

# Queanbeyan Land Release Inquiry

*Background Paper*

# Queanbeyan land release inquiry

## Background paper

---

May 2006

***The purpose of this Paper is to provide general information on the forthcoming inquiry, including some background on the various sites which are the subject of the inquiry.***

### Panel

Mr Brian Gilligan (Chair);  
Ms Julie Bindon, Chief Executive Officer, JBA Urban Planning Consultants; and  
Mr Ken Matthews, Chairman and Chief Executive Officer, National Water Commission.

### Terms of Reference

*To investigate, report and make recommendations on current rezoning proposals for residential land development in the Queanbeyan City Council area taking into consideration:*

- *Cross-border planning and service delivery arrangements between the ACT and NSW Governments, including the draft Memorandum of Understanding between the NSW and ACT Governments on Cross Border Water Resources.*
- *The availability of water to sustain Queanbeyan's growth over the next thirty years; including to the new development areas.*
- *The need to achieve orderly and economic development, including the need for upfront infrastructure investment.*
- *The sequencing of land releases including the timing and prioritisation of various proposals.*
- *Any specific matters that might support, limit or curtail the development of the areas under consideration.*

### Contact

Paul Freeman  
Queanbeyan Panel Secretariat

Phone 02 9299 2904  
GPO Box 3415, Sydney NSW 2000  
Email [secretariat@coi.nsw.gov.au](mailto:secretariat@coi.nsw.gov.au)

## Regional Context

There have been various regional planning activities undertaken in the NSW/ACT Cross Border Region. The ACT/NSW Cross Border Region includes the ACT and the surrounding NSW Local Government Areas of Yass Valley, Queanbeyan City and Palerang.

The most relevant of these as it applies to the subject of this inquiry, is the *ACT and Subregion Planning Strategy 1998*. This strategy represented an agreed position across Commonwealth, State, Territory and local governments (Cooma Shire Council did not endorse the strategy) on the future growth of Canberra, Queanbeyan and surrounding areas.

The *ACT and Subregion Strategy* identified two key areas for the future growth of the Region. These were Gooromon–Jeir to the north of the ACT and the Lower Jerrabomberra Valley. The Lower Jerrabomberra Valley includes a number of the proposals currently put forward in Queanbeyan (The Poplars, Tralee and Environs/Robin).

The ACT Government developed the *Canberra Spatial Plan* in 2004 which provides the context for future development in the Territory. Neither Gooromon–Jeir nor the Lower Jerrabomberra Valley continues to be considered for urban development in the ACT under this plan, with the Molonglo Valley (former pine plantations destroyed by the 2003 bushfires) now representing the priority area for future urban development in the ACT.

The NSW Government has also been working on a draft regional strategy for the Sydney to Canberra Corridor. The regional strategy, which is a work in progress, will guide future development opportunities in the Queanbeyan, Yass and Palerang council areas and link these areas to the ACT, as well as to locations on the Hume corridor such as Goulburn and the Southern Highlands.

The NSW and ACT governments have agreed to develop a Regional Management Framework to manage cross border matters. Subsets of this work have included both a Memorandum of Understanding (MOU), on Cross Border Settlement and an MOU on Cross Border Water Supply. The agreements have been signed by the NSW and ACT governments. The water agreement is awaiting ratification by the Commonwealth Government.

## Individual Sites (See attached map)

### The Poplars

- 'The Poplars' is located generally west of the existing Jerrabomberra residential area and is shown as yellow on the map.
- Proposal is for approximately 900 lots.
- The Poplars has been the subject of a previous rezoning request in the late 1990s that was refused at that time by the then NSW Minister for Planning.
- Prior to the then Minister's decision, a public hearing was also held into the rezoning under section 68 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), at the request of Queanbeyan City Council, largely to resolve threatened species issues. The hearing acknowledged the significant threatened species concerns however a compromise was developed to allow for some development on the Poplars site.
- A local environmental study (LES) has been prepared for the site with current relevant issues being threatened species, water supply and aircraft noise.
- The Council is currently seeking a section 65 certificate from the Director-General of the Department of Planning to publicly exhibit the rezoning.

### Tralee

- 'Tralee' comprises two separate parcels of land located south west of the existing residential area of Jerrabomberra which are shown on the attached map as light blue.

- Both parcels immediately adjoin the ACT border and the industrial area of Hume.
- Proposal is for approximately 1,500–2,000 lots.
- Issues relevant to the Tralee site are threatened species, water supply, aircraft noise, potential land use conflict with Hume industrial area and cross border infrastructure provision.
- The Council is currently seeking a section 65 certificate from the Director-General of the Department of Planning to publicly exhibit the rezoning.

