



## **Submission on Draft Terms of Reference for the Strategic Impact Assessment Report for the Cumberland Plain Conservation Plan**

### **WILTON ACTION GROUP - HISTORY AND SUMMARY OF OUR CONCERNS**

Wilton Action Group was formed in early 2018 in response to the huge proposed development of over 16,5000 homes in the Wilton Growth Area, a new city the size of Port Macquarie, in a fragile ecosystem which is also at the critical headquarters of the Nepean River. We advocate for a far more environmentally and ecologically sustainable development for Wilton, as the recent piecemeal rezonings of land in the designated precincts of Wilton South East and North have demonstrated a failure to consider cumulative impacts of development on this sensitive environment. Along with a real failure of government process to give proper consideration to detailed scientific advice from experts and its own departments the EPA and Office of Environment and Heritage about the need for very careful and ecologically sustainable development in Wilton given its sensitive environmental constraints. These include current and future impacts of groundwater loss and destruction of swamps and creeks from long wall mining in the catchment area which will be soon called upon to supply water to another 50-60,000 residents in Wilton alone with such factors already in play.

Currently the individual developments for Wilton South East and Wilton North have been rezoned by the Minister in 2018 for urban development with no real consideration being given to their cumulative impact on biodiversity, or the amount of critical habitat remaining. Indeed the Wilton South East rezoning was approved by the Minister for Planning after the Department of Planning and Environment commissioned a report from a koala expert Dr Stephen Phillips to resolve a dispute between the proponent Walker Corp and the Office of Environment and Heritage who had advised against the rezoning until a rigorous koala protection plan was in place (advice attached). Dr Phillips' report went even further than the OEH in his recommendations for more extensive koala corridor protection for Wilton South East but his report was set aside by the Minister in his decision to approve Wilton South Est on 13 April 2018.

Therefore the draft terms of reference 4 *ASSESSMENT OF THE IMPACTS OF THE PLAN ON PROTECTED MATTERS* for the Cumberland Plain Plan should set a far higher standard in its analysis and action for delivery of the conservation benefits of the Plan than we have seen demonstrated to date by NSW government planning decisions in Wilton.

For the Cumberland Plain Conservation Plan to be fully effective in Wilton if not the Greater Macarthur Area, it is essential for the above disastrous planning process to be reversed to enable real progress in protecting endangered habitat and species to be made. Given the Wilton 2040 and Great Macarthur 2010 Interim Plans' the high impact of their proposed 140,000 homes on both

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habitat, species and the Nepean and Georges Rivers, the Cumberland Plain Plan represents the last opportunity for firm, measurable protection targets and active management of proposed developments to achieve improved net benefit and effective conservation of the extensive endangered species and habitat in these Growth Areas.

### **Detailed concerns:**

Extract from the Draft Terms of Reference

#### **1. PURPOSE OF THE STRATEGIC IMPACT ASSESSMENT REPORT**

1.1. The purpose of the Report is to assess the impacts of actions taken under the Cumberland Plain Conservation Plan (Plan) on all matters protected by Part 3 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) ('protected matters').

#### **2. DESCRIPTION OF THE PLAN BEING ASSESSED**

2.1. The Report must describe the Plan:

1. The Report must provide a summary outlining its overall purpose, key elements, spatial extent, and timeframes, including how long the Plan will be in effect.
2. The Report must provide details about the key elements, including:
  - a. The conservation commitments and outcomes to be delivered for protected matters.
  - b. The actions likely to be taken under the Plan over the short, medium and long term.
  - c. The legal and administrative frameworks to implement the Plan and the persons and authorities responsible for implementation, including:
    - i. How the Plan has been developed and its legal standing under New South Wales law.
    - ii. The relationship of the Plan to other relevant policies, plans, guidelines, commitments, regulations and legislation including existing approvals under Commonwealth legislation for the Western Sydney Airport and the Western Sydney Growth Centres.
    - iii. Management, approval and funding arrangements for implementing the Plan.
3. The Report must describe the need and justification for the Plan including the environmental, social and economic drivers for its development.
4. The Report must describe the decision-making framework used in considering alternatives and developing conservation outcomes of the Plan. It should identify where alternative options that have been evaluated to reach the final Plan have been published.
5. The Report must describe how the principles of ecologically sustainable development (ESD) (as set out in section 3A of the EPBC Act) are considered and promoted in the development of the Plan.

