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Department of Planning and Infrastructure
PO Box 5474
WOLLONGONG NSW 2520

24 May 2013

Re. Proposed Ministerial Direction under Section 117

To whom it may concern,

I am a director of Robin Pty Ltd. which is the registered proprietor of the land identified as "Robin" on the attached map. I also live on, and have an interest in, the property "Environa" which is owned by my mother Mrs Joyce Larcombe.

I write to strongly object to the proposed ministerial direction on development near Canberra Airport. This special treatment of Canberra airport is quite outrageous and the proposal would have heavy impacts on the existing rights of my family as well fellow graziers, small block holders and suburban residents of Queanbeyan who are my neighbours.

Our family property is zoned Rural 1a. We are currently permitted to build a dwelling every 80 hectares. We farm 1250 hectares so there is plenty of room for my children and their children to build houses on our family property. It has been in the family since the 1920's. Well, this proposal kills all of that!

On our property, which is mostly within the Canberra Airport's extravagant ultimate capacity 20 ANEF, my children won't be able to build their own homes. We and our neighbours may not be able to subdivide, carry out dual occupancy on their suburban block and other restrictions that are not yet clear. My plans for the future and my rights under the current zoning would be heavily impacted. I cannot speak for the hundreds of other families who are my neighbours but I can only imagine that some of their plans and aspirations would be killed off by this proposal.

The significant and continued investment by my family in both Environa and Robin has been on the basis of both this future residential use for all of my family as well as being able to take advantage of the highest and best use of residential development. This highest and best use is recognised in existing policies and is reflected in the titling of Environa (in place since the 1920s) but will become instantly prohibited on the making of the proposed ministerial direction.

Under the current ANEF this proposal would affect many property owners in rural and suburban areas (hundreds I believe). However this is not the complete picture because when Canberra Airport revises (and true to form, expands) its ANEF, there we will be a new set of property owners impacted. They have not been informed of this proposal and planning in this vicinity is entirely beholden to the highly questionable ANEF's produced by Canberra Airport Group Pty Ltd.

I have not seen a rational explanation of why this proposed ministerial direction is needed. From my perspective there is no rationale for treating Canberra Airport noise related planning and development controls as a special case. The proposal indicates that Canberra Airport is a special case because of the "airport's ability to grow new aviation markets, its potential value as an 'overflow' airport to Sydney Airport and its 24-hour curfew free operation". All three of these reasons are fundamentally accounted for in the current ANEF which reflects "ultimate capacity" of Canberra airport and are clearly not grounds for making a special case. It makes no sense.

Additionally, these reasons fail to provide any assessment of the balancing of these reasons with the legitimate rights and financial interests of the affected property owners. The effect of the making of the proposed ministerial direction will be to drastically and instantly reduce the value of Environa and Robin and make redundant the significant expenditure my family has made in these properties for over 90 years.

I am particularly incensed by the substance and tone of the letter from Brett Whitworth. It says that my rights will not be affected and paints a rosy but inaccurate picture of what is actually being proposed. Many of the affected people will have read this letter and been given the impression that there is no consequence for them. They may not have read the actual proposal in detail and are certainly unlikely to have had the benefit of expert opinion from a lawyer or town planner. We (at considerable expense) have sought those opinions and they certainly do not paint so rosy a picture. I cannot help but think people have been misled.

Along with this letter I have provided letters from a planning lawyer (Noni Shannon of Norton Rose) and from a town planner (Mark Grayson of CBRE) that go into more detail around our objections to the proposed ministerial direction.

If this proposed ministerial direction is made, I otherwise reserve all of my rights which may include commencing proceedings in relation to those rights.

Sincerely

David Larcombe

A handwritten signature in black ink, appearing to read 'David Larcombe', with a long horizontal flourish extending to the right.

Resident of Environa and Director of Robin Pty Ltd

8 May 2013

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Proposed Planning Policy – Canberra Airport
Department of Planning and Infrastructure
PO Box 5474
Wollongong NSW 2540

Dear Sir/Madam,

Draft Ministerial Direction –development near Canberra Airport

We act on behalf of Ms Joyce Larcombe as owner of the Environa property and Robin Pty Ltd as owner of Robin. Both properties are located within the area generally referred to as South Jerrabomberra at Queanbeyan.

On behalf of our clients we strongly object to the draft Ministerial s117 Direction – Development near Canberra Airport. Our objection is based on the following concerns. In summary, the draft Direction under no circumstances is either reasonable or justifiable. It is not reasonable to effectively prohibit any future housing in this area nor has there been any justification as to why this should occur. The practical outcome is poor planning at odds with the State Government's own adopted plans for the providing of future housing in Queanbeyan.

The draft Direction fails to take into account the Government adopted and long standing public policy on the locating of new housing releases for Queanbeyan. That policy is the current Queanbeyan Residential and Economic Strategy (R&E Strategy) as adopted and addendum. That original Strategy and as updated (addendum) consistently recognises and expressly refers to Robin and parts of the Environa lands as Residential Areas. There have been no studies or review that suggest or justify any change in that position.