### **Environa/Robin**

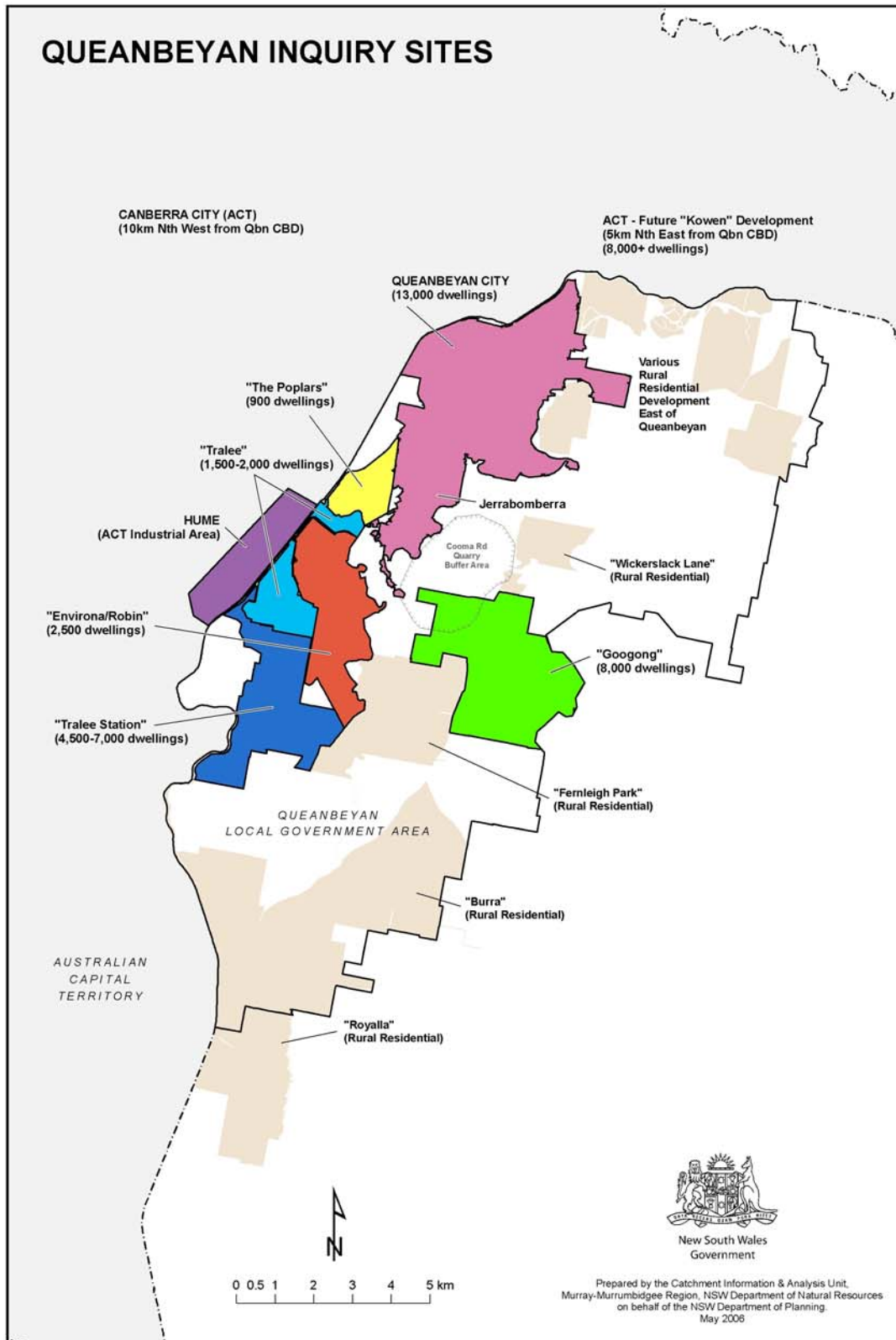
- ‘Environa/Robin’ is located immediately adjacent to the Tralee proposal, and represents the area of land between the two parcels for Tralee. It is shown on the attached map as red.
- Proposal is for approximately 2,500 lots.
- Key issues with this site are land use conflicts with the Hume industrial area, water supply, aircraft noise, threatened species and cross-border infrastructure provision.
- No LES has been prepared for the site to date.

### **Googong**

- The ‘Googong’ proposal is located several kilometres south of the existing township of Queanbeyan along Cooma Road, generally to the west of Googong Dam. The site is shown as green on the attached map.
- Proposal is for a ‘new township’ of up to 8,000 dwellings and other urban landuses that would support a new town.
- Key issues for the proposal are provision of infrastructure and servicing, water supply, relationship to the water supply catchment area and threatened species.
- An LES has been prepared for the proposal.
- The council is currently seeking a section 65 certificate from the Director-General of the Department of Planning to publicly exhibit the rezoning.

### **Tralee Station**

- The Tralee Station site is located to the south-west of the Tralee and Environa/Robin sites and is shown on the attached map as dark blue.
- Proposal would provide for approximately 4,500 to 7,000 dwellings.
- The Department has not received a formal section 54 notification from council of a rezoning proposal for this site.
- Key issues for this site are provision of infrastructure and servicing, aircraft noise, water supply and threatened species.



