

Statement of Consistency with Section 117 Directions, State Environmental Planning Policies and Regional Environmental Plans

6.1 Consistency with the Ministers section 117(2) directions

The draft LEP has been reviewed for consistency with the Ministers section 117(2) directions applicable to the draft LEP. Refer to Table 1, below.

Any alteration to the draft LEP (instrument and maps) including zoning changes are assessed separately for consistency with the Ministers section 117(2) directions.

Table 1

Section 117 Directions		
Direction	Application	Comment
1.1 Business and Industrial Zones	Applicable	The zoning proposal for Deferred Matter/Area 1 (Cartwrights Hill) is consistent with the direction as it is seeking to encourage employment growth in suitable locations and protect existing employment land in business and industrial zones and support the viability of identified strategic centres. The draft LEP does not reduce the size of any business or industrial lands. Although it reduces the quantum of land proposed to be zoned for Industrial (IN1 and IN2) under the exhibited draft WWLEP 2008 it still represents an increase in the amount of industrial zoned land under the former Wagga Wagga LEP 1985 and Wagga Wagga DCP 2005 framework.
1.2 Rural Zones	Applicable	Deferred Matter/Area 1 (Cartwrights Hill) – inconsistent. The zoning proposal for Deferred Matter/Area 1 (Cartwrights Hill) is inconsistent with the direction as it proposes to rezone rural land for urban purposes, namely for large lot residential and industrial zones to meet current and projected demand for residential land in a location substantially zoned residential. As for the justification of this inconsistency under the making of Wagga Wagga LEP 2010 the inconsistency is considered to be justified within the Wagga Wagga Local Environmental Study 2008 (LES), prepared in accordance with section 57 of the <i>Environmental Planning and Assessment Act 1979</i>, which gives consideration to the objectives of the direction. The justification is also supported by the draft Wagga Wagga Spatial Plan.

Section 117 Directions		
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		Much of the existing rural zoned land identified to be rezoned has been cleared of native vegetation and has been used for agriculture, mainly grazing, for many years. Residential or industrial development of the land is balanced by the vast amount of agricultural land remaining in the local government area. The revised zoning proposal for Deferred Matter/Area 1 will however place a • RU6 Transition zone over a fair amount of the existing rural zoned land, including land subzoned 1a General Rural (Urban Living Area) and 1e Future Urban (Urban Living Area) under Wagga Wagga DCP 2005. • R5 Large Lot Residential zone over a fair amount of the existing Rural zoned land that has a 1b Small Holding (Urban Living Area) subzone under Wagga Wagga DCP 2005. This does not constitute a great departure from the pre-Wagga Wagga LEP 2010 status quo in terms of rural zones. The loss of a relatively small amount of agricultural land is outweighed by the benefits that economic growth will bring to the region. Deferred Matter/Area 2 (Estella) The zoning proposal for Deferred Matter/Area 2 (Estella) is inconsistent with the direction as it proposes to rezone rural land for urban purposes, namely for large lot residential and industrial zones to meet current and projected demand. As for the justification of this inconsistency under the making of Wagga Wagga LEP 2010 the inconsistency is considered to be justified within the Wagga Wagga Local Environmental Study 2008 (LES), prepared in accordance with section 57 of the <i>Environmental Planning and Assessment Act 1979</i>, which gives consideration to the objectives of the direction. The justification is also supported by the draft Wagga Wagga Spatial Plan. These documents recommend that the Estella West area including deferred Area2 become an urban release area and be zoned residential under Councils new LEP.
1.3 Mining, Petroleum Production and Extractive Industries	Applicable	Consistent. There are no State or regionally significant reserves of coal, other minerals, petroleum or extractive materials that are affected by the proposals for Deferred Matters/Areas 1 and 2. Therefore, the draft LEP is not inconsistent with the direction.

