not including them was provided by the consultants.

10 June 2008 – NCA (Chief Executive) wrote to ACTPLA (Neil Savery) regarding proposed changes to DA63 as a result of Authority meeting on 28 May 2008. This letter sought support for the proposed changes in order for the NCA to submit DA63 to the Minister for approval. The final draft of the ngenvironmental report was provided as an attachment to this letter. The consultants table detailing their response to comments by ACTPLA on the report was also provided.

17 June 2008 – Letter from ACTPLA (Neil Savery) to NCA (Chief Executive) regarding proposed changes to **DA63**. While the letter noted that ACTPLA would *'reluctantly support'* the changes to **DA63**, the letter also stressed concerns with land use policies proposed for the central Molonglo area and 27 Ha of land adjacent to the Tuggeranong **Parkway** in North **Weston**. The letter argued that the changes in the central Molonglo area and North **Weston** were not of national concern, but of local interest. The NCA considered the letter to be **an** objection to two of the proposed changes to **DA63**.

25 June 2008 – Letter **from** NCA (Chief Executive) to ACTPLA (**Neil Savery**) in response to ACTPLA letter of 17 June 2008. This letter advised that the NCA considered the ACTPLA letter to be an objection to proposed changes in **DA63**. The letter also advised that where ACTPLA objects to any aspect of a draft amendment, the NCA is required to report this to the Minister in accordance with **s 18** of the Act. The Minister is then required under **s 19(2)** of the Act to consult with the Territory Executive. NCA provided the option of the Authority board reconsidering the land use policy for the central Molonglo area and 27 Ha of land in North **Weston**. However, if ACTPLA withdrew its objection, DA63 could be expedited to the Minister for consideration as previously requested.

27 June 2008 – Letter **from** ACT Chief Minister's Department (**Andrew Cappie-Wood**) to NCA (Chief Executive) supporting ACTPLA, and requesting that the 27 Ha of land adjacent to **Tuggermong Parkway** be designated as Urban Areas, and **identifying** central Molonglo as 'Areas Under Investigation for Urban Use'.

8 July 2008 – Authority met via teleconference to discuss two outstanding issues – Central Molonglo and North **Weston**. Two Authority members (**Annabelle Pegrum** and **Michael Ball**) conducted site inspection of North **Weston** and met with **Weston** Creek Community Council, **Orana** School, **Baha'i** Centre and Sikh Association. Representatives from ACTPLA (**Jacqui Lavis** and **Paul Lewis**) attended teleconference. At this meeting the Authority:

- Agreed to amend the General Policy Plan – Metropolitan Canberra in accordance with **Attachment B – Central Molonglo** and **Attachment C – North Weston** by:
 - changing the land use policy on the eastern side of North **Weston** adjacent to the **Tuggeranong Parkway** (between the Molonglo River to Unwin Place) **from** Urban Areas to Hills, Ridges and Buffers Spaces to maintain the landscape setting of the National Capital;
 - **extending** the Urban Areas boundary in the areas south of Unwin Place and north of Cotter Road based on review of **ACTPLA's** indicative layout plans for North **Weston**; and
 - reaffirming its decision to remove central Molonglo from Urban Areas.

14 July 2008 – Letter **from** NCA (Chief Executive) to ACTPLA (**Neil Savery**) regarding Authority decision of 8 July 2008. This letter detailed decisions in regard to Central Molonglo and North **Weston**.