# Queanbeyan Land Release Inquiry

*List of Submissions*



## INDEPENDENT ASSESSMENT PANEL – QUEANBEYAN LAND RELEASE INQUIRY

### LIST OF SUBMISSIONS

1. Queanbeyan City Council
2. Yass Valley Council
3. NSW Department of Environment and Conservation
4. NSW Department of Natural Resources
5. NSW RTA
6. Canberra Investment Corporation
7. Mirvac Homes
8. Robin Pty Ltd
9. Village Building Company
10. Talpa Pty Ltd
11. Sandra Walsh
12. Canberra International Airport
13. Australian Air Express
14. Australian Airports Association
15. Housing Industry Association
16. Land and National Development Corporation
17. Master Builders Association
18. Overnight Airfreight Operators Association

19. Perin Group Management
20. Queanbeyan Business Council
21. Qantas Airways
22. Virgin Blue Airlines
23. Ms RM Aldridge
24. The Anglican Diocese of Canberra and Goulburn
25. Hugh Cooke
26. John Forrest
27. Yvonne Francis
28. John Gorman
29. Kai Hansen
30. Therese Hansen
31. Philip Harrison
32. David Hope
33. Senator Garry Humphries
34. Robyn and Adrian Jenz
35. Jerrabomberra Public School P&C Association
36. Jerrabomberra Residents Association
37. Rob Keane
38. Pastor Dwayne Keefe
39. John and Helen Morrison
40. Queanbeyan and Jerrabomberra Secondary School Committee
41. Helga and John Shaw
42. Nigel Stoker AM

43. Cornel Swen
44. Tuggeranong Community Council
45. Master Builders Association of ACT
46. Monaro Conservation Society
47. Anne Forrest
48. Ern Smith Building
49. Brown Consulting ACT
50. Canberra Estates Consortium 8
51. Steve Whan MP
52. Queanbeyan Landcare
53. Number not allocated
54. ACT Government
55. UDIA
56. Kathryn Tse

# Queanbeyan Land Release Inquiry

*List of Appearances*



## INDEPENDENT ASSESSMENT PANEL – QUEANBEYAN LAND RELEASE INQUIRY

### LIST OF APPEARANCES

1. Queanbeyan City Council
2. Yass Valley Council
3. Department of Environment and Conservation
4. Canberra Investment Corporation Pty Limited
5. Talpa Pty Ltd
6. Village Building Company
7. Sandra Walsh (Tralee Station)
8. David Larcombe
9. Mirvac Homes Pty Limited
10. Queanbeyan Business Council
11. Queanbeyan and Jerrabomberra Secondary School Committee
12. Jerrabomberra Residents Association
13. Monaro Conservation Society Inc.
14. ACT Government
15. Canberra International Airport
16. Steve Whan MP

# Queanbeyan Land Release Inquiry

*List of Supplementary Submissions*



## INDEPENDENT ASSESSMENT PANEL – QUEANBEYAN LAND RELEASE INQUIRY

### **LIST OF SUPPLEMENTARY SUBMISSIONS**

1. Queanbeyan City Council
2. NSW Department of Environment and Conservation
3. Canberra Investment Corporation
4. Robin Pty Ltd
5. Village Building Company
6. Canberra International Airport
7. Queanbeyan Business Council
8. Queanbeyan and Jerrabomberra Secondary School Committee
9. ACT Government
10. Mirvac

# Queanbeyan Land Release Inquiry

*Memorandum of Understanding on Cross Border Settlement*



# **MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**AUSTRALIAN CAPITAL TERRITORY GOVERNMENT**

**NEW SOUTH WALES GOVERNMENT**

**ON**

## **Australian Capital Territory and New South Wales Cross Border Region Settlement**

**2006**

## 1 GUIDING PRINCIPLES

1.1 The Memorandum of Understanding (MoU) on ACT/NSW Cross-Border Region Settlement has been developed according to the guiding principles outlined below:

### **Governance Arrangements**

- 1.1.1 Planning for the sustainable future of the ACT/NSW Cross Border Region<sup>1</sup> is best achieved with the cooperation and collaboration of all levels of government with an interest in the Region. In this context, discussions with the ACT and NSW have led to a number of principles that will guide settlement as well as access to other services and infrastructure in the Cross Border Region. It is the responsibility of the Territory and NSW Governments, with input from affected local government areas, to determine what is the most appropriate and sustainable urban settlement pattern to accommodate growth in surrounding NSW.
- 1.1.2 The ACT/NSW Cross Border Regional Management Framework involves a high level bipartite arrangement providing for direct NSW/ACT Government consultations, with involvement from other stakeholders such as local governments and the Commonwealth as required. This Framework sets the context within which the outcomes of the Strategy will be agreed, monitored and reviewed.
- 1.1.3 In the ACT, the Settlement Strategy will be delivered by the ACT Government through its Canberra Spatial Plan and the Territory Plan.
- 1.1.4 In NSW, the Settlement Strategy will be delivered by the Department of Planning through the Sydney-Canberra Corridor Regional Strategy and through Local Councils' Local Environmental Plans (LEPs). These LEPs are being prepared within the framework of the Sydney-Canberra Corridor Regional Strategy and will specifically address the principles contained in the Cross Border Region Settlement Strategy.

### **Ecologically Sustainable Development**

- 1.1.5 The achievement of a sustainable future for the ACT /NSW Cross-Border Region will mean that development and growth that meets present day needs and desires will not compromise the ability of future generations to meet their needs.
- 1.1.6 The Sydney-Canberra Corridor Regional Strategy and the NSW component of this Settlement Strategy adopts the overarching ecologically sustainable development (ESD) principles<sup>2</sup> of:

---

<sup>1</sup> 'ACT/NSW Cross Border Region' includes the ACT and surrounding NSW Local Government areas of Yass Valley, Queanbeyan City and Palerang.

