

**RP-10 WAGGA WAGGA LOCAL ENVIRONMENTAL PLAN 2010,
AMENDMENT TO ENVIRONMENTALLY SENSITIVE AREAS
EXCLUDED CLAUSE 3.3**

Author: Grant, Ian
Director: Crakanthorp, Andrew

Recommendation

That Council:

- a receive and note the Planning Proposal for correction to the Wagga Wagga Local Environmental Plan 2010, Environmentally Sensitive Areas Excluded, Clause 3.3**
- b forward the Planning Proposal to amend Clause 3.3 of the Wagga Wagga Local Environmental Plan 2010 to the Department of Planning and Infrastructure under Section 56(1) of the *Environmental Planning and Assessment Act 1979*, requesting that the Minister issue a 'gateway determination' that will allow the Planning Proposal to proceed**

Executive Summary

This report provides advice to Council on the implication of the anticipated amendments to the Wagga Wagga Local Environmental Plan (WWLEP) 2010 Environmentally Sensitive Land maps permitting exempt and complying development on land identified on WWLEP urban release area map URA_004A, known as Lloyd urban release area.

The report also discusses the associated issue of managing exempt and complying development in the sensitive environment of the Lloyd urban release area and outlines the process to address the situation and requests Council endorsement.

Report

As a result of legal advice obtained, it was identified that exempt and complying development under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) was prohibited on land mapped as Natural Resources Sensitivity under the Wagga Wagga Local Environmental Plan 2010 (WWLEP). This equates to approximately 80% of the Local Government Area being prohibited from undertaking exempt and complying development under the Codes SEPP.

In relation to WWLEP Natural Resources Sensitivity mapping, it was not intended at the time of drafting the comprehensive LEP, to prohibit exempt and complying development. The Department of Planning and Infrastructure (the Department) have confirmed this was not the intention and have provided advice to address the issue. As a result, Council has requested an amendment to Clauses 7.3, 7.4, 7.5 and 7.6 of the WWLEP relating to Environmentally Sensitive Land and the associated mapping as per Council resolution at the Policy and Strategy Committee Meeting on Monday 3 December 2012.

As a result of the changes to the Natural Resources Sensitivity Mapping amendment, it was also noted that exempt and complying development would be permissible and concerns were raised regarding the inability to apply any controls within a Development Control Plan to mitigate the salinity issues. Therefore, at the Policy and Strategy Committee Meeting on Monday 3 December 2012, Council resolved the following:

note that a further Planning Proposal will be prepared to seek an amendment to the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) for a Wagga Wagga specific variation setting out complying development standards that will allow complying development in the Lloyd Urban Release area to address its highly saline soils.

Advice was sought from the Department regarding the resolution to seek an amendment to the Codes SEPP and the advice received indicated that the appropriate approach is to amend Council's WWLEP clause 3.3 to include Lloyd Urban Release area as land excluded from exempt and complying development.

A draft Planning Proposal has been prepared following advice from the Department and is attached to this report.

Budget

No budgetary implications should arise as a result of this report.

Policy

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Wagga Wagga Local Environmental Plan 2010, as amended.

Wagga Wagga Development Control Plan 2010, as amended.

Impact on Public Utilities

N/A

Link to Strategic Plan

6. A sustainable environment

6.4 Develop sustainable built and natural environments for current and future generations through effective land-use management and planning

QBL Analysis

	Positive	Negative
Social	Alteration to Clause 3.3 will facilitate mitigation of salinity issues	All development in Lloyd urban release area will be subject to a development application
Environmental	The proposal seeks to ensure the effects of salinity as a result of increased development is reduced and mitigated appropriately.	N/A

	Positive	Negative
Economic	The proposal will help mitigate the effects of salinity by way of development controls and therefore the costs associated with rectifying the impacts of salinity.	The developer will bear the costs associated with achieving development controls that mitigate effects of salinity.
Governance	The proposal allows Council to enforce development controls on development within Lloyd urban release area to mitigate salinity issues.	Council has greater responsibility ensuring compliance with development controls.

Risk Management and Work Health and Safety Issues for Council

No specific issues identified.

Internal / External Consultation

Consultation has been undertaken with the Department of Planning and Infrastructure and further consultation will be undertaken once Gateway Determination is received for the Planning Proposal. Internal consultation has also been undertaken with Planning and Environment sections of Council.

Attachments

1. Planning Proposal - Variation to Clause 3.3 Environmentally Sensitive areas excluded