

## Appendix C

# Consultation Responses

This page is intentionally blank.



## Industry & Investment

Your Ref:

Our Ref: OUT10/9851

Date: 29 June 2010

Anastasia Assargiotis  
Environmental Scientist  
Public Works  
Level 13, McKell Building, 2-24 Rawson Place  
SYDNEY NSW 2000

Dear Anastasia,

**Re: Wagga Wagga Levee Upgrade, Preliminary Environmental and Planning Overview.**

Thank you for seeking Industry and Investment NSW (I&I NSW) comments regarding the preliminary environmental planning overview for the upgrade works to the Wagga Wagga levee bank network.

**Issues Related to Fisheries**

The responsibilities of the Industry and Investment NSW (I&I NSW) include conserving fish stocks and fish habitat, threatened fish species, and aquatic biodiversity. As such the Department has an interest in any potential impacts to aquatic species and habitats as a result of the proposed works.

***Threatened Fish Species***

The Murrumbidgee River supports major components of the aquatic Endangered Ecological Community (EEC) in the natural drainage system of the lower Murray River catchment which is listed as threatened under the *Fisheries Management Act* 1994 as well as several fish species and populations which are listed as threatened in their own right including Trout Cod and Silver Perch. It is therefore imperative that any works to be undertaken as part of this rehabilitation proposal include robust conditions relating to the protection of this ecological community. An assessment of impacts the proposal may have (both construction and operational) on any aquatic threatened species at the site will need to form part

Aquatic Habitat Protection Unit  
Unit 3, 556 Macauley St ALBURY NSW 2640  
Tel: (02) 6042 4213 Fax: (02) 6021 0113  
ABN 72189 919 072  
[www.industry.nsw.gov.au](http://www.industry.nsw.gov.au)

of the proposal. A comprehensive list of aquatic threatened fish species can be found at [www.dpi.nsw.gov.au](http://www.dpi.nsw.gov.au).

### ***Fish Habitat***

Measures should be taken to ensure that fish habitat is not damaged or destroyed. Key Threatening Processes are listed under the threatened species provisions of the *Fisheries Management Act 1994*. Any Key Threatening Processes that are going to be undertaken as part of or as a result of the works should be outlined in the proposal. These may include the degradation of native riparian vegetation (including aquatic vegetation), removal of large woody debris (snags), or the installation and operation of in-stream structures that alter the natural flow regimes of rivers or streams. Information should also be presented outlining any mitigation measures that are to be undertaken as part of the proposal (i.e revegetation).

I&I NSW *Policy and Guidelines for Aquatic Habitat Management and Fish Conservation* (1999) see:

[http://www.dpi.nsw.gov.au/data/assets/pdf\\_file/0020/202691/Policyand-Guidelines-for-aquatic-habitat-management-and-fish-conservation-1999.pdf](http://www.dpi.nsw.gov.au/data/assets/pdf_file/0020/202691/Policyand-Guidelines-for-aquatic-habitat-management-and-fish-conservation-1999.pdf)

clearly states in section 1.2: Environmental compensation needs to be integrated into the planning process. Where, despite mitigation, a significant environmental impact is unavoidable, environmental compensation should be provided. This would normally require the creation of new habitat (of the type lost), and on a 2:1 basis to account for the indirect as well as the direct impacts of development

Specifically I&I NSW seek information regarding any impact the proposed works will have on any riparian vegetation or snags. This includes the location of any impacted vegetation and snags and how these will be managed so as not to have an impact on the aquatic ecosystem, along with how these impacts will be compensated for.

### ***Legislative Requirements***

Please note that under Sections 198-203 of the *Fisheries Management Act 1994* a person is required to obtain a permit from I&I NSW to conduct dredging and reclamation work within NSW waters. Any works within the banks of the waterways is deemed as dredging and reclamation work. Blockage to fish passage (temporary or permanent) will also require a permit under Part 7 of the FM Act, and removal or movement of snags, freshwater aquatic vegetation or boulders also now constitutes as dredging under the *Fisheries Management Act 1994*.