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1.4 Oyster Aquaculture	Not applicable	Not relevant/applicable.
1.5 Rural Lands	Applicable	Consistent. The proposals for Deferred Matters/Areas 1 and 2 are consistent with this direction as it is consistent with the rural planning principles and the State Environmental Planning Policy (Rural Lands) 2008 relating to subdivision.
2.1 Environmental Protection Zones	Not applicable to Deferred Matters/Areas 1 and 2	Not relevant/applicable.
2.2 Coastal Protection	Not applicable	Not relevant/applicable.
2.3 Heritage Conservation	Applicable	Consistent - Deferred Matter/Area 1 (Cartwrights Hill) There is only one scheduled heritage item within the Deferred Area 1. The provisions of Wagga Wagga LEP 2010 should act to provide adequate protection of this item. The proposal for Deferred Matter/Area 1 is consistent with this direction. Consistent - Deferred Matter/Area 2 (Estella) The proposal for Deferred Area 2 has been designed with the protection of the adjoining Estella Homestead heritage item in mind. The proposal will see Deferred Area 2: - zoned to R5 Large Lot Residential Zone (part R1 General Residential and part R5 under the exhibited draft WWLEP 2008). - Provided with a minimum lot size of 1000m² with strict controls in Councils DCP on building height and bulk, building location, lot layout and size and road alignment. In addition the landowner will be requested to undertake 3 D survey modelling of view corridors and building location as well as erection of building profiles on proposed lots that will be in closer proximity to the Estella Homestead to assist in demonstrating that height and bulk of future built form on future lots south and south-east of Estella Homestead will not adversely impact upon the curtilage of the Estella Homestead and its view corridors. These actions will ensure that the proposals for Deferred Area 2 are consistent with this direction.
2.4 Recreation Vehicle Areas	Not applicable	The draft LEP does not create, alter or remove any area or provisions relating to the use of recreational vehicles.
3.1 Residential	Applicable	Inconsistent - Deferred Matter/Area 1 (Cartwrights Hill)

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Zones		The proposal in Deferred Matter/Area 1 seeks to zone land at Cartwrights Hill zoned 2 Residential under former Wagga Wagga LEP 1985 to R5 Large Lot Residential as well as imposing a lot size of 1 ha over the R5 zoned area. This effectively results in a reduction of the permissible residential density at Cartwrights Hill thus constituting an inconsistency with this direction. The planning controls under the former Wagga Wagga LEP 1985 and Wagga Wagga DCP 2005 framework provide for a yield of up to 750 residential allotments whilst the amended deferred proposal could yield in the order of 100 1ha allotments. The latter represents a more equitable compromise than completely removing a long standing zoned residential and already partly developed area. It provides a more equitable balance between zoned development rights and expectations and the management and amelioration of development impact into the future. The Bomen DCP (draft now on exhibition) should assist Council in controlling the scale and intensity of industrial development and uses in closer proximity to the Cartwrights Hill residential enclave. In conclusion, the inconsistency with this direction is justifiable on the basis outlined above.
3.2 Caravan Parks and Manufactured Home Estates	Applicable	Consistent. The draft LEP is generally consistent with the direction. The draft LEP applies similar zones to the existing zones of current caravan parks, being rural or recreation zones.
3.3 Home Occupations	Applicable	Consistent. The draft LEP is consistent with this direction as in zones where dwelling houses may occur, home occupations are permissible without consent.
3.4 Integrating Land Use and Transport	Applicable	Consistent - Deferred Matter/Area 1 (Cartwrights Hill) Deferred Area 1 is consistent with the direction as the proposed DCP for the Bomen Urban Release area will address overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists. This will benefit and complement the Cartwrights Hill Deferred Area. Consistent - Deferred Matter/Area 2 (Estella) The Deferred Area 2 is part of the Estella Urban release area and will be the subject of an Urban Release Area DCP required to be prepared under Part 6 of the WWLEP 2010. Such DCP must include an overall transport movement hierarchy showing the

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		major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists. The proposals for Deferred Matters/Areas 1 and 2 are consistent with this direction.
3.5 Development Near Licensed Aerodromes	Not applicable to Deferred Matters/Areas 1 and 2	Not relevant/applicable.
4.1 Acid Sulfate Soils	Not applicable	Not relevant/applicable. There is no land within the area that contains acid sulfate soils.
4.2 Mine Subsidence and Unstable Land	Not applicable	Not relevant/applicable. The draft LEP does not affect any land that is identified as unstable or potentially subject to mine subsidence.
4.3 Flood Prone Land	Applicable	Consistent - Deferred Matter/Area 1 (Cartwrights Hill) The northern fringe of Deferred Area 1 is only slightly affected by flood prone land much of which is owned by Council and not intended for residential subdivision or development. The northern fringe of the one private parcel is flood affected. It could be subdivided into one additional allotment under the revised deferred proposal and given that there is sufficient flood free area on the allotment for flood free house sites Consistent - Deferred Matter/Area 2 (Estella) The Deferred Area 2 is not flood prone. Therefore, the proposal for this area is consistent with this direction.
4.4 Planning for Bushfire Protection	Not applicable to Deferred Matters/Areas 1 and 2	Deferred Matters/Areas 1 and 2 are not bush fire prone land.
5.1 Implementation of Regional Strategies	Not applicable	Not relevant
5.2 Sydney Drinking Water Catchments	Not applicable	Not relevant
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable	Not relevant
5.4 Commercial and Retail Development along the Pacific Highway, North	Not applicable	Not relevant

