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Ms Carolyn McNally
The Secretary
Department of Planning & Environment
GPO Box 39
Sydney NSW 2001
Email: EIAproject@planning.nsw.gov.au

27 November 2016

Dear Ms McNally,

Re: Feedback on Improving the Environmental Impact Assessment Process

I write on behalf of the Carmelite Nuns, Varroville, and as a member of the Scenic Hills Association.

We are grateful for the opportunity to provide feedback to the Department of Planning & Environment (DPE) on the important issue of the Environmental Impact Assessment process. We have accumulated almost 10 years of experience in dealing with the EIA process as a result of developments proposed in and around Varroville, in the Scenic Hills of Campbelltown LGA, where we reside. Our experience is varied. We have dealt with:

- the RMS (formerly RTA) about a proposal to build a major truck stop on the F5 freeway at Varroville and a second proposal to upgrade Campbelltown Road.
- AGL about its proposed Northern Expansion of the Camden (coal seam) Gas Project, which included a gas plant and 6 coal seam gas wells on land next door to us (in the Scenic Hills Protection Area).
- Camden Council about ‘spot rezoning’ of land for housing development adjacent to the Scenic Hills Protection Area and outside the approved SW Growth Centre (Emerald Hills Estate, 121 Raby Road, and currently 190 Raby Road).
- Sydney West Joint Regional Planning Panel (JRPP) on the proposed Macarthur Memorial Park cemetery for 136,000 graves at Varroville, on heritage landscape within the Scenic Hills Protection Area, for which spot rezoning has been sought.

To our knowledge, none of these proposals was supported by a strategic study or report providing evidence of need for the development. In each case, however, the proponent provided an environmental impact assessment before consulting the community. Our

experience of the process has been far from satisfactory, which is why we welcome this opportunity to comment, and we hope, to be heard by the DPE.

Some of the issues identified to date

In response to your helpful list of issues, we would like to comment by relating aspects of our experience of the above listed projects.

Lack of focus on the most important issues and need for earlier and better engagement

For us, living by choice in a scenically protected area, one of the most important issues for any development is that it respects the long-held (over 40 years) intention of the environmental protection zoning. There is a question here of Environmentally Sustainable Development and of intergenerational equity. The Scenic Hills is scenic green space adjacent to areas which are rapidly developing around the City of Campbelltown. As these necessary developments proceed, it becomes ever more important to preserve places of scenic beauty and green space to enhance the quality of life of residents and those who come into the area for work.

Justification for proposals

We believe that no proposal should be considered if it lacks justification and is prohibited under the zoning. However, our experience has been that proponents feel so confident of success that they challenge the zoning on the grounds that their proposal is State significant or essential infrastructure, irrespective of whether they can provide evidence to substantiate their claim. So, for example, the RTA felt confident to propose a major truck stop adjacent to a scenic protection area and in close proximity to a State Heritage listed house (Varro Ville House). AGL felt justified in proposing a gas processing plant and gas wells (the audacity! – in a scenically protected area, on and adjacent to sensitive land uses and a State heritage listed item of infrastructure, the Upper Canal) at Varroville. Camden Council continues to engage in ‘spot rezonings’ with absolute disregard for the cumulative impacts on the Scenic Hills protection area. And now the Catholic Metropolitan Cemeteries Trust (CMCT) has sought rezoning of scenic heritage landscape surrounding Varro Ville House for commercial purposes, which are prohibited under the current (and former) zoning.

If there had been earlier and better engagement with the community in advance of these proposals, the problems with them could have been identified, avoiding needless expense on engaging consultants and years of preparing copious documentation. For example, the proposed truck stop was eventually abandoned because of serious safety issues on the section of motorway in question (unsafe proximity to two entry ramps, downhill approach for large trucks entering the stop, and danger of large trucks leaving at slow speed and crossing into the traffic flow). Noise impacts and proximity to a high school and other sensitive land uses were other contraindications. All of these were raised by the public, not by the proponent or its consultants. A community engagement evening with the RMS on a separate proposal, the

Campbelltown Road Upgrade, ended in shambles when the RMS staff failed to listen to the concerns of residents.