## INDUSTRY AND INVESTMENT NSW REQUIREMENTS FOR THE PREPARATION OF ENVIRONMENTAL PLANNING AND ASSESSMENT DOCUMENTS

Industry and Investment NSW (formally NSW Department of Primary Industries) is responsible for managing aquatic species (including aquatic invertebrates), aquatic habitat and aquatic biodiversity throughout NSW. Aquatic biodiversity occurs in permanent and intermittent waterways including marine, estuarine, fresh, flowing and still waters.

I&I NSW requirements for the preparation of environmental planning and assessment documents are outlined in the current NSW Fisheries *Policy and Guidelines for Aquatic Habitat Management and Fish Conservation 1999* pp 49-51. This document can be viewed on the I&I NSW website ([www.dpi.nsw.gov.au](http://www.dpi.nsw.gov.au)).

Of primary concern to I&I NSW are the disturbance and/or destruction of aquatic habitats and any adverse impacts on aquatic species. Disturbance can be in the form of siltation from excessive sediment runoff, blockages to fish passage such as the construction of causeways, culverts and temporary crossings and direct impacts on aquatic habitat such as the removal of aquatic vegetation and desnagging activities.

I&I NSW has also introduced threatened aquatic species legislation, which allows for the listing of aquatic species, populations or communities as either endangered or vulnerable. This legislation is outlined in Part 7A of the *Fisheries Management Act 1994*. Aquatic threatened species are widely distributed across NSW and should be considered in any environmental assessment process. Up to date information is available on the I&I NSW website ([www.dpi.nsw.gov.au](http://www.dpi.nsw.gov.au)).

Any environmental planning and assessment documents should include the following information as **an absolute minimum** to allow staff from I&I NSW to make an informed decision about the potential impacts that any proposed works may have on aquatic species and their habitats.

- Location of works (including topographic map)
- Name of adjacent watercourse(s)
- Description of works to be undertaken
  - Method/s of construction
  - Timing and duration of works
- Obstructions to fish passage (temporary and permanent) identified
- Aquatic habitat conditions at the site – particularly riparian and aquatic vegetation, water depth, permanence of water flow and snags in the vicinity of the proposed works.
- Potential impacts upon aquatic and riparian habitats (both temporary and permanent)

- Proposals to mitigate impacts upon riparian and aquatic vegetation and aquatic habitats.
- Potential impacts upon water quality of the proposed works.
- Proposals to mitigate impacts upon water quality.
- An assessment of the potential impact that proposed works may have on aquatic threatened species, populations and ecological communities.

The above list outlines the minimal amount of information that is required by I&I NSW to undertake an assessment of the potential impacts that a proposed activity or works may have on the local aquatic environment. Large scale works will require more detailed information to be submitted to the Department for assessment.

If you have any queries please call me on (02) 60424213

Yours sincerely,



Luke Pearce *per KH*  
Fisheries Conservation Manager Greater Murray  
Aquatic Habitat Protection  
NSW Department of Industry and Investment

Our reference: FIL06/1315-14; DOC10/27748

The Environmental Scientist  
Public Works – NSW Water Solutions  
Level 13 McKell Building  
2-24 Rawson Place  
SYDNEY NSW 2000

Dear Ms Assargiotis

**Re Wagga Wagga levee upgrade – preliminary environmental and planning review**

I refer to your letter dated 22 June 2010 to the Department of Environment, Climate Change and Water (DECCW) about a preliminary environmental and planning overview for the proposed Wagga Wagga levee upgrade.

This letter provides a consolidated response from DECCW incorporating relevant considerations under the *National Parks and Wildlife Act 1974*, *Threatened Species Conservation Act 1995*, *Environmental Planning and Assessment Act 1979* and the *Protection of the Environment Operations Act 1997*.

DECCW has responsibilities for pollution control and environmental management for scheduled activities under the *Protection of the Environment Operations Act 1997*. Based on the information submitted the proposed activity is not scheduled under the *Protection of the Environment Operations Act 1997* and the proposed works do not require an environment protection licence.