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Coast		
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	Not applicable	Not relevant
5.6 Sydney to Canberra Corridor	Not applicable	Not relevant
5.7 Central Coast	Not applicable	Not relevant
5.8 Second Sydney Airport: Badgerys Creek	Not applicable	Not relevant
6.1 Approval and Referral Requirements	Applicable	Consistent. The draft LEP/proposals for Deferred Matters/Areas 1 and 2 is consistent with the direction as it does not contain any concurrence provisions other than those prescribed by the Standard Instrument Order. No designated development is nominated in the draft LEP.
6.2 Reserving Land for Public Purposes	Applicable	Consistent. The draft LEP/proposals for Deferred Matters/Areas 1 and 2 is consistent with the direction as it does not propose to reserve land for any public purpose.
6.3 Site Specific Provisions	Not applicable	The draft LEP does not relate to a specific development application or proposal.

6.2 Consistency with State Environmental Planning Policies and Regional Environmental Plans

A detailed assessment of consistency with SEPP's is at Table 2 below. It has been determined that the draft LEP is consistent with all relevant SEPP's. There are no regional environmental plans applicable to the Wagga Wagga City Council LGA.

Table 2 - Draft Wagga Wagga LEP - Statement of Consistency with State Environmental Planning Policies

SEPP Title	Applicable/Relevant?	Consistent?	Comment/Discussion
SEPP No. 1 - Development Standards	No.	N/A	Not applicable to the Wagga Wagga LGA.
SEPP No. 4 - Development without Consent and Miscellaneous Complying Development	Yes (applies to the State)	Yes	The proposals for Deferred Matters/Areas 1 and 2 are consistent with this SEPP.
SEPP No. 6 - Number of Storeys in a Building	Yes (applies to the State)	Yes	The proposals for Deferred Matters/Areas 1 and 2 are consistent with this SEPP.
SEPP No. 14 - Coastal Wetlands	No.	N/A	Not applicable to the Wagga Wagga LGA.
SEPP No. 15 - Multiple Occupancy of Rural Land	No.	N/A	Not applicable to the Wagga Wagga LGA.
SEPP No. 19 - Bushland in Urban Areas	No.	N/A	Not applicable to the Wagga Wagga LGA.
SEPP No. 21 - Caravan Parks	Yes (applies to the State)	Yes	The proposals for Deferred Matters/Areas 1 and 2 are consistent with this SEPP.
SEPP No. 22 - Shops and Commercial Premises	Yes (applies to the State)	Yes	The proposals for Deferred Matters/Areas 1 and 2 are consistent with this SEPP.
SEPP No. 26 - Littoral Rainforests	No.	N/A	Not applicable to the Wagga Wagga LGA.
SEPP No. 29 - Western Sydney Recreation Area	No.	N/A	Not applicable to the Wagga Wagga LGA.
SEPP No. 30 - Intensive Agriculture	Yes (applies to the State)	Yes	The proposals for Deferred Matters/Areas 1 and 2 are consistent with this SEPP.
SEPP No. 32 - Urban Consolidation (Redevelopment of Urban Land)	Yes (applies to the State)	Yes	The proposals for Deferred Matters/Areas 1 and 2 are consistent with this SEPP.
SEPP No. 33 - Hazardous and Offensive Development	Yes (applies to the State)	Yes	The proposals for Deferred Matters/Areas 1 and 2 are consistent with this SEPP.
SEPP No. 36 - Manufactured Home Estates	Yes (applies to the State)	Yes	The proposals for Deferred Matters/Areas 1 and 2 are consistent with this SEPP.
SEPP No. 39 - Spit Island Bird	No.	N/A	Not applicable to the Wagga Wagga LGA.