The AGL proposal was suspended after years of planning when it became a political liability leading up to the NSW State elections. Before that, reports of the need for CSG extraction were conflicting: with industry and government running a scare campaign claiming that there was an imminent severe shortage of gas, whilst independent authorities claimed that there was no shortage at all. Now we understand that there is no shortage of supply but that a domestic shortage will soon be experienced because too much gas is exported. None of this makes sense from a planning point of view but it certainly leads to cynicism about the planning process.

The example of the CMCT proposal is also instructive. The most important issue here is that cemetery demand assessments over the past two years show that there is *no* shortage of burial space in the proposed catchment area despite the proponent's public scare campaign about a purported imminent shortage. Further, the proposed site has major State heritage significance and includes stands of critically endangered Cumberland Plain Woodland. This is supported by an independent heritage study part funded by the Office of Environment and Heritage, which remains opposed to the cemetery development. In addition, the proposed development will have major negative visual impacts on the scenically protected area, despite claims to the contrary. A fundamental issue that should have informed the process is that commercial premises, and specifically cemeteries, are prohibited under the zoning approved in the recent LEP. On all these grounds, this development proposal should never have got to the point of public exhibition.

Inconsistent quality and accessibility of documentation

Each of the projects on which we have made submissions has involved vast amounts of documentation. It is unrealistic for the average person to print such large documents in order to read them, or to attend local libraries for days on end to read the material on exhibition. On occasion we have requested and received reports from the proponent (e.g. AGL). It has been our experience that the quality of documentation has varied widely, some of it being well done and some very poor. We have observed that sometimes consultants' reports are written and reviewed by the same individual. This is unacceptable. Our impression is that the proponent and consultants rely on the likelihood that their reports will not be read.

Two elements feed into this impression. The first is that for major projects, the exhibition periods are far too short for members of the public to read through the documentation and respond to it. Moreover, closing dates for submissions often occur in the pre-Christmas period or at the end of January, making it difficult or impossible for the public to engage with the material. We have come to regard with suspicion any proposal that has a due date for submissions in this holiday period, since exhibition at this time appears to correlate with the more 'shonky' proposals.

The second element feeding into our impression that proponents rely on reports not being read is more subtle. We have observed that, in the case of the spot rezoning proposals put forward by Camden Council and in relation to the CMCT proposal, executive summaries usually do not reflect adequately the contents of the consultants' reports. Instead, they 'spin' the information and present only a summary that favours the proposal. Thus, whilst some consultants' reports note significant factors suggesting that the development might be unsuitable, these do not appear in the executive summary, which seems to have been written to 'sell' the proposal. Any mayor, local councillor or member of the public who reads only the executive summary and acts on it is likely to be ill-informed about the potential for negative impacts of the proposal.

For these reasons, we have come to see that reports prepared by consultants who are paid by the proponent can be misleading. The relationship between the two parties is too cosy, favouring the proponent to the detriment of the public interest. One possible solution is to require an independent peer review (see p.5 below).

Lack of confidence in the project assessment process

We believe that this is a very important issue. We have made many submissions over the past 10 years and have had little indication that anything we have written has been taken into account in the project assessment process. We, like many others, do not have confidence in the integrity of the project assessment process. Below we document from our own experience some of our reasons for this view.

Response to Submissions reports

AGL's 'Response to Submissions' report is a case in point. Although we wrote detailed submissions documenting many areas of concern and asking many questions for clarification, the proponent's response was woefully inadequate. Responses were generally selective, evasive and comprised assertions rather than facts. No response at all or a rote 'cut and paste' job was all that was provided for many serious issues raised by different people making submissions. The proponent's Response to Submissions report was dismissive, demeaning and insulting to the public who had engaged sincerely with the proposal. We suggest that those who make a submission on an EIS or EIA should have the right of reply to the Response to Submissions document prepared by the proponent. In this connection, we see merit in your *Initiative 2: that proponents and decision makers be required to inform community members how their views have been taken into account, or if not why not*. But this should not be a top-down approach that excludes the public from having a right of reply.

In late 2013, AGL did me the courtesy of delivering a copy of their Environmental Health Impact Assessment which was undertaken following comments made at a public information evening early that year. In acknowledgement, I provided a detailed written critique to which AGL made no response whatsoever. My critique was essentially a peer review of a seriously inadequate fat glossy Assessment. Members of the public should not need to undertake a peer

review of proposals. The proponent ought to have a duty to respond to a peer review. In this regard, we welcome your *Initiative 5: to improve the accountability of EIA professionals by implementing peer review of EIA documents*. We would add that peer reviews should be independent of proponents and the DPE; they should not spawn yet another industry of consultants paid by proponents or directly by the DPE. One way of implementing this change is suggested by Warwick Giblin in his submission.