<sup>2</sup> This Profile embraces the concept of ecologically sustainable development as provided in section 6(2) of the *Protection of the Environment Administration Act 1991*. This definition is the basis for many of the ecologically sustainable development objectives that are now

- the precautionary principle;
- inter-generational equity;
- biodiversity conservation; and
- improved valuation, pricing and incentive mechanisms.

### **Principles for Managing Change**

- 1.1.7 This MoU is based on the best available information at this point in time and does not take into account the impact on settlement of:
- a second commercial airport within the Sydney-Canberra Corridor;
  - a Very Fast Train in the Sydney-Canberra Corridor;
  - changes to immigration policy which would encourage in-migration into the Cross-Border Region; or
  - an increase in the movement of people out of Sydney.

*Any of the above would trigger the need for a review of this MoU.*

- 1.1.8 This MoU is consistent with ACT and NSW legislation, recognising the special nature of the ACT as the National Capital.
- 1.1.9 A separate MoU on Cross Border Water Resources accompanies this MoU, and the two MoUs operate together.

## **2 SIGNATORIES TO THIS MEMORANDUM OF UNDERSTANDING**

- 2.1 This Memorandum of Understanding (MoU) is entered into by the Australian Capital Territory Government (ACT) and the New South Wales Government (NSW).

## **3 TERM OF MEMORANDUM OF UNDERSTANDING**

- 3.1 The term of this MoU is for 30 years from the date of signing.
- 3.2 This MoU supersedes all previous agreements, whether signed or unsigned, that dealt with regional settlement.
- 3.3 A formal review of this MoU will occur every 5 years.
- 3.4 Further, this MoU can be superseded by the agreement of all parties.

## **4 COVERAGE OF THE MEMORANDUM OF UNDERSTANDING**

### **Application of MOU**

- 4.1 Consistency with the settlement principles and the ACT/NSW Cross-Border Region Settlement Strategy to allow the implementation of this MoU would allow for the provision of ACT sourced water to service population growth over the next 30 years in the ACT and Region.

Consistency with the Memorandum of Understanding on the Cross Border Water Resources is also required.

## **5 FUNCTIONS OF THE MEMORANDUM OF UNDERTANDING**

There are a number of mutually agreed positions that shape a common approach to managing settlement in the Cross-Border Region. These are:

- 5.1 Planning decisions should be made in the interests of the sustainability of the Region – where there are competing development options, the long term interests of the Region as a whole will take precedence;
- 5.2 Planning decisions should strive to achieve planning outcomes that benefit the whole of the Region – neither the ACT or NSW will take a decision at the expense of the other;
- 5.3 Growth and development in the Region should be located in areas that result in the best social, environmental and economic outcomes – achieving a sustainable settlement pattern, an efficient urban system and minimising ecological footprint will guide decision making;
- 5.4 The ACT and surrounding NSW governments will provide for and encourage economic and employment growth in a manner that provides for regional benefits and acknowledges the value of key regional infrastructure – key determinants will be minimising land use conflict and supporting the efficiency of the urban system, in particular transport and commuter travel;
- 5.5 All governments will work cooperatively, direct investment and manage development to ensure residents have appropriate access to services and infrastructure across the ACT and surrounding NSW; and
- 5.6 All governments will seek to retain and enhance environmental values and consider their relative value within a regional context.

## **6 OUTCOMES OF THE MEMORANDUM OF UNDERSTANDING**

- 6.1 To sustainably manage growth in the residential and employment lands sector in the Cross Border Region in accordance with the principles outlined in this MoU; and
- 6.2 To support the sustainable management of water resources, through operation of this MoU in tandem with the MoU on Cross Border Water Resources.

## **7 LEGISLATIVE FRAMEWORK**

- 7.1 The legislative framework which operates within each State or Territory jurisdiction will be the dominant consideration for each jurisdiction.

## **7.2 Commonwealth**

7.2.1 *Australian Capital Territory (Planning and Land Management) Act 1988* – provides for the preparation of the National Capital Plan, and the declaration of declared national land (which includes Lake Burley Griffin and a small section of the Molonglo River).

7.2.2 *National Capital Plan* – under the Constitutional provision, the Commonwealth remains the owner of land in the Territory, even after the granting of self-government. The Act requires that a Territory Plan, which is consistent with the National Capital Plan, be prepared by the ACT.

## **7.3 New South Wales**

7.3.1 The *Environmental Planning and Assessment Act 1979* establishes the environmental and land use planning system for NSW and encourages the proper management, development and conservation of natural and artificial resources, for the purpose of promoting the social and economic welfare of the community and a better environment.

7.3.2 The *Local Government Act 1993* establishes local government in NSW and provides the legal framework for an effective, efficient, environmentally responsible and open system of local government in New South Wales.

## **7.4 Australian Capital Territory**

7.4.1 *Land (Planning and Environment) Act 1991* – provides for the preparation of the Territory Plan that identifies water use and catchment policies, consistent with the requirements of the National Capital Plan.

