



Your ref: PP 233-234 Wheeo Rd
Our ref: DOC24/18781

Ms Kate Wooll
Business Manager Strategic Planning
Goulburn Mulwaree Council
Locked Bag 22
GOULBURN NSW 2580

By email: kate.wooll@goulburn.nsw.gov.au

Dear Ms Wooll,

RE: Planning Proposal, 233-234 Wheeo Rd, Goulburn

Thank you for the opportunity to review the Planning Proposal for 233-234 Wheeo Rd, Goulburn. I apologise for the delay in getting our response to you.

We have completed a full review of the documents provided. We fully support the decision to opt in to the offsets scheme for this development by undertaking the Biodiversity Assessment method and preparing the Biodiversity Development Assessment Report.

As was identified by the BDAR, this development will have a significant impact on three threatened entities – Hoary Sunray *Leucochrysum albicans subsp. tricolor*, Key's Matchstick Grasshopper *Keyacris scurra*, and PCT 3373 Goulburn Tableland Box-Gum Grassy Forest, which is a component of the Critically Endangered Ecological Community *White-Box – Yellow Box – Blakeley's Red Gum Grassy Woodland and Derived Native Grassland in the NSW North Coast, New England Tableland, Nandewar, Brigalow Belt South, Sydney Basin, South Eastern Highlands, NSW South Western Slopes, South East Corner and Riverina Bioregions*.

As this vegetation community is an SAIL listed entity, Council should consider additional conservation actions that will minimise these impacts if approval is to be granted. Some of these actions have been mentioned in the BDAR, but will need to be conditioned in the approval. For further detail see Attachment A. The vegetation on this site also meets the criteria for EPBC Act listed Critically Endangered Community *White Box-Yellow Box-Blakeley's Red Gum Grassy Woodland and Derived Native Grassland*. As stated in the BDAR, a referral to the Commonwealth is necessary.

The proposal does not demonstrate Avoid, which is a key component to be considered for proposals including clearing of native vegetation. The assumption of 100% impact over the entire project site means Avoid cannot be demonstrated. Council should consider taking steps to demonstrate avoid, such as retaining some of the mature trees, retaining corner areas as biodiversity conservation areas, or otherwise changing the site design to minimise clearing.

We will forward the preliminary Flooding advice once our Flooding team have finalised the response.

If you have any further questions about this issue, please contact Ms Allison Treweek, Team Leader Planning, Biodiversity, Conservation and Science, at rog.southeast@environment.nsw.gov.au.

Yours sincerely

A handwritten signature in blue ink that reads "Allison Treweek". The signature is written in a cursive, flowing style.

Allison Treweek
Senior Team Leader Planning
Biodiversity and Conservation Division

ATTACHMENT A

Suggested Additional Conservation Measures

Where a proponent chooses to opt in to the Biodiversity Offsets Scheme for Part 5 activities, the approval authority can approve a proposal which is likely to have serious and irreversible impacts. The approval authority must take those impacts into consideration and determine whether there are any additional and appropriate measures that will minimise those impacts if approval is to be granted.

Since there are three threatened entities onsite, and the impacts on two of these has been assessed as significant, additional conservation measures should be considered.

In this case, several measures have been proposed in the BDAR which should be included as conditions if council approve the development. These include:

- Salvage and redistribution of hollow logs to nearby bushland reserves
- Collection of seeds from Hoary Sunray and reestablishment on site
- Monitoring for invasion of priority weeds into adjacent vegetation
- Identifying and re establishing connectivity across the area adjacent to the development to link areas of existing Box Gum woodland to ensure the CEEC community continues to be viable in the area.

Additional measures could include, but are not limited to:

- Managing the roadsides and edges of the site for Hoary Sunray and *Keyacris scurra*
- Annual surveys of site and surrounding Council managed land for Hoary Sunray and *Keyacris scurra*, to guide management and capture any recolonisation by the species
- If the adjacent reserve is accessible or managed by Council, instigating a monitoring program to record and manage for any off-site effects of the construction and use of the enlarged WTP

7 December 2023

Contact: Stuart Little
Telephone: 0436 948 347
Our ref: D2023/160035

Ms Kate Wooll
Business Manager Strategic Planning
Goulburn Mulwaree Council
Locked Bag 22
GOULBURN NSW 2580

Dear Ms Wooll,

Preliminary Consultation - Planning Proposal (PP) - 233-234 Wheeo Road, Goulburn

I refer to your email of 23 November 2023 regarding concerning a Planning Proposal at 233-234 Wheeo Road, Goulburn (Lot 1 DP 1030749) seeking to rezone land to facilitate expansion of the existing water treatment plant (WTP) for future treatment facilities, specifically treatment lagoons. This is required for the effective treatment of raw water for potable drinking water purposes to accommodate future urban growth. We note that the land concerned immediately adjoins the existing WTP facility.

The land is currently zoned RE1 Public recreation although treatment lagoons already extend onto the subject lot. It is proposed to rezone the land to SP2 Infrastructure consistent with the zoning of the current treatment facility. As the subject lot is classified as 'operational' rather than 'community' land under the *Local Government Act 1993*, land reclassification is not required.

