



23 June 2009

Ms Kate Harris
Committee Officer
Standing Committee on State Development
Parliament House
Macquarie Street
SYDNEY NSW 2000



Dear Ms Harris

INQUIRY INTO THE NSW PLANNING FRAMEWORK - WAGGA WAGGA CITY COUNCIL SUBMISSION ON JOINT REGIONAL PLANNING PANELS & BIO-CERTIFICATION PROVISIONS IN LOCAL ENVIRONMENTAL PLANS

Thank you for the opportunity to appear and to provide evidence before the State Development Committee on 29 May 2009.

As requested, please find attached a copy of Council's resolution regarding Council's alternative model on the composition, establishment and commencement of the operation of the Joint Regional Planning Panel within the Wagga Wagga City Council Local Government Area (LGA).

It is noted in the Discussion Paper that once the JRPP for the Southern Region is established, that is envisaged the Wagga Wagga City Council Planning Panel will only retain responsibility for the preparation and finalisation of the Wagga Wagga Local Environmental Plan 2008.

On the 2 June 2009, the Mayor, General Manager and the Chair of the Wagga Wagga City Council Planning Panel, the Hon Pam Allan met with the Minister for Planning, The Hon Kristina Keneally MP to discuss the State Government's intention to establish Joint Regional Planning Panels. The meeting with the Minister was very encouraging and positive.

The meeting provided Council with the opportunity to put forward the suggestion for an alternate transitional model for the Wagga Wagga LGA that took into account the existence of the current Council Planning Panel.

It was important to highlight Council's specific case to the Minister, in particular the good relationship with the Planning Panel, before any further commitment from the State Government in relation to the composition of Joint Regional Planning Panels.

It was because of this positive relationship with the Planning Panel, that the Minister was advised that it was felt unnecessary to introduce a third level of decision-making and its associated costs onto the local community.

It was highlighted that Councillors and staff had developed a good working relationship with the Planning Panel, even though the Planning Panel initially imposed on Council as part of the Promoting Better Practice Review.

Council staff have learned a great deal from the current arrangement and this has been reciprocal with Panel members valuing the professionalism and contribution of staff in the decision-making process on development applications. The Minister was advised that the Panel members themselves have demonstrated a strong commitment to the community and the City and desire to see the process for the delivery of the draft Wagga Wagga Local Environment Plan 2008, through to implementation.

The Minister was also informed that Council supports the retention of the Planning Panel to ensure the continuity of good land use planning and development decisions, and Council is committed to working with them to develop an alternative model. Council's resolution in relation to this matter is attached.

In summary, Council has sought approval for an interim arrangement for Wagga Wagga City Council that involves continuation of the role of the existing Wagga Wagga City Council Planning Panel until its current term and activities are completed.

For this period, Wagga Wagga City Council would be excluded from participation in the proposed Southern JRPP. In addition, Wagga Wagga City Council welcomed the opportunity to nominate two Councillors and an alternate to participate on the Wagga Wagga City Council Planning Panel for the remainder of its term, to provide the opportunity to bridge the gap to the new Joint Regional Planning Panel arrangements and to enable those nominated Councillors to gain from the opportunity to learn from the expertise of the existing Planning Panel Members. The Minister has, subject to legal advice, recently stated her support for this interim arrangement.

In relation to Council's nominees, Council has resolved that the Mayor, Councillor Kerry Pascoe, Councillor Rod Kendall with Councillor Kevin Wales as the alternate member.

In relation to the introduction of bio-certification as part of Local Environmental Plans, Council has included this in its latest draft Local Environmental Plan 2008, which underwent a 3 month exhibition period and received community and planning and development industry support. A summary document on bio-certification is attached for your information.

Please contact me if you would like to discuss Council's submission in more detail.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Bob Karaszewych', with a long horizontal line extending to the right.

Bob Karaszewych
Director Planning

Bio-certification Information

Executive Summary

The South West Slopes bioregion is one of the most cleared and fragmented in NSW (NSW National Parks and Wildlife Service, 2003). Much of the remaining vegetation is restricted to less productive areas (e.g. steep ridgelines and rocky hills), or is in very poor condition

Until 2005 there had been no vegetation map for the Wagga Wagga LGA, or the Wagga Wagga urban area. Priday and Mulvaney (2005) developed a modelled vegetation for the Wagga Wagga LGA, based on 172 floristic plots. The pre-clearing distribution of each community was modelled using a combination of field observation and geology/soil types.

Proday and Mulvaney's initial map has been modified by subsequent reports by Ecological Australia Pty Ltd (2007) and Thompson (2007). Additionally, ground truthing and field observation of officers of DECC and Wagga Wagga City Council (WWCC) has also modified the original map.

The specific objectives of the project were:

- Describe the ecological values of the site.
- Describe potential impacts of proposed development.
- Recommend ways to minimise impacts on ecological values of the site.
- Where impacts are unavoidable, to recommend offsets which ensure larger, viable areas of native vegetation and habitat are retained in such a way as to enhance landscape connectivity and then;
- Ensure that the above are reflected in Council's draft LEP.