7.4.2 *The Territory Plan* – sets out the principles and policies that guide the development of the ACT. Amongst the goals of the Territory Plan are:

- To conserve the enhance valued features of the Territory's natural environment; and
- To promote ecologically sustainable development, protect biodiversity, and provide for high standards of environmental amenity and landscape.

## **8 SETTLEMENT PRINCIPLES FOR THE REGION**

8.1 All future settlement in the ACT should occur in accordance with the Strategic Direction outlined in the Canberra Spatial Plan; future settlement in NSW should be in accordance with the Sydney-Canberra Corridor Regional Strategy.

8.2 Subject to the terms of the Memorandum of Understanding on Cross Border Water Resources, water may be supplied to any existing

settlement in the Cross Border Region, or any proposed new settlement in the Cross Border Region, where both parties to this MoU agree the settlement is in accordance with the following principles.

- 8.3 Principle 1: All future settlement in the Region should be located to:
- 8.3.1 maximise the efficient use of existing infrastructure and services;
  - 8.3.2 minimise the need for additional infrastructure and services through the use of integrated economic, social and environmentally sustainable planning and design solutions; and
  - 8.3.3 minimise the economic and community cost of providing and maintaining infrastructure networks and community services; and
  - 8.3.4 protect areas of high conservation, cultural, natural heritage or landscape value.
- 8.4 Principle 2: Any proposed development bordering the ACT and NSW must be complementary and, where appropriate, integrated with the existing land uses (or future land uses proposed under the plans outlined in Principle 1 above if different to existing) on either side of the border to minimise land use conflict. Compatibility of land use, road connections and service ties must support future development.
- 8.5 Principle 3: Future urban residential growth will predominantly be accommodated within existing urban areas (as defined in this Strategy) creating a pattern of compact and consolidated urban areas, surrounded by non-urban lands. New settlement areas should demonstrate a high degree of urban containment with regard to services and employment as a means of enhancing transport efficiency.
- 8.6 Principle 4: Greenfield developments should, where ever possible, be:
- 8.6.1 contiguous with (ie. as close as possible) existing urban settlements, or self-contained in their provision of services; and
  - 8.6.2 released and staged in a manner that is consistent with orderly and economic development and that reflects a sustainable and demonstrated demand for housing in the locality and, more generally, in the Region;
- 8.7 Principle 5: Economic development diversity will be supported by:
- 8.7.1 the provision and enhancement of employment lands to accommodate long term needs that will be strongly linked to transport networks. This will be the priority land use for these lands;
  - 8.7.2 supporting the regional value of key infrastructure assets by limiting activities that may diminish their function or ability to contribute to the Region;
- 8.8 Principle 6: Rural industry and agricultural landscapes will be protected and supported through limiting activities and development that may

diminish their economic, cultural and scenic contribution to the Region. Activities and development that are to be limited include rural residential forms of subdivision and subdivision that generally does not support the agricultural use of land; and

- 8.9 Principle 7: Long term land identified as potentially appropriate for urban purposes shall be safeguarded from inappropriate interim land uses and fragmentation that may compromise and conflict with the layout, orderly staging and mix of long term urban uses.

## **9 OBLIGATIONS OF SIGNATORIES**

9.1 ACT obligations include, but are not limited to:

- managing future urban growth in accordance with the principles of this MoU, and with the Canberra Spatial Plan, or subsequent Plan, outlining preferred sustainable settlement patterns for the region

NSW obligations include, but are not limited to:

- managing future urban growth in accordance with the principles of this MoU, and the Sydney-Canberra Corridor Regional Strategy or subsequent Strategy outlining preferred sustainable settlement patterns for the region.

9.2 Joint ACT - NSW obligations include, but are not limited to:

- Managing future growth in accordance with the ACT/NSW Cross-Border Region Settlement Strategy.

## **10 MONITORING, EVALUATION AND REPORTING**

10.1 In the recognition of the spirit of regional cooperation, and to enable both parties to more effectively implement the intent of the MOU, each party will share or supply relevant data and information and provide updated information where necessary.

## **11 COMPLIANCE AND DISPUTE RESOLUTION**

11.1 Each jurisdiction will monitor compliance with the MoU and non-compliance will be managed through the Regional Management Framework or subsequent arrangements.

## **12 AMENDMENTS TO THE MEMORANDUM OF UNDERSTANDING**

12.1 Proposals for amendments to the MOU can be put forward by one of the signatories to all other signatories at any time and will require agreement by all signatories to support the amendment.

### **13 IMPLEMENTATION**

13.1 Within 12 months of the signing of this MoU, the following implementation projects will be completed:

13.1.1 ACT/NSW Cross Border Region Settlement Strategy

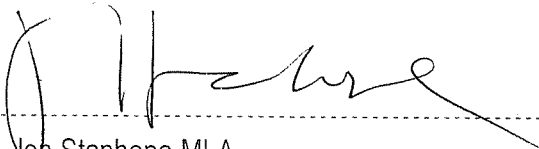
13.1.2 Sydney Canberra Corridor Regional Strategy.

