

Terms of Reference for Strategic Assessment of the Molonglo and North Weston Structure Plan to Allow Urban Development and Associated Major Infrastructure in Molonglo and North Weston, ACT.

1. PROJECT PURPOSE AND DESCRIPTION

The Report, referred to in clause 6 of the Agreement, must describe the Plan, including:

- (a) how the Plan has been developed and its legal standing;
- (b) the basis of land/asset tenure;
- (c) the regional context (natural and human) in which the urban area will exist;
- (d) the actions or classes of actions that are subject of the Plan, including the short, medium and long term aspects of the actions or classes of actions at or associated with the Plan. These could include relevant construction and operational aspects as well as a description of proposed urban development and associated infrastructure; and
- (e) management arrangements and the person(s) or authority responsible for the adoption or implementation of the Plan and the Report.

2. PROMOTING ECOLOGICALLY SUSTAINABLE DEVELOPMENT AND BIODIVERSITY CONSERVATION.

2.1. Environment affected by the Plan.

The Report must provide a detailed description of the environment likely to be affected by the Plan. This includes impacts to the environment arising from stormwater management measures (e.g. inundation and flow effects from water quality control dams/ponds/wetlands) for the proposed development area, and the construction of any major infrastructure associated with the development (e.g. bridge crossings of the Molonglo River). This description must identify the environmental assets and characteristics, including biophysical processes associated with the area set to be developed in the Plan and the surrounding terrestrial, riparian and aquatic environments (e.g. Kama woodlands; Molonglo River and riparian corridor) likely to be directly or indirectly impacted, including:

- (a) components of biodiversity and maintenance of important ecological processes;
- (b) listed threatened species under the Act and other protected and significant species;
- (c) a description of ecological communities, with specific reference to Threatened Ecological Communities as listed under the Act (or ACT legislation) or other significant ecological communities;
- (d) any physical environmental processes (e.g. fire) influencing the environmental characteristics of the site or surrounds, or influencing the potential impacts on the site or surrounds; including the impacts on any Ramsar sites; and
- (e) indigenous, natural, and historic heritage values, including areas of potential heritage value.

In addition the report will make specific reference to the environmental values contained in the lower Molonglo river corridor (to the confluence with the Murrumbidgee River), the area between and immediately surrounding the Development Area and identify whether development is likely to impact directly or indirectly on these values.

2.2. Project need and justification.

The Report must provide the social and economic justification to pursue urban development and related infrastructure under the Plan. The Report should include an analysis of the socio-economic issues/implications associated with the development and how these might relate to, or integrate with, environmental values of the Plan area and the choice of alternative development design options to maintain or enhance these values.

2.3. Planning for ecologically sustainable development and biodiversity conservation.

The Report must describe the planning and design process that has led to the Plan, with particular reference to the treatment of environmental and cultural heritage through assessment and selection of alternative plans and designs to maximise environmental, social and economic outcomes. To this end the Report must describe how planning and design processes underpinning the Plan have responded to national strategies developed by the Council of Australian Governments, including for:

- (a) water quality management;
- (b) environmental flows and water for ecosystems;
- (c) pests and weeds;
- (d) managing native vegetation; and
- (e) biodiversity conservation, including climate change adaptation.

The Report must identify and outline ACT plans and strategies that seek to achieve ecologically sustainable development and biodiversity conservation outcomes in the Plan area (e.g. fire management). The Report must also set out:

- (f) actions to maintain or enhance biodiversity, having regard for species diversity and abundance, and the extent, condition, connectivity and protection of native vegetation; and
- (g) how the Plan will affect implementation of actions in identified plans and strategies, and how those plans and strategies will be modified to achieve their objectives in the Plan area.

3. PREVENTING IMPACTS ON MATTERS OF NATIONAL ENVIRONMENTAL SIGNIFICANCE, AND PROMOTING THE PROTECTION AND CONSERVATION OF BIODIVERSITY AND HERITAGE VALUES.

3.1. Nature and significance of impacts.

The Report must include a comprehensive analysis of the potential impacts of the Plan on the environment (with specific reference to matters of national environmental significance), areas of high biodiversity and indigenous or non-indigenous heritage value. The analysis must include:

- (a) areas potentially eligible for listing as matters of national environmental significance;
- (b) a description of potential impacts, including any indirect impacts;
- (c) an assessment of whether any impacts will be short, long term or irreversible, local or regional, discrete or cumulative, or exacerbated by the likely impacts of climate change;
- (d) an assessment of the scientific confidence associated with the likelihood and consequence(s) of potential impacts, including reference to technical data and other information relied upon in identifying and assessing those impacts; and
- (e) an analysis of the significance of potential impacts on matters of national environmental significance – with reference to the *EPBC Act Policy Statement 1.1 Significant Impact Guidelines*.

