

Lake Macquarie City Council's Submission on the Draft Terms of Reference for the Lower Hunter Strategic Assessment Report

Introduction

Lake Macquarie City Council (Council) welcomes the opportunity to comment on the Lower Hunter Strategic Assessment – Draft Terms of Reference. Council supports an integrated approach for these important regional strategic directions set in the anticipated revised documents the Lower Hunter Regional Strategy, Lower Hunter Regional Conservation Plan (RCP), and the Regional Sustainability Plan.

As part of the review of the RCP it is understood that the NSW and Australian governments are collaborating in a Strategic Assessment of the Lower Hunter. The Draft Terms of Reference for the Strategic Assessment Report are the subject of this submission. The Draft Terms set the parameters of the Strategic Assessment Report, which is to comprise a single regional - scale assessment of the environmental values. The Strategic Assessment Report is to put in place a conservation framework that:

- satisfies the NSW and Australian Government legislation;
- provides a regional framework to protect high value conservation areas; and
- helps streamline the development assessment processes.

Comments on the Lower Hunter Strategic Assessment Report - Draft Terms of Reference

1. Consultation for the Preparation and Implementation

The draft Terms of Reference should include an additional section on consultation for the drafting and implementation of the Strategic Assessment Report and associated Program. A significant difficulty in regional planning is the inconsistent processes between different NSW Government agencies and between NSW government and local government.

The drafting of a new report without addressing the process of implementation is likely to minimise the possible outcomes. It is important that the Strategic Assessment Report and the related Program are capable of being implemented and enforced through appropriate legal instruments to ensure the protection of matters of national environmental significance in the Lower Hunter Region.

The Draft Terms of Reference should include a section on Consultation that:

- Requires consultation with the relevant government agencies and local government areas;
- Specifies the necessary agencies to consult and the way that consultation is to be considered for the Strategic Assessment Report and the related Program;
- Outlines the consultation process in the preparation of the Strategic Assessment Report and the related Program;

- Specifies the necessary agencies to consult and the way that consultation is to be undertaken in the implementation of the Strategic Assessment Report and the related Program;
- Outlines the process for consultation in the implementation of the Strategic Assessment Report and the related Program;
- Identifies timeframes for consultation on the Strategic Assessment Report, associated Program and the implementation of these documents; and
- Provides a process to deal with conflicting advice in the drafting and implementation of the Strategic Assessment Report and the related Program.

2. Exhibition of the Strategic Assessment Report and Related Program

The Draft Terms of Reference should explicitly require the public exhibition of the Draft Strategic Assessment Report and the associated Program to be concurrent.

The inter-relationship between the Strategic Assessment Report and the associated Program is clear. The Strategic Assessment Report is to describe how the Program meets the objects of the EPBC Act, and the impacts of actions under the Program.

It is important to exhibit both the Strategic Assessment Report and the related Program at the same time. This is not explicit in either the Draft Terms of Reference for the Strategic Assessment Report nor the Section 146 Agreement (between the NSW and Australian Government).

3. Relation to a Clear Infrastructure Plan

The Strategic Assessment Report would be well supported by a clear Infrastructure Plan that includes the long-term transport infrastructure network and corridors for the region and how these will relate and support future urban development options. This should be included in the Draft Terms of Reference for the Strategic Assessment Report and in the related Program.

4. Conservation

The proposed changes to the NSW planning legislation provide considerable uncertainty about the extent to which conservation measures may be achievable through land use planning instruments or development approvals in the future. This may affect the ability to implement the Program. The Strategic Assessment Report is to assess environmental values and should:

- Relate to all potential urban land identified in the Lower Hunter Regional Strategy, plus land to be investigated for urban development;
- Review the adequacy of conservation reserves and buffers for listed matters of national environmental significance. Additional areas should be proposed for reservation where these are required to provide adequate long term protection;

- Include a framework for ensuring the provision of adequate biodiversity offsets, including specification of biodiversity offset principles. This should be consistent across all levels of government;
- Consider long term habitat connectivity requirements across the Lower Hunter Region and adjacent areas; and
- Clearly articulate the conditions to be met by development if it is to be considered a controlled activity or not a controlled activity under the EPBC Act.

5. Clarity in the Draft Terms of Reference

Council understands the magnitude of the undertaking to review and improve the operation of the RCP as it works within current legislation and applaud this approach. However, the Terms of Reference are somewhat unclear as they are headed “Strategic Assessment Report – Draft Terms of Reference” but then follow with reference made to “this strategic assessment” or “the Report” or “Program” which is confusing.