13.2 Within 5 years of the signing of this MoU, the following implementation projects will be completed:

13.2.1 review of Canberra Spatial Plan; and

13.2.2 review of the Sydney-Canberra Corridor Regional Strategy.

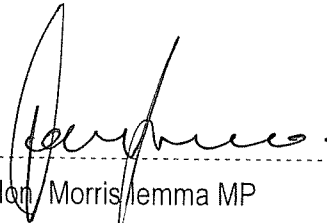
ACT-NSW Cross Border Region Settlement Agreement



Jon Stanhope MLA  
ACT Chief Minister

Date

17 MAR 2006

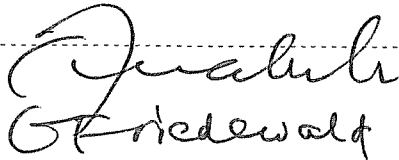


The Hon Morris Iemma MP  
NSW Premier, Treasurer, Minister for Citizenship

Date

Eight March Two thousand  
and six

Witness



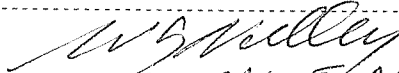
Name

G. Friedewald

Date

17/3/06

Witness



Name

WARWICK S. NEILLEY

Date

8/3/06

# Queanbeyan Land Release Inquiry

*Memorandum of Understanding on Cross Border Water Resources*



## **MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**THE AUSTRALIAN CAPITAL TERRITORY**

**AND**

**THE STATE OF NEW SOUTH WALES**

**AND**

**THE COMMONWEALTH OF AUSTRALIA**

**ON**

# **AUSTRALIAN CAPITAL TERRITORY AND NEW SOUTH WALES Cross Border Water Resources 2006**

## 1 SIGNATORIES

- 1.1 This Memorandum of Understanding (MoU) is entered into by the Commonwealth of Australia (the Commonwealth), the Australian Capital Territory (the Territory) and the State of New South Wales (the State) (together, the Parties).

## 2 PREAMBLE

- 2.1 Under the *Seat of Government Acceptance Act 1909* (Cth), the Commonwealth gained the land and water now comprising the Australian Capital Territory (the ACT) and paramount rights to certain waters of the Queanbeyan and Molonglo Rivers in New South Wales (NSW). The waters of the Queanbeyan catchment were subsequently specifically developed through the construction of Googong Dam for paramount supply of water for the ACT.
- 2.2 Control of the waters of the Googong Dam is vested in the Territory Executive by the *Canberra Water Supply (Googong Dam) Act 1974* (Cth). However the prior agreement of the Commonwealth and NSW is required for any supply of Googong Dam water to a place in NSW. New developments in NSW are subject to planning approval under laws of the State.
- 2.3 In 1999/2000, the then Minister for Territories, Senator the Hon Ian Macdonald, stated that no additional supplies of Googong Dam water could be provided to any new development in NSW without an agreed strategy for integrated water supply. It is sensible to consider the supply of water from ACT dams and Googong Dam as one supply.

## 3. DEFINITIONS

- 3.1 '*ACT sourced water*' means all water supplied from the ACT to places in NSW;
- 3.2 '*ACT controlled water*' means all water that enters ACT control and which arises in NSW;
- 3.3 '*ACT water*' refers to 3.1 and 3.2 collectively; and
- 3.4 '*ACT/NSW Cross Border Region*' includes the ACT and surrounding NSW Local Government areas of Yass Valley, Queanbeyan City and Palerang.

## 4. PURPOSE AND STATUS OF THIS MoU

- 4.1 The Parties have entered into this MoU for the following purposes:

- 4.1.1 to formalise and secure water supply arrangements from the ACT to existing NSW recipients;
  - 4.1.2 to articulate the conditions of further supply of ACT water (whether from ACT dams or the Googong Dam) to areas of the ACT/NSW Cross Border region and for the purpose of Clause 2.3, to articulate an agreed strategy for integrated water supply.
  - 4.1.3 to provide a framework to allow formalisation of possible future access to NSW water for use in the ACT;
  - 4.1.4 to advance the sustainable management of ACT water for the purposes of the National Capital, the ACT and the ACT/NSW Cross Border Region;
  - 4.1.5 to ensure that management of ACT water and the water resources of the ACT/NSW Cross Border region is in accordance with other related water intergovernmental agreements;
  - 4.1.6 to ensure a best practice approach to water quality protection, environmental flows and catchment management; and
  - 4.1.7 to complement the separate Memorandum of Understanding on ACT/NSW Cross Border Region Settlement entered into between the Territory and the State on or about the date of this MoU (the ACT/NSW Cross Border Region Settlement MoU).
- 4.2 The Parties intend that this MoU should be interpreted in a manner consistent with:
- 4.2.1 the statutory framework establishing the National Capital, governance and planning arrangements in the ACT;
  - 4.2.2 the legislative responsibilities of the parties (Refer to **Schedule A – Summary of Legislative Responsibilities**);
  - 4.2.3 the need to achieve sustainable use and management of ACT water;
  - 4.2.4 the need to support sustainable development in the ACT and ACT/NSW Cross Border region;
  - 4.2.5 the Commonwealth's National Capital interests in the ACT; and
  - 4.2.6 all applicable laws of the Parties.