The Department has consistently applied and implemented the R&E Strategy as reflected in the rezoning of the first of the Residential Areas being South Tralee and the Poplars. Those rezonings are an endorsement of that Strategy. They represent a commitment to that Strategy which remains current. Again, no studies or review have been undertaken that would suggest otherwise.

We note also that the R&E Strategy (addendum) is expressly referred to in the Sydney to Canberra Corridor Regional Strategy. That Strategy requires and states that only new areas that are identified in the Queanbeyan City Council Residential and Economic Strategy 2031 (as amended) as endorsed by the Director General will be supported. The R&E Strategy has been endorsed by the Director General.

The Department's own Regional Strategy clearly contemplates that housing releases in Queanbeyan will be as per the R&E Strategy inclusive of our client's land as identified Residential Areas.

We note that the relevant s117 Direction on regional strategies calls up the Sydney to Canberra corridor regional strategy and in turn, the referred to R&E strategy. The s117 Direction requires that Council be consistent with the regional strategy when rezoning land. The Residential Area of Robin and Environa are consistent with that strategy.

In summary the Robin and Environa land have been contemplated and remain part of the current policy of Council and Government on future residential releases for Queanbeyan. Our client is entitled to rely on that publicly adopted policy position in the absence of any studies or review that would suggest otherwise.

We understand that the Director General of the Department of Planning and Infrastructure has requested that Queanbeyan City Council undertakes a review of the R&E strategy. On the assumption that this review is soon to commence, it highlights the premature and inappropriateness of proposing a planning direction that will have the practical effect of significantly compromising the Council and Departments own review and approach to the future housing needs of Queanbeyan.

The Environa lands also comprise of the original Environa plan of subdivision. That plan is in effect a residential release and was registered in the mid 1920's. That plan has been well known to Government for a number of years. Each of the lots in that plan have separate title and accordingly in effect up to 1764 residential lots. The draft s117 Direction is excessively onerous in directly impacting on all these lots with no reference made to them in any of the material provided by the Department as part of the public notification.

There is no certainty in the proposed s117 Direction for Council, State Government, land holders or the broader community. This is an unacceptable outcome that will only hinder decisions on long term planning, and provides no confidence or certainty for investments in the development of new release areas. This cannot be in the best interest of anyone with an interest in planning or providing for the future housing in Queanbeyan.

By not referring to a particular ANEF contour nor providing any strategic discretion for any variation the proposed s117 Direction will effectively fetter and constrain the role and ability of Council and the Department of Planning and Infrastructure to make proper long term planning decisions and/or rezone land for future housing. That is, the proposed s117 Direction effectively 'delegates' the decision on where housing should be located in Queanbeyan to those who have the authority to adjust, revised and adopt new ANEF contours with no reference at all to either NSW State Government, Council or land holders. In practice, this is a right of veto to the Commonwealth and Canberra Airport. This cannot be regarded as an acceptable outcome for NSW.

There is no justification for the draft s117 Direction. There is no justification nor any valid argument as to why the current s117 Direction on aircraft noise that is deemed suitable for every other airport across the state is not suitable for Canberra Airport.

Unlike almost all other s117 Directions, the draft s117 Direction provides no discretion for any departure or inconsistency. In effect, as a prohibition of future residential development it provides no discretion on what might otherwise be a reasonable and acceptable planning solution. This is at complete odds with a balanced approach to planning and arguably constrains both Council and Government from meeting the Aims of the Environmental Planning and Assessment Act.

The public notification of the draft s117 Direction is highly flawed and cannot be relied on. By way of reference we note the following:

- Our client, Joy Larcombe as one of the land owners most specifically affected did not receive any notice in writing of the proposed s117 Direction from the Department.
- The plans attached to the public notification contain a number of errors including
 1. The land referred to as Nth Tralee is in fact Environa.
 2. The plan includes the zonings of the Poplar lands. That draft LEP has not yet been made.
- The notice in writing received from the Department by Robin Pty Ltd has no date as to when submissions are to be made.
- The notice in writing from the Department refers in the subject heading to the Draft Planning Proposal – Canberra Airport. Doing so, has only served to add even more confusion to the intended purpose of the notice.

In summary, the public notification contains many errors, is arguably misleading and cannot be relied on.

In conclusion there is no justifiable basis for the draft s117 Direction. It is excessively onerous and completely inconsistent with the Department's own current public policy position for South Jerrabomberra. There is no reasonable basis for its adoption.

Providing certainty and a planned approach to the future housing needs for Queanbeyan for Council, Government, land holders and Canberra Airport is not achieved by the proposed s117 Direction. The better approach is to

1. Rely on the already consistently applied standard of AS2021 as the way to achieve acceptable limits to housing in areas affected by aircraft noise as referred to in the existing s117 Direction.
2. Rely on the proposed revisions to the current R&E strategy as the proper way to plan and provide a balanced approach to the future housing needs of Queanbeyan.

On behalf of our client we thank the Department for the opportunity to comment and look forward to your advice on the matters raised.

Yours sincerely,
CBRE (V) Pty Ltd

A handwritten signature in black ink, appearing to read 'Mark Grayson', with a long horizontal flourish extending to the right.

Mark Grayson
Senior Director - CBRE Town Planning