### **WAG concerns re TOR (2) (b) and (C) above:**

The reports by Ecological Australia attached – Biodiversity Study – Wilton and Greater Macarthur Growth 2017 and Greater Macarthur Investigation Area Biodiversity Assessment 2015 – show apparently significant differences in their assessment of

- Vegetation types (p.12 2017/ p.17.2015)
- Endangered Ecological Communities (p.13, 2017/ p.18/2015)
- Red flagged area p.19/2015 but missing in the 2017 report

It appears therefore that the Urban Capable Boundary that was smaller in the 2015 report has been considerably expanded in the 2017 report and the removal of the 2015 red flagged areas in the 2017 report is therefore of great concern. Therefore it is curious that the Document Tracking (ii) page of the 2017 report states that

This report should be cited as 'Eco Logical Australia 2015. *Wilton and Greater Macarthur Priority Growth Areas –Biodiversity Study*. Prepared for NSW Department of Planning and Environment.'

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We have now received attached advice from the DPE in response to our letter of 29 November 2018 that the Minister did consider both reports in his decision to rezone Wilton South East and that both reports were exhibited prior to Wilton South East rezoning in April 2018 and that both reports are available on the DPE website viz:

The 2015 biodiversity report can be found on the Department's website [http://planspolicies.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=7263](http://planspolicies.planning.nsw.gov.au/index.pl?action=view_job&job_id=7263). The 2017 biodiversity report can also be found on the Department's website [http://planspolicies.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=8666](http://planspolicies.planning.nsw.gov.au/index.pl?action=view_job&job_id=8666).

Currently we are not able to find the Ecological 2015 report on the DPE website.

See: <https://www.planning.nsw.gov.au/Plans-for-your-area/Priority-Growth-Areas-and-Precincts/Greater-Macarthur-Growth-Area/Key-actions-and-documents>

This raises a significant issue for the finalisation of the Cumberland Plain Conservation Plan in Wilton.

As the Wilton South East and Wilton North rezonings have been legally approved by the NSW Minister for Planning on the basis of the consideration of these reports inter alia, how will TOR 2c have any legal standing now for Wilton and if there is a conflict with future State or Commonwealth law (EPBC Act)?

How will such a conflict be resolved and by which State or Federal agency? Will the final Cumberland Plain Conservation Plan be able to effectively override such rezoning decisions?

See Terms of reference 6.1 in particular below

### **6. ADDRESSING UNCERTAINTY AND ADAPTIVE MANAGEMENT**

- 6.1. The Report must identify key uncertainties and risks associated with implementing the Plan, responses to these and proposed adaptations to changing circumstances. Key uncertainties may include:
  1. Knowledge gaps in scientific understanding and responding to new knowledge.
  2. Assumptions made in assessing potential impacts and benefits.
  3. How changes to State and Commonwealth legislation, policies, plans and advice is to be accounted for in the management of the areas impacted by the Plan.
  4. Effectiveness or capacity to ensure the Plan is implemented.
- 6.2. The Report must describe and assess the adequacy of the procedures proposed in the Plan to ensure an adaptive approach to implementation of the Plan. This must include:
  1. How the results of monitoring will be used to understand the effectiveness of conservation outcomes for protected matters and improve implementation.
  2. How new information relating to protected matters and biodiversity, including legislative changes, may be assessed and accounted for in implementation of the Plan.

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### 3. DESCRIPTION OF THE PROTECTED MATTERS IMPACTED BY THE PLAN

- 3.1. The Report must describe the nature of the environment within the strategic assessment area, and of areas outside the strategic assessment area that may be impacted by actions taken under the Plan. It must include (at a minimum):
1. A description of historical and current land use.
  2. The extent and quality of native vegetation present including detailed mapping of ecological communities and habitat for threatened species listed under the EPBC Act.
  3. The nature of the environment, including ecosystem processes and threatening processes.
  4. A description of the landscape context for key environmental matters, including connectivity, habitat fragmentation and ecological processes.
  5. A spatial map of areas that are already protected for environmental purposes, including Bio-banking and Biodiversity Stewardship sites.