- 4.3 The Parties do not intend that this MoU should be interpreted to give rise to legal rights or obligations but, instead, intend that it should record their intentions for the achievement of the purposes set out in clause 4.1.
- 4.4 The Parties intend that, in the administration of this agreement, they and their officers should be guided by the following principles:
- 4.4.1 the Parties should share water on a sustainable basis, within resource limits, in order to enable appropriate settlement in both the ACT and the ACT/NSW Cross Border Region; and
  - 4.4.2 the impact of climate change and climate variability on water availability within the ACT/NSW Cross Border Region should be recognised, and these circumstances may require a different way of managing water resources into the future.
- 4.5 The parties intend that this MoU should:
- 4.5.1 facilitate the parties to use their best endeavours to ensure this MoU or agreements made pursuant to it supersede all previous agreements, whether signed or unsigned, that deal with the supply of ACT water to Queanbeyan, including those entered into by the Commonwealth of Australia; and
  - 4.5.2 operate for a period of 30 years from signing, subject to:
    - 4.5.2 (a) formal review by the Parties each 5 years; and
    - 4.5.2 (b) any subsequent agreement between them.

## **5 EXISTING SUPPLY OF ACT WATER TO NEW SOUTH WALES**

- 5.1 The supply of ACT water for use in existing developments within the boundaries of the former Queanbeyan City Council (not the revised Queanbeyan City Council) prior to proclamation of the local government area on 11 February 2004 and the Ridgeway and Weetalabah Estates will continue in accordance with the Service Level Agreement (SLA) between ACTEW Corporation Limited and the Queanbeyan City Council.
- 5.2 The Territory and the State shall use their best endeavours to facilitate the entering into by ACTEW Corporation Limited and Queanbeyan City Council of a new Service Level Agreement between them in terms consistent with this MoU to supersede the SLA referred to in clause 5.1 and any other agreement between them, whether signed or unsigned, that deals with the supply of water from the ACT to Queanbeyan.

## 6 ADDITIONAL SUPPLY OF ACT WATER TO NSW

- 6.1 The Territory and the State may, by written agreement between them, subject to agreement by the Commonwealth and NSW consistent with S12(2) of the *Canberra Water Supply (Googong Dam) Act 1974*, agree to the supply of ACT controlled water, where:
- 6.1.1 such supply is to service population growth over the next 30 years in the ACT-NSW cross border region as expressed from time to time in the Canberra Spatial Plan, the Territory Plan and the ACT/NSW Cross Border Region Settlement MoU; and
  - 6.1.2 such additional areas are consistent with developing the National Capital as a compact and sustainable city;
  - 6.1.3 the provision of such supply would be in accordance with the settlement principles contained in the ACT/NSW Cross Border Region Settlement MoU, as amended from time to time;
- 6.2 The Parties will work cooperatively together to facilitate approval and construction of any new water infrastructure required in order to secure future water supplies agreed in accordance with clause 6.1.
- 6.3 In addition to complying with the existing legislative obligations of the Parties, including the paramount rights of the Commonwealth to certain NSW waters under the *Seat of Government Acceptance Act 1909* (Cth), the conditions of supply of water under an agreement made under clause 6.1 are to include the following principles:
- 6.3.1 that the Territory has the capacity within its available water resources to supply into the ACT/NSW Cross Border Region, having regard to existing allocations, allowing for necessary environmental flows and meeting its Murray Darling Basin, Council of Australian Governments and other water related intergovernmental commitments from time to time;
  - 6.3.2 that additional water supplies from ACT waters into NSW are taken from the NSW Cap under the Murray Darling Basin allocations;
  - 6.3.3 that there is compliance with legislative requirements from time to time within the Queanbeyan and Molonglo catchments, recognising Googong Dam as a priority catchment for the supply of potable water;
  - 6.3.4 that catchment management, including in catchments to which ACT water may be supplied in the future, embraces emerging best practice to protect appropriate down stream flows and water quality;

- 6.3.5 that urban development is directed to areas that are consistent with the ACT/NSW Cross Border Region Settlement MoU and subsequent ACT/NSW Cross Border Region Settlement Strategy, as amended from time to time;
- 6.3.6 that those persons to whom ACT water is to be supplied are subjected to the same demand management principles and measures as recipients in the ACT;
- 6.3.7 that the cost of providing additional infrastructure to access ACT water is not borne by the Territory;
- 6.3.8 that other costs of providing services to NSW residents benefiting from ACT water supply are agreed between the Territory and the State and met other than by the Territory;
- 6.3.9 that those persons to whom ACT water is to be supplied are subject to the same charging regimes as users in the ACT from time to time, including the water abstraction charge; and
- 6.3.10 that yield and water quality in the Molonglo and Queanbeyan (including Jerrabomberra) catchments is managed to take into account the Commonwealth's paramount rights and the urban water supply nature of the Queanbeyan catchment, without compromising NSW sovereignty.

## **7 OBLIGATIONS OF SIGNATORIES**

7.1 Without limiting the existing legislative obligations of the signatories, the Parties note that:

7.1.1 ACT obligations include, but are not limited to:

- providing potable water to existing recipients and to agreed settlements;
- managing the Cotter Catchment;
- managing the Googong Dam Foreshore Area; and
- managing ACT water so as to ensure an adequate environmental flow and water quality for Lake Burley Griffin.