SEPP Title	Applicable/Relevant?	Consistent?	Comment/Discussion
Habitat			
SEPP No. 41 - Casino/Entertainment Complex	No.	N/A	Not applicable to the Wagga Wagga LGA.
SEPP No. 44 - Koala Habitat Protection	Yes	Yes	The proposals for Deferred Matters/Areas 1 and 2 are consistent with this SEPP.
SEPP No. 47 - Moore Park Showground	No.	N/A	Not applicable to the Wagga Wagga LGA.
SEPP No. 50 - Canal Estates	Yes (applies to the State)	Yes	The proposals for Deferred Matters/Areas 1 and 2 are consistent with this SEPP.
SEPP No. 52 - Farm Dams and Other Works in Land and Water Management Plan Areas	No.	N/A	Not applicable to the Wagga Wagga LGA.
SEPP No. 53 - Metropolitan Residential Development	No.	N/A	Not applicable to the Wagga Wagga LGA.
SEPP No. 55 - Remediation of Land	Yes (applies to the State)	Yes	The proposals for Deferred Matters/Areas 1 and 2 are consistent with this SEPP.
SEPP No. 56 - Sydney Harbour Foreshores and Tributaries	No.	N/A	Not applicable to the Wagga Wagga LGA.
SEPP No. 59 - Central Western Sydney Economic and Employment Area	No.	N/A	Not applicable to the Wagga Wagga LGA.
SEPP No. 60 - Exempt and Complying Development	No.	N/A	Not applicable to the Wagga Wagga LGA.
SEPP No. 62 - Sustainable Aquaculture	Yes (in relation to natural water based oyster aquaculture and aquaculture development applies to the State).	Yes	The proposals for Deferred Matters/Areas 1 and 2 are consistent with this SEPP.
SEPP No. 64 - Advertising and Signage	Yes (applies to the State)	Yes	The proposals for Deferred Matters/Areas 1 and 2 are consistent with this SEPP.
SEPP No. 65 - Design Quality of Residential Flat Development	Yes (applies to the State)	Yes	The proposals for Deferred Matters/Areas 1 and 2 are consistent with this SEPP.
SEPP No. 70 - Affordable Housing (Revised Schemes)	No.	N/A	Not applicable to the Wagga Wagga LGA.

SEPP Title	Applicable/Relevant?	Consistent?	Comment/Discussion
SEPP No. 71 - Coastal Protection	No.	N/A	Not applicable to the Wagga Wagga LGA.
SEPP (Housing for Seniors or People with a Disability) 2004	Yes (applies to the State)	Yes	The proposals for Deferred Matters/Areas 1 and 2 are consistent with this SEPP.
SEPP (Building Sustainability Index: BASIX) 2004	Yes (applies to the State)	Yes	The proposals for Deferred Matters/Areas 1 and 2 are consistent with this SEPP.
SEPP (Development on Kurnell Peninsula) 2005	No.	N/A	Not applicable to the Wagga Wagga LGA.
SEPP (Major Development) 2005	Yes (applies to the State)	Yes	The proposals for Deferred Matters/Areas 1 and 2 are consistent with this SEPP.
SEPP (Sydney Region Growth Centres) 2006	No.	N/A	Not applicable to the Wagga Wagga LGA.
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Yes (applies to the State)	Yes	The proposals for Deferred Matters/Areas 1 and 2 are consistent with this SEPP.
SEPP (Temporary Structures) 2007	Yes (applies to the State)	Yes	The proposals for Deferred Matters/Areas 1 and 2 are consistent with this SEPP.
SEPP (Infrastructure) 2007	Yes (applies to the State)	Yes	The proposals for Deferred Matters/Areas 1 and 2 are consistent with this SEPP.
SEPP (Kosciuszko National Park – Alpine Resorts) 2007	No.	N/A	Not applicable to the Wagga Wagga LGA.
SEPP (Rural Lands) 2008	Yes. (applies to the State except for the metropolitan LGAs)		The proposals for Deferred Matters/Areas 1 and 2 are consistent with this SEPP.
State Environmental Planning Policy (Affordable Rental Housing) 2009	Yes (applies to the State)	Yes	The proposals for Deferred Matters/Areas 1 and 2 are consistent with this SEPP.
SEPP (Exempt and Complying Development Codes) 2008	Yes (applies to the State)	Yes	The proposals for Deferred Matters/Areas 1 and 2 are consistent with this SEPP.
SEPP (Western Sydney Parklands) 2009	No.	N/A	Not applicable to the Wagga Wagga LGA.
SEPP (Western Sydney Employment Area) 2009	No.	N/A	Not applicable to the Wagga Wagga LGA.