However, the proponent should be aware they are legally obliged (section 120 *Protection of the Environment Operations Act 1997*) to ensure that all necessary steps (eg erosion and sediment control) are taken to ensure that pollution of the Murrumbidgee River or other nearby watercourses does not occur during these works.

The specific issues we consider to be important in the environmental assessment include biodiversity, Aboriginal cultural heritage, noise and air quality (dust). Details of our specific requirements are provided in Attachments A and B.

I also understand that the Wagga Wagga levee upgrade feasibility study is being undertaken for Council under the State Assisted Floodplain Management Program. DECCW's Urban and Coastal Water Programs (Inland) Group is assisting Council in compiling the work brief for the feasibility study for the levee design, being undertaken NSW Public Works. Given this high level of cooperation and input to the recommendations of the Floodplain Risk Management Study referred to in your letter we anticipate that the study would have addressed all the relevant flooding issues.

The Department of Environment and Climate Change is now known as the Department of Environment, Climate Change and Water

PO Box 544 Albury NSW 2640  
2<sup>nd</sup> Floor Government Offices  
512 Dean Street Albury 2640  
0260220600 Fax: 0260220610  
ABN 30 841 387 271  
[www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)

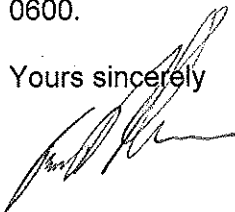
Department of **Environment and Climate Change** NSW



For further information about floodplain management issues please contact Peter Sobinoff, Manager Rural Flood, DECCW, Locked Bag 1002, Dangar NSW 2309 or by telephoning 02 4904 2586.

If you have any further enquiries about this matter please contact me by telephoning 02 6022 0600.

Yours sincerely



6 July 2010

**FRANK ROBINSON**  
**Acting Head, Albury Unit**  
**Environment Protection and Regulation**



## ATTACHMENT A

### **Impacts of the project on threatened species and their habitat**

The primary considerations for the preliminary environmental assessment of the proposal, as it relates to biodiversity, should be to:

1. Establish the area, character and conservation value of existing ecosystems, and dependent species to be impacted on the levee alignment;
2. Collate information about the measures required to avoid and minimise impacts to natural and biological values along the levee alignment; and
3. Demonstrate how the development will improve or maintain biodiversity.

It is up to the proponent (and later the consent and/or determining authorities after appropriate consultation) to determine the detail and comprehensiveness of assessment required to form legally defensible conclusions regarding the impact of the proposal.

It is important that all conclusions are supported by adequate data and that these data are clearly presented in the preliminary environmental assessment or subsequent documentation.

The document *General Guidelines for Flora and Fauna and Aboriginal Heritage Impact Assessment* provide details of the specific flora and fauna issues that are recommended to be addressed by the assessment. They address requirements under the *Environmental Planning and Assessment Act 1979* and the areas relating to flora, fauna, and threatened species populations, ecological communities and their habitats. The proponent should also refer to the *Threatened species assessment guidelines: the assessment of significance*. It is in the interests of the proponent to ensure that all reasonable precautions are taken to address these requirements in the environmental assessment.

Site disturbance should be minimised and avoided if unnecessary. Rehabilitation activities need to ensure that they utilise local indigenous species and are complimentary to the surrounding environment. Inappropriate rehabilitation activities (i.e. planting trees and shrubs into treeless grasslands) can have a significant adverse impact on the local environment. The site disturbance and rehabilitation activities should also be undertaken in a manner that minimises the spread of exotic weed species, particularly exotic pasture grasses.

### **Impacts of the project on Aboriginal cultural heritage values**

The *Environmental Planning and Assessment Act 1979* requires that proponents of a development/activity and the determining authority adequately assess the impact of a development or activity on Aboriginal cultural heritage.

DECCW also has a statutory role under the *National Parks and Wildlife Act 1974* in the protection and preservation of Aboriginal sites. It is an offence to destroy, damage or deface Aboriginal objects without the written consent of the Director General, DECCW, or her delegate.