7.1.2 Consistent with the requirements of the *Seat of Government Surrender Act*, NSW obligations include, but are not limited to:

- working with councils on land use planning issues;
- working with catchment management authorities to assist in managing catchments; and
- managing the catchment of the Queanbeyan and Molonglo Rivers (including Jerrabomberra) so as to preserve the paramount rights of the Commonwealth to those waters for National Capital purposes.

7.1.3 Commonwealth obligations include, but are not limited to:

- consideration of an agreement with NSW under s12(2) of the *Canberra Water Supply (Googong Dam) Act 1974* in a manner which is consistent with that Act and which furthers the purposes of the MoU.

7.1.4 Joint ACT, NSW and Commonwealth obligations include, but are not limited to:

- managing water resources in accordance with this MoU.

## **8 APPROVAL PROCESS FOR ADDITIONAL PROVISION OF ACT WATER**

8.1 Proposed developments will be assessed against the principles expressed in the ACT/NSW Cross Border Region Settlement MoU and the supporting ACT/NSW Cross Border Region Settlement Strategy, as amended from time to time.

8.2 Following agreement by the State and the Territory that the proposed development is consistent with the principles expressed in that Settlement Agreement and Strategy, the proposed development will be assessed under the provisions of the *Environmental Planning and Assessment Act 1979 (NSW)*.

8.3 Costs associated in the provision of infrastructure are to be resolved in accordance with clauses 6.3.7 and 6.3.8 of this MoU.

8.4 The ACT Government may agree to the supply of ACT water to approved developments, subject to the conditions of supply detailed in clause 6.3 of this MoU being agreed. The Parties note that NSW planning approval of any specific area does not result in an automatic entitlement to water supply by the ACT.

8.5 Before supply commences, there must be an appropriate agreement in place between the Australian and NSW Governments under s 12(2) of the *Canberra Water Supply (Googong Dam) Act 1974*.

8.6 The ACT's water utility is to negotiate an appropriate Service Level Agreement (SLA) with the 'receiving' council. The ACT Government shall ensure that the SLA is consistent with the utility's relevant licence terms and Clause 6 of this MoU.

## **9 MONITORING, EVALUATION AND REPORTING**

- 9.1 The Territory and the State will jointly resource an independent baseline assessment of the condition of the Googong catchment within 12 months of signing this MoU. This assessment will be supported by ACT and NSW data collected under existing catchment management functions.
- 9.2 In the course of their implementation of this MoU, the Parties will develop a program to address ongoing assessment of the catchment and rectification of any outstanding issues arising from the baseline assessment referred to in clause 9.1.
- 9.3 Further, in the recognition of the spirit of cooperation, and to enable each of the Parties to more effectively implement the intent of the MoU, each Party will share or supply relevant data and information and provide updated information to the others where necessary or desirable.

## **10 COMPLIANCE AND DISPUTE RESOLUTION**

- 10.1 Each jurisdiction will monitor compliance with this MoU and non-compliance will be managed through the Regional Management Framework or subsequent arrangements to be agreed by the Parties.
- 10.2 The Parties agree to direct their respective officers to work cooperatively together to seek mutually acceptable resolutions.

## **11 AMENDMENTS TO THE MEMORANDUM OF UNDERSTANDING**

- 11.1 Proposals for amendments to this MoU can be put forward by any Party at any time.
- 11.2 An amendment to this MoU will come into effect only when agreed by all Parties.

## **12 IMPLEMENTATION OF SPECIFIC PROJECTS**

12.1 Within 12 months of the signing of this MoU, the following implementation projects will be completed by ACT.

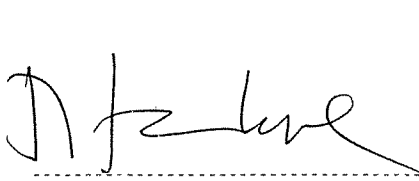
12.1.1 ACT Water Supply Options;

12.1.2 Review of ACT Environmental Flow Guidelines;

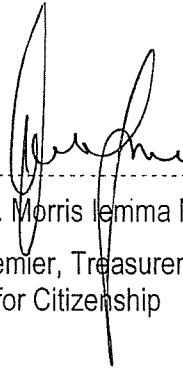
12.1.3 Catchment Management Principles for Cotter;

12.2 Within 24 months of the signing of this MoU, the following implementation project will be completed by NSW

12.2.1 Water Management Plan for the Googong/Molonglo (including Jerrabomberra) Catchment with representation from the State, the Territory and the Commonwealth.



Jon Stanhope MLA  
ACT Chief Minister



The Hon. Morris Lemima MP  
NSW Premier, Treasurer,  
Minister for Citizenship

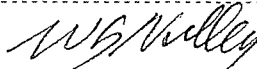
The Hon Jim Lloyd MP  
Commonwealth Minister for  
Local Government, Territories  
and Roads

Date 17 MAR 2006

Date eighth March  
Two thousand and  
01X

Witness   
Name G. Friedwald

Date 17/3/06

Witness   
Name WARWICK SNEYD

Date 8/3/06