3.2. Management, mitigation or offset of likely impacts

The Report must identify and describe the *management measures* (e.g. works, on-ground actions) and *control actions*, (e.g. regulatory interventions, area-specific management plans, market based instruments) that will be implemented prior, during or post development to prevent, minimise, rehabilitate or offset the potential environmental impacts caused by implementing the actions or classes of actions (Clause 1(d)) with specific reference to matters of national environmental significance.

For management measures and control actions, the Report must set out:

- (a) the whole of ACT Government approach taken to addressing the impacts of the actions or classes of actions;
- (b) the predicted effectiveness of the proposed measures and actions. Claims regarding effectiveness of measures and actions must be substantiated, including a description of the methodology used to formulate these predictions/confidence limits;
- (c) maintenance or operational requirements associated with proposed management measures;
- (d) compliance and enforcement requirements associated with proposed control actions;
- (e) the agency or agencies responsible for each management measure and/or control action including the budgetary, regulatory and anticipated or proposed programmatic arrangements to implement measures and actions, compliance and enforcement, and maintenance or operational requirements; and
- (f) timelines and accountabilities for implementing proposed measures and actions, and associated compliance and maintenance requirements.

3.3. Addressing uncertainty and managing risk

The Report must identify key uncertainties associated with implementation of the management measures and control actions, for example where there is a high level of uncertainty related to:

- (a) the timing and nature of management measures, or their maintenance or operation; or
- (b) the timing and nature of control actions, or their enforcement and compliance.

For key uncertainties the Report must set out:

- (c) responses by the ACT Government to ensure an acceptable level of certainty, and therefore actively manage risks associated with implementing the actions or classes of actions (Clause 1(d));
- (d) when measures and actions will be reviewed in light of anticipated new information; and
- (e) how and when Plan implementation will be revised in light of new information.

3.4. Reasonable assurance

The Report must include a “*reasonable assurance statement*” that gives a high degree of confidence that the management measures and control actions will be implemented, and that the actions or classes of actions (Clause 1(d)) will not significantly impact on matters of national environmental significance.

4. ADAPTIVE MANAGEMENT, AUDITING AND REPORTING.

The Report must set out monitoring and public reporting processes, effective during the development period, that describe the Plan's implementation, and associated management measures and control actions, and how uncertainty is being targeted and addressed during Plan implementation. The Report must also set out commitments for independent, third party auditing of Plan implementation.

5. REVIEW, MODIFICATION AND ABANDONMENT

The Report must identify and analyse the likely circumstances and procedures that may result in the review, modification or abandonment of the Plan or this Report, such that changing community standards or new information relating to the impacts of the Plan may be introduced, reassessed and accounted for in management of the Development Area.

6. ENDORSEMENT CRITERIA

The Report must describe how the Plan together with any associated management arrangements meets the criteria set out in *Attachment C – Endorsement Criteria*.

7. INFORMATION SOURCES

For information used in the assessment, the Report must state:

- (a) the source of the information;
- (b) how recent the information is;
- (c) how the reliability of the information was tested; and
- (d) uncertainties in the information.

Strategic Assessment - Endorsement Criteria

The EPBC Act permits the Minister to approve the taking of actions or classes of actions in accordance with an endorsed policy, plan or program (section 146B). The effect of such a decision is that the approved actions or class of actions would not need further approval from the Minister under the EPBC Act.

When deciding whether to endorse a policy, plan, or program the Minister must be satisfied that the assessment report adequately addresses the impacts to which the agreement relates, and that any recommendations to modify the policy, plan or program have been responded to appropriately.

In determining whether or not to endorse the Plan the Minister will have regard to the extent to which the Plan meets the Objects of the EPBC Act. In particular, that it:

- protects the environment, especially matters of national environmental significance;
- promotes ecologically sustainable development;
- promotes the conservation of biodiversity; and
- provides for the protection and conservation of heritage.

Accordingly, the Plan and Final Report should:

- prevent actions from being taken in any location that have an impact on matters of national environmental significance or of high biodiversity or heritage value; or
- where potential impacts can not be avoided, then the impacts should be less than significant; and
- provide for effective management, mitigation or offset of the likely impacts; and
- contain an effective system of adaptive management that is independently audited and publicly reported.

The extent to which the Plan and Final Report adequately incorporates the precautionary principle and the other principles of ecologically sustainable development, in particular, intergenerational equity in relation to areas containing matters the Minister considers have a high likelihood of being potentially eligible for listing as matters of national environmental significance, will also be considered.

In arriving at a decision to approve an action or a class of actions the Minister must act in accordance with his obligations, including give consideration to:

- issues relevant to any matter protected by a provision of the Act; and
- social and economic matters.