The dWWLEP includes at Clause 7.3, a "biodiversity overlay". Clause 7.3:

- Has objectives that are appropriate to the "Natural Areas", to protect biological diversity and ecological processes and encourage the recovery of threatened species.
- Ensures development consent must not be granted unless the applicant has submitted a report with the Development Application that addresses identification of adverse impacts on biodiversity, and a description of proposed measures taken to ameliorate the adverse impacts.
- Ensures that if the consent authority considers that the development will cause an adverse impact then it cannot grant development consent unless satisfied the development meets the objectives of clause, is designed to avoid potential impacts as far as practicable, and offsets any adverse impact through the restoration of a disturbed site

1. Innovation and / or Best Practice

Wagga Wagga City Council is the first in the Murray/Murrumbidgee region to produce Land, Water and Bio-diversity maps in conjunction with introducing special draft LEP clauses addressing: Environmentally sensitive land - biodiversity (clause 7.3); Environmentally sensitive land- land (local) (clause 7.4) and; Environmentally sensitive land - waterways (local) (Clause 7.5). These initiatives will lead to more sustainable decision making in relation to strategic planning for the local government area.

The Protection mechanisms and key outcomes of the LEP provisions are:

- The LEP includes 7.3: Environmentally Sensitive Lands - Biodiversity which will apply to the Natural Areas.
- The LEP includes the Clause 5.9 Preservation of trees or vegetation, which will apply to areas outside the Natural Area that are zoned Residential, Industrial and Business.
- For one of the most significant conservation sites in the area, at Lloyd, in addition to an E2 zoning, private landholders have agreed to enter into Planning Agreements to transfer the land to Wagga Wagga City Council (WWCC) and WWCC have agreed to prepare Conservation Management Plans for these areas
- 933 hectares of EECs and threatened species habitat, representing 91% of all extant vegetation, are to be retained, and developed directed away from these areas through appropriate zoning.
- A further 36 hectares (3 % of all extant vegetation) or vegetation is to be retained through other measures, including conditions attached to existing Development Consents, and protection through the Development Control Plan. All high conservation value (or "red flag") areas are to be retained through these measures.
- Offset targets calculated from the potential loss of low conservation value vegetation (60 hectares or 6% of extant vegetation) are all met within the proposed bio-certified area.

2. Process and Planning.

Process

Under the current Wagga Wagga LEP the Lloyd area is largely zoned 1e (Future Urban) with some areas zoned 7b (Hillscape). In consideration of the outstanding biodiversity values of the site, and the potential impacts of urban subdivision on the endangered woodlands, WWCC, the landholders, and DECC agreed to the conduct of biodiversity studies (Ecological Australia Pty Ltd; Thompson 2007) to inform planning decisions that would ensure an "improve or maintain" outcome for the site's biodiversity.

Council acted as initiator and facilitator of the background studies. It commissioned studies of the biodiversity of all "release areas" identified in the Wagga Wagga Spatial Plan (WWCC 2007). The areas represent those where the WWCC proposed zoning changes will result in increased land-use intensity or development, and which may have had impacts on the extent or quality of native vegetation, including threatened ecological communities, as well as habitat for threatened species or communities.

These studies (Ecological Australia Pty. Ltd 2007) preceeded the introduction of the *BioBanking Assessment Methodology*. However, they followed a methodology developed by DECC and endorsed by WWCC that assessed an "improve or maintain" outcome.

The methodology used the same thresholds as those employed in biodiversity assessment chapter of *Environmental Outcomes Assessment Methodology* (EOAM), pursuant to Part 5 of the Native Vegetation Regulation 2005.

Planning Agreements.

The Private landholders of the proposed E2 zone in the Lloyd area have indicated a willingness to enter into a Planning Agreement, under section 93F of the *Environmental Planning and Assessment Act 1979*, with WWCC to ensure that these lands are transferred to WWCC, and that WWCC will prepare and implement a Conservation Management Plan for the area.

Planning Agreements will be critical in the restoration and conservation of the site, and in ensuring that an "improve or maintain" outcome for the Lloyd site, and the wider Wagga Wagga area, can be achieved.

3. Benefits.

Wagga Wagga City Council has worked closely with DECC on this initiative.

Certification has many practical advantages. It allows up-front strategic assessment of conservation values, enables informed community participation in planning decisions, reduces the potential for land-use conflict, and creates greater certainty of planning outcomes for development projects in areas zoned for development. It targets protection and enhancement works where they will be most effective within the context of the Wagga Wagga landscape. It also directs conservation activity to those areas in Wagga Wagga which are of particular significance. It also offers great opportunity for Strategic Planning to that will assist in reversing the long-term decline in biodiversity so that biodiversity values may be improved or maintained.

Biodiversity certification also provides the additional benefits of;

- Greater conservation and developer certainty as to what can and cannot be achieved on particular sites.
- Greater trust in achieving conservation goals as an "improve and maintain" outcome is non-negotiable.
- Less council staff time dedicated to assessing specific development applications and negotiating with developers as to what can and cannot be done.
- No financial cost to developers in producing individual assessments, which generally would have exceeded the cost now required to meet offset provisions.

- Increased financial resources to manage biodiversity through funds obtained through offset mechanisms.

Across the proposed bio-certified area. DECC believes that the provisions of the dWWLEP will ensure that biodiversity will be improved or maintained overall.

4. Transferability.

The most obvious opportunity for transferability is in the area of Planning Agreements, which allow for the transfer of sensitive, privately owned lands, to Council, with Council then responsible for preparing and implementing Conservation Plans for such lands. The Lloyd initiative could act as model.