#### WAG Concerns for TOR (3) above include:

Point 5. We have seen that Biobanking / offset sites have been applied for public reserves like Noorumba reserve near Campbelltown. Any public bushland reserve should not be allowed to be an offset in the Cumberland Plain Conservation Plan. They should be included in the definitions of land already protected (3.1.5)

#### Existing Plans - Integration

Other existing plans: How will the Cumberland Plain Conservation Plan be integrated with the existing plans below?

#### South West District Plan (GSC, 2016)

In November 2016 the Greater Sydney Commission published the draft South West District Plan which includes the Wilton and Menangle PGAs. Section 5.5 of the Plan discusses the protection and enhancement of biodiversity and includes Sustainability Priority 3: *Efforts to protect biodiversity values should be based on avoiding and minimising impacts to biodiversity, as far as practicable. Only when impacts cannot be avoided or minimised, should consideration be given to offsetting those impacts.*

The Draft Plan includes the following objectives for strategic conservation in the District:

- *maintain, and where possible improve, the conservation status of threatened species and threatened ecological communities*
- *achieve better outcomes for biodiversity conservation than the outcomes that could have been achieved by site-by site or project-by-project efforts*
- *facilitate urban growth and development in line with A Plan for Growing Sydney and this draft District Plan*
- *provide an equitable model for recognising and recovering the cost of biodiversity impacts from urban growth and development*
- *reduce the potential for land use conflict*
- *reduce the cost and timeframes for development approvals, including approvals for infrastructure*

**Cumberland  
Plain Recovery  
Plan (DECCW,  
2010)**

The Cumberland Plain Recovery Plan (DECCW 2010) is a plan to provide for the long term survival and protection of seven threatened species, four endangered populations and nine threatened ecological communities listed on the NSW Threatened Species Conservation Act 1995. The plan acknowledges that protection and management of large, intact remnants is more effective and efficient than for smaller fragmented remnants and that recovery efforts need to aim to ensure that a representative sample of all target threatened species and populations and communities is conserved. To do this, the Recovery Plan identifies Priority Conservation Lands that *'represent the best remaining opportunities in the region to secure long-term biodiversity benefits for the lowest possible cost in an environment which is becoming increasingly urbanised'*

**Community Consultation and Input**

**7. MONITORING AND REPORTING AND AUDITING**

- 7.1. The Report must describe and assess the adequacy of the monitoring programs, regular review, public reporting and independent auditing processes proposed in the Plan to:
1. Ensure conservation commitments and outcomes for protected matters contained in the Plan are delivered.
  2. Enable implementation of the Plan to adapt where monitoring demonstrates delivery of the conservation actions are not leading to the predicted conservation outcomes.
  3. Enable implementation of the Plan to adapt to changed circumstances, where there are risks to protected matters.
- 7.2. The Report must identify and analyse the likely circumstances and procedures that may result in the review or modification of implementation plans proposed to deliver on commitments and outcomes for each protected matter as described in the Plan, or abandonment of the Plan.

**WAG concerns TOR 7**

We would like to see a far more responsive community consultation and feedback process for community input to the Cumberland Plain Conservation Plan than we have seen to date in the response to community concerns about the Wilton developments from the DPE which have seen our submissions ignored or defined as private submissions when they have been clearly submitted by the Wilton Action Group.

Communities have valuable knowledge and experience that can be drawn on to make such a plan far more effective and enduring.

**Conclusion**

We agree with the Greater Sydney Landcare Network in its analysis of the crisis facing the Cumberland Plain. <https://greatersydneylandcare.org/wp-content/uploads/2018/10/GSLN-CCN-State-of-the-Cumberland-2018-GSLN.pdf>

There is no more time for tick the box consultation as the continuing destruction of species, habitat and river systems are setting up not only Wilton/ Greater Macarthur for a very difficult future but

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Sydney as well, as the Wilton Greater Macarthur Areas contain the last forest 'lungs' for Sydney through tree cover and the essential back up water supply from the four local Wollondilly dams. And lastly there should be no circumstances that should trigger the abandonment of the Plan (7.2)