In recent months, we have had the experience of being on the receiving end of dismissive token ‘Response to Submissions’ reports from Camden Council, which has repeatedly failed to respond to the question of cumulative impacts on the Scenic Hills of its spot rezonings along Raby Road.

In June 2013, Camden Council commissioned a visual impact assessment of its proposed Emerald Hills development (a spot rezoning) on the Campbelltown side of the Scenic Hills protection area. We learned of this *post hoc*, when we discovered that we were the residents of the Scenic Hills most likely to be negatively impacted by the development. As a result of our representations to Council, further visual impact studies were commissioned. In a face-to-face meeting with Council’s planners, we drew attention to the potential for a negative visual impact from electricity infrastructure on the site. It was only after approval of the development, when stanchions and a WaterNSW security fence appeared on the prominent ridgeline in March 2015, that we discovered that Camden Council had apparently failed in 2013 to notify the utility providers of the existence of the visual impact assessment and of its recommendations to protect scenic views from the Campbelltown LGA. Despite our objections, which were supported by a letter from the consultant who undertook the visual impact assessment, the eyesores constructed by the utility providers remain in place to this day. Whether simply an oversight, or the result of bungling or incompetence, such planning mishaps have serious long-term consequences: in this case, a formerly pristine, prominent ridgeline permanently marred by unsightly infrastructure, and loss of public confidence in the planning system.

Our worst experience of a Response to Submissions report occurred in 2016, with the JRPP conducting the assessment process for the CMCT cemetery proposal at Varroville. We made a detailed 28-page submission, demonstrating that we had read all the accompanying consultants’ reports and questioning points in most of them. Our submission was merely displayed on the website but not even mentioned in the Response report, let alone addressed. It seems that only submissions favouring the proposal were highlighted in the Response to Submissions report. The contents of the rest were apparently ignored.

The whole process surrounding the CMCT proposal has been seriously flawed. There appear to have been many failures; most significantly, the breach of a ministerial condition that the land in question not be sold to the proponent unless/until rezoning was approved. In spite of this condition, the land was sold by the developer who owned it to the CMCT (whose only business is cemeteries) before the development proposal was placed on exhibition. The sale was finalised early in the exhibition period, in the first week of January. The public was not

informed of the sale and did not learn of it until after the exhibition period had closed, though suspicions were aroused from careful reading of some of the consultants' reports. These suspicions were confirmed by a member of the Scenic Hills Association who paid for a GIPAA search. Withholding this significant information from the public should have invalidated the exhibition process. In other respects, too, the process surrounding this development has been so opaque and questionable that it is currently being challenged.

Biodiversity offset scheme

Yet another concern for us is the system of biodiversity offsets. It seems to favour developers, who with impunity can destroy critically endangered Cumberland Plain Woodland in the Scenic Hills while supposedly protecting it elsewhere. Yet the Scenic Hills is its natural habitat and this is where its remaining stands should be protected. We know of no evidence that it is being protected or regenerated elsewhere. Perhaps this is just a failure of the relevant authorities to inform the public of protection efforts that have been undertaken and are ongoing. A more cynical view would see the biodiversity offset scheme as a token gesture lacking substance and accountability.

Conclusion

We and others care about our environment. We are not opposed to development but we expect it to be ecologically and socially sustainable. All of the experiences documented above have led us to believe that our voices are not heard. This leads to lack of confidence in the Environmental Impact Assessment process and to cynicism about it. When the public is treated with contempt, it will seek other ways of being heard, such as resorting to activism. When government officials or corporate entities label members of the public as lobbyists or activists, or simply ignore them, they need to look at the failures of process that have fuelled public frustration. It has many unwanted social and political effects as we have seen in recent electoral outcomes here and abroad.

For this reason we welcome your Environmental Impact Assessment Improvement Project and thank you for the opportunity to have input into it. We have been pleased to take the trouble to respond to your encouraging discussion paper. Finally, we wish to add that we endorse the submission made by Warwick Giblin for OzEnvironmental Pty. Ltd.

A handwritten signature in blue ink, reading "Jocelyn Kramer". The signature is written in a cursive, flowing style.

Sister Jocelyn Kramer OCD PhD