



Office of
Environment
& Heritage

Our reference:
Contact:

DOC13/7980
Tobi Edmonds
(02) 6229 7094

General Manager
Wagga Wagga City Council
PO Box 20
Wagga Wagga NSW 2650

Dear Mr Pinyon

RE: Planning Proposal to rezone land at Gumly Gumly

Thank you for providing the Office of Environment and Heritage (OEH) with an opportunity to comment on the Planning Proposal to rezone Lot 1 DP780669/ Lot B, C DP162204/ Lot 11 DP879776/ Lot 2 DP829057/ Lots 1-4 DP842774/ Lot 1 DP305732/ Lot 1 DP1085667 From RU1 Primary Production to B6 Enterprise Corridor Precinct. OEH has reviewed the Planning Proposal and has identified a number of issues which need to be addressed before Wagga Wagga Local Environmental Plan 2010 can be amended according to this Planning Proposal. These Issues include:

Flooding:

OEH does not support this Planning Proposal due to a number of outstanding issues relating to flood modelling and cumulative impacts of development on the Gumly Gumly floodplain (see Attachment 1). OEH would welcome the opportunity to meet with Council's planning staff, engineers and the NSW Department of Planning and Infrastructure to discuss these issues in further detail, and work to resolve these issues.

Biodiversity and threatened species:

On the basis of biodiversity values of the site, OEH does not oppose the rezoning. However we have made recommendations in Attachment 1 which would ensure that future development of the site could be considered to be an environmentally sustainable development.

Aboriginal cultural heritage:

Prior to finalising the rezoning of this site, OEH recommends that the proponent carry out a more detailed Cultural Heritage assessment, with consideration for soil type (particularly sand hills) and the potential for the land to have been used by Aboriginal people prior to the arrival of Europeans to the area. The proponent should be made aware of their responsibility to carry out 'Due Diligence' as described in Attachment 1.

Overall OEH does not support the current planning proposal, but would be happy to meet with Council and the proponent to resolve the flood modelling issues. Should you wish to discuss the flood modelling and management issues, please contact Steve Manwaring on 6229 7720. For general issues, please contact Tobi Edmonds on (02) 6229 7094.

Yours sincerely

M Sheahan 6.3.2013

Mark Sheahan

**A/Manager Landscape and Aboriginal Heritage Protection
Regional Operations Group - South**

cc: Graham Judge - Department of Planning and infrastructure
Lindsey Tanner - Chair of the Wagga Wagga Flood Planning Committee

Attachment One: OEH detailed comment on Gumly Gumly Planning Proposal

Attachment 1 – Detailed discussion on issues relating to the Planning Proposal

Flooding

Discussions with OEH staff from the 'Inland Flood Unit' have revealed that following the last 2 major flood events (December 2010 and March 2012) there is likely to be a 'Rating Curve' shift for the gauging station on the Murrumbidgee River at Wagga as a result of high flow gauging that was obtained by the Office of Water during these events. This gauging showed that significantly less water flowed during these events than that predicted by the current 'Rating Curve'.

Early indications are that the 1% and 5% AEP design flood levels may rise significantly which will mean that the flood impact modelling carried out by WMAWater in January 2012 will not have taken into account these increases in the design flood levels. This issue is also currently affecting the detailed design for the Wagga Wagga Levee Upgrade Project, which when constructed may further impact on upstream areas, such as at this proposed rezone site.

OEH is of the view that this planning proposal should be deferred until the issue with the revised 'Rating Curve' at Wagga is resolved and remodelling completed so that a better understanding of the flooding issues and impacts at the proposed rezoning site is gained using current floodplain conditions.

Further, OEH are also concerned about the cumulative impacts that this rezoning (and any future development in the area) may have on adjoining areas, particularly upstream in Gumly Gumly and the existing developments on the south side of the Sturt Highway.

Council also needs to consider how the proposed development will meet the requirements of Table 4.2.4 Section 4 of the Wagga Wagga Development Control Plan. OEH notes that the RPS Planning Proposal only mentions filling to the 5% AEP level (page 13) without any freeboard allowance. Should the rezoning proceed, Council should consult with OEH on the ways in which the development will meet the objectives of the Development Control Plan.

Biodiversity

Despite not appearing in the 'Biodiversity Overlay' associated with Clause 7.3 – Environmentally sensitive land – Biodiversity. A patch of River Red Gum has been identified within Lot 2 DP829057 using more recent vegetation mapping. This patch of vegetation is connected via scattered paddock trees to other River Red Gum along the Murrumbidgee River which contain records of a number of threatened species. OEH would recommend that this area be zoned E3 - Environmental Management in order to protect the remnant vegetation and reflect the intent of the Master Plans at Appendix 1 of Appendix H.

Section 2.7.5 – Native Vegetation

While OEH disagrees with the assertion that the remnant vegetation does not provide any use for threatened species (see discussion above), it is encouraging that the Planning Proposal states that the Northern section of the site can constitute car parking, stormwater retention and ecological plantings. These ecological plantings should be designed in consultation with Council, OEH and the Murrumbidgee CMA, should use local native species, and ensure that they meet the needs of the species to which they are targeted.

Should the remnant River Red Gum on Lot 2 DP829057 not be zoned E3 – Environmental Management and be identified for clearing as part of any development application which is lodged as a result of the B6 zoning, targeted surveys for the following species will need to be carried out: Little Eagle *Hieraaetus morphnoides*, Turquoise Parrot *Neophema pulchella*; Brown Tree Creeper *Climacteris picumnus victoriae*; Eastern Bentwing-bat *Miniopterus schreibersii oceanensis*. These species have all been identified within 2 km of the site and are moderately mobile with good connectivity to the site.

Aboriginal Cultural Heritage

OEH notes that the response to Direction 2.3 Heritage Conservation was that the proposal will have no affect on the conservation of areas, objects or places of indigenous heritage significance. While the rezoning in itself will not impact on Aboriginal cultural heritage, subsequent developments which result from

the rezoning may (if Aboriginal objects are present). Given that the proximity of the site to the Murrumbidgee River, there is a high likelihood of Aboriginal objects being present. The lack of records in the Aboriginal Heritage Information Management System is often a reflection of the lack of survey for a particular area, rather than lack of Aboriginal objects.

Prior to finalising the rezoning of this site, OEH recommends that the proponent carry out a more detailed Cultural Heritage assessment, with consideration for soil type (particularly sand hills) and the potential for the land to have been used by Aboriginal people prior to the arrival of Europeans to the area.

Should a more detailed Cultural Heritage assessment not be carried out prior to the rezoning of the site, it will need to be done as part of 'Due Diligence' required as a defence for harming any Aboriginal object as part of a development.

For more information on the responsibilities of proponents in relation to Aboriginal Cultural Heritage can be found at <http://www.environment.nsw.gov.au/licences/achregulation.htm>

The 'Due Diligence Code of Practice' can be found at:

<http://www.environment.nsw.gov.au/resources/cultureheritage/ddcop/10798ddcop.pdf>