



Hunter Environment Lobby Inc.

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Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

Sent to: lowerhunter@planning.nsw.gov.au

Dear Madam/Sir

Comments – Draft Terms of Reference for the Lower Hunter Strategic Assessment

This submission reviews the draft terms of reference for the proposed Lower Hunter Strategic Assessment.

The Hunter Environment Lobby (HEL) is a non profit regionally based community group with a reputation for presenting informed and balanced views on behalf of the community of the Hunter Valley. The group has been in existence for over 20 years and has made many submissions in relation to proposed plans and development projects, participated in committees and public inquiries, and organised a number of successful public workshops including on biodiversity and native vegetation.

The draft terms of reference and accompanying documentation are very generic and it is far from clear from the exhibition documentation as to what program and products will be assessed. Is the program the updated Lower Hunter Regional Strategy, and/or an updated Lower Hunter Regional Conservation Plan, and/or a “Program for the protection of Matters of National Environmental Significance in the Lower Hunter Region” as stated in the June 2013 Frequently Asked Questions flier? The apparent contradictions between the Commonwealth and NSW agreement of 2012 and other documentation need to be resolved to clearly define both the scope of the policies and programs to be assessed and their legal status.

The Hunter Environment Lobby is particularly concerned that:

1. Section 6.1 of the agreement requires that the draft terms of reference be provided for public comment “as soon as practicable following the execution of the agreement”, yet it has taken around 12 months for this to occur. The delay in making this available for comment is unreasonable given that work on the program has proceeded in the meantime.
2. The Lower Hunter Strategic Assessment and Upper Hunter Strategic Assessment overlap in terms of their geographic area of coverage. This needs to be clarified in the terms of reference, and both assessments need to be complementary.

The Hunter Environment Lobby makes the following comments on the draft terms of reference of the Lower Hunter Strategic Assessment assuming that this relates to a “Program for the protection of Matters of National Environmental Significance in the Lower Hunter Region”:

1 BOUNDARY OF STRATEGIC ASSESSMENT

The reason for the proposed boundaries has not been specified. Given that some major development proposals such as Huntlee at Branxton extend outside the proposed boundary, these should be included in the assessment.

2 TIMEFRAME OF PROGRAM

The timeframe for the program is not outlined, but should be 50 years with a 10 yearly review period, and a planning horizon of 100 years. This is necessary because impacts are so significant and operate over such long time scales.

3 SCOPE OF THE PROGRAM FOR PROTECTION OF MNES IN THE LOWER HUNTER

The draft terms of reference should describe the purpose of the program and should be expanded to clearly define the program scope in detail to include:

1. The **timeframe** for the program is to operate is 50 years with a 10 yearly review period, and a planning horizon of 100 years. This is necessary because impacts are so significant and operate over such long time scales.
2. **Map products** including (1) the location of existing committed biodiversity offsets and (2) the lands within the study area where development is not to occur and biodiversity offsets are proposed.
3. **Biodiversity offsetting principles** that will apply in preparation and implementation of the plan.
4. Explanation of the **conservation targets** used in the preparation of the plan proposals.
5. **Proposed conservation areas** to be protected and established as conservation reserves in public ownership.
6. **Program implementation** measures and a program need to be included not simply identification of mechanisms.
7. **Legal relationship between the program and state and local government planning instruments including** the Lower Hunter Regional Strategy and the Lower Hunter Regional Conservation Plan.

4 BIODIVERSITY OFFSET PRINCIPLES

The offsetting principles to be applied in the Program need to be specified, and preferably included in the terms of reference for the strategic assessment. This is important because they will underpin the methodology that would be applied to offsetting, and determine the implementation of the approach in decision-making.

It would be appropriate as part of the program to facilitate the establishment of a Hunter Biodiversity Trust, as a body to oversee biodiversity offset site establishment and management in perpetuity.

5 WORLD HERITAGE AREAS

The strategic assessment needs to consider all relevant values of world heritage areas and Ramsar wetlands including biodiversity generally (not simply threatened species), scenic values, recreational values, connectivity, buffers, heritage values and Aboriginal cultural values.

6 PUBLIC AVAILABILITY OF BIODIVERSITY DATA

The program should establish a regional biodiversity monitoring network. The current biodiversity survey work should be undertaken in way that will facilitate ongoing monitoring of change. This should form part of the proposals to be implemented in the program.

7 RISK THAT PROGRAM WILL NOT BE IMPLEMENTED

It appears that the main implementation mechanisms for the program are the Lower Hunter Regional Strategy and Lower Hunter Regional Conservation Plan. However, both these documents are non-statutory policies and are subject to change. It may be more appropriate to link the strategic assessment to statutory local plans which are the main implementation mechanism of the Lower Hunter Regional Strategy. However, the proposed new planning legislation in NSW apparently intends to allow land use changes by administrative decisions rather than public consultation and transparent process (ie regional growth plans and strategic compatibility certificates) and may limit the scope of biodiversity offsetting it is a reasonable likelihood that a program for the protection of MNES matters in the Lower Hunter cannot be achieved in practice. A review of this issue needs to form part of the strategic assessment.

8 BIODIVERSITY ASSESSMENT METHODOLOGY

The strategic assessment must identify what biodiversity assessment methodologies were considered and utilised in reviewing impacts. Threatened species or endangered ecological communities that would qualify for listing under Commonwealth legislation should be considered in addition to those currently listed.

9 CONSERVATION AREA PROPOSALS

The Biodiversity Plan should lead to the establishment of conservation areas in public ownership, and should identify preferred locations for these.

10 TRANSPORT AND INFRASTRUCTURE CORRIDORS & MINING LAND

The program must take into account and identify long term transport and infrastructure corridors, including the East Coast High Speed Rail corridor, and the Hunter LinkRail proposal linking Glendale, Cameron Park, Kurri-Kurri and Maitland.

A separate review and biodiversity assessment of mining land is required and should be integrated in mine rehabilitation planning processes administered by the Department of Primary Industries.

11 SCOPE OF STRATEGIC ASSESSMENT REPORT

Section D1 of the draft terms of reference describes the scope of the Strategic Assessment Report. This should be expanded to clearly define the scope of the plan in detail including the additional matters:

1. The **timeframe** for the assessment is to be specified.
2. The **habitat connectivity changes over time** should be identified over the 50 year proposed program timeframe.
3. An review of **biodiversity assessment methodologies** and their applicability.
4. **Risks, options and changes in timing or staging** of mining proposals are to be evaluated, together with their consequences for future planning and decision-making. Also, the consequences of the likely inability to find suitable land for offsetting also needs to be analysed.
5. **Plan implementation** measures and a program need to be included not simply identification of mechanisms.

The Hunter Environment Lobby requests that the comments outlined above are included in the terms of reference and associated processes and products.

yours sincerely



Jan Davis (President)