The Proposal explains the proposed planning pathways to be facilitated by the zoning change, although reference is made to former State Environmental Planning Policy (Infrastructure) 2007 rather than the current sections and divisions of State Environmental Planning Policy (Transport and Infrastructure) 2021 (the T&I SEPP). As we understand it, under the current RE1 zoning, 'water treatment facilities' are prohibited under the Goulburn Mulwaree Local Environmental Plan 2009 (LEP). The RE1 zone is also not listed as a 'prescribed zone' under section 2.158 of the T&I SEPP. Consequently, the 'development without consent' planning pathway for 'water treatment facilities' is currently unavailable.

Rezoning the land to SP2 – Public Utility Undertaking would make works, such as for a water treatment facility, permissible with consent under the LEP. This would also align the zoning with the neighbouring WTP. As SP2 zoning is a 'prescribed zone' under section 2.158 of the T&I SEPP, the rezoning would also make available the 'development without consent'

planning pathway for the proposed work (section 2.159 of the SEPP). This would enable Council to undertake a Review of Environmental Factors (REF) and assess the matter under Part 5 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), should that planning pathway be preferred.

Water Quality Risks

The treatment lagoons will present a potential risk to water quality as they contain byproducts and waste from the water treatment process. Pollutants are likely to be held in solution, suspension, and in sediment/ sludge. The Proposal notes that chemicals would include Potassium Permanganate, Powdered Activated Carbon (PAC), Aluminium Sulphate and Sodium Carbonate – Soda Ash. We note that the lagoons are intended to be lined, although the exact sizing of lagoons is to be verified at the design stage. This is more relevant to the DA or REF stage.

The Proposal identifies that a watercourse occurs to the west of the site and lies approximately 38 metres from the site boundary (at its closest point) (page 11). The Proposal gives consideration to flooding risks noting that Council's overland flow model does not identify any significant flows affecting the site between the 1% AEP flood event and the probable maximum flood (PMF). A relevant map is provided on page 13.

The Proposal identifies that construction and operation of future lagoons would need to be designed in accordance with the neutral or beneficial effect (NorBE) test principles in the Biodiversity and Conservation SEPP (page 14). The SEPP applies to DAs assessed under Part 4 of the EP&A Act. For assessments under Part 5 of the Act, s171A of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation) applies (see below).

State Environmental Planning Policy (Biodiversity and Conservation) 2021

The Proposal responds to Part 6.5 of the Biodiversity and Conservation SEPP, noting that development consent cannot be granted unless there is a NorBE on water quality. The application of Part 6.5 relates to the development consent pathway under Part 4 of the EP&A Act. The Proposal goes on to discuss how the proposed rezoning 'is to facilitate the proposed development of the site without development consent' and that water quality impacts would be considered in the Part 5 REF process (page 11) (see below).

This section of the Planning Proposal considers potential pollutants arising in the sludge lagoons and flooding risks (both described above). The Proposal offers that Council is willing consult with WaterNSW as a stakeholder either as part of the s 60 application process (under the *Local Government Act 1993*) or during the assessment of options at concept design stage (page 14). WaterNSW supports early consultation to help ensure the effective design and location of the proposed treatment ponds and to help ensure that the relevant NorBE requirement for water quality protection can be met.

With regard to Part 5 activities, the Planning Proposal references clauses 9 and 12 of the former Sydney Drinking Water Catchment SEPP (SDWC SEPP, see pages 14-15). The SDWC SEPP has been repealed, and the provisions relevant to Part 5 activities are now in s171A of

the EP&A Regulation. Section 171A requires determining authorities to take into account whether an activity will have a NorBE on water quality and whether it would be consistent with the associated NorBE Guideline. The NorBE Guideline provides the pathway for considering current recommended practices (CRPs) and includes a relevant template for water quality considerations under Part 5 of the Act.

Direction 3.3 Sydney Drinking Water Catchment

The Planning Proposal responds to Direction 3.3 noting the objective of the Direction to provide for healthy catchments and to protect water quality and then briefly responding to the requirements of the Direction. The Proposal notes that Special Areas are not affected by the Proposal and that WaterNSW does not hold Strategic Land and Water Capability Assessments for water treatment facilities and lagoons. We agree with these statements. This section also cross-refers to respond to the Biodiversity and Conservation SDWC SEPP (discussed above). Under amendments to Direction 3.3, effective 21 November 2022, there is the additional requirement for Planning Proposals to identify any existing water quality (including groundwater) risks to any waterway occurring on or adjacent to the site. The consideration of waterways and water quality risks are addressed in the Proposal's response to Part 6.5 of the Biodiversity and Conservation SEPP. The pre-Gateway consultation with WaterNSW (enclosed) will also need to be referenced in this section.

Other

Having regard to the above, we have no objections to the Planning Proposal proceeding. However, the Proposal requires some minor updating to reflect current legislative provisions. This includes referring to relevant provisions of the T&I SEPP and EP&A Regulation instead of the provisions of former Infrastructure and SDWC SEPPs.

We request that Council consult with WaterNSW when the Draft Planning Proposal is exhibited. Correspondence on these matters should be directed to environmental.assessments@waternsw.com.au.

If you have any questions regarding this letter, please contact Stuart Little at stuart.little@waternsw.com.au.

Yours sincerely

A handwritten signature in black ink, appearing to read "Alison Kniha", with a long horizontal flourish extending to the right.

ALISON KNIHA
Catchment Protection Planning Manager