It is in the interest of proponents to ensure that all reasonable precautions are taken to prevent the occurrence of damage to Aboriginal objects.

The environmental assessment should present information on Aboriginal cultural heritage issues that DECCW consider to be standard, specifically:

1. A search of the Aboriginal Heritage Information Management System search should be conducted;
2. Consultation with the local Land Council and a site inspection should be undertaken; and

3. An assessment, based on the outcomes of 2 (above) should be made on the presence/absence of Aboriginal objects, and the need for a more detailed study. The results of this assessment should be submitted to DECCW for our assessment and approval prior to the commencement of any works at the site.

The *General Guidelines for Flora and Fauna and Aboriginal Heritage Impact Assessment* provide details of the specific Aboriginal cultural heritage issues that are recommended to be addressed by the assessment.

The EIS needs to clearly demonstrate that effective community consultation with Aboriginal communities has been undertaken in determining and assessing impacts, developing options and making final recommendations. It is expected that community consultation is undertaken in accordance with the requirements identified in DECCW guideline *Aboriginal cultural heritage consultation requirements for proponents 2010* (April, 2010)

### **Native Vegetation**

Any clearing of native vegetation (eg trees, understorey, groundcover or wetland plants) may require approval under the *Native Vegetation Act 2003*. We recommend that the proponent contact the Murrumbidgee Catchment Management Authority to confirm current legislative requirements.

### **Potential impacts on land**

The goals of the project should include:

- No pollution of land, except to the extent authorised by DECCW;
- The potential impact of land erosion from the development is mitigated; and
- Any potentially contaminated sites that are encountered or disturbed are appropriately managed and rehabilitated. The existing levee is located near the former Tarcutta Street gasworks site which is a declared remediation site under the *Contaminated Land Management Act 1997*. Information about the proximity of the site to the levee alignment and proposed works to remediate the site can be obtained from Wagga Wagga City Council.

The environmental assessment should document the measures that will achieve the above goals.

### **Potential impacts on water quantity and quality**

The goals of the project should include:

- No pollution of waters (including surface and groundwater);
- Polluted water (including process waters, wash down waters, polluted stormwater or sewage) is captured on the site and collected, treated and beneficially reused, where this is safe and practicable to do so; and
- It is acceptable in terms of the achievement or protection of the River Flow Objectives and Water Quality Objectives.

The environmental assessment should document the measures that will achieve the above goals.

Details of the site drainage and any natural or artificial waters within or adjacent to the development must be identified and where applicable measures proposed to mitigate potential impacts of the development on these waters.

The environmental assessment should also provide details of any water management systems for the site to ensure surface and ground waters are protected from contaminants.

## ATTACHMENT B

### GUIDANCE MATERIAL

#### Assessing Environmental Impacts

##### Noise and vibration

- NSW Industrial Noise Policy (DECC, 2000)
- Environmental Criteria for Road Traffic Noise (DECC, 1999)
- Assessing Vibration: a technical guideline (DECC, 2006)
- Technical Basis for Guidelines to Minimise Annoyance Due to Blasting Overpressure and Ground Vibration (ANZECC, 1990) Available online at <http://www.environment.nsw.gov.au/resources/noise/ANZECBlasting.pdf>
- Environmental Noise Control Manual: Chapter 171 - Construction Site Noise (DECC, 1994).
- Interim Noise Construction Guideline (DECCW, 2009). Available online at <http://www.environment.nsw.gov.au/resources/noise/09265cng.pdf>

##### Water quality

- National Water Quality Management Strategy: Australian and New Zealand Guidelines for Fresh and Marine Water Quality (ANZECC/ARMCANZ, 2000)
- National Water Quality Management Strategy: Australian Guidelines for Water Quality Monitoring and Reporting (ANZECC/ARMCANZ, 2000)
- Using the ANZECC Guidelines and Water Quality Objectives in NSW (DECC, 2006)

##### Groundwater

- The NSW State Groundwater Policy Framework Document (DLWC, 1997)
- The NSW State Groundwater Quality Protection Policy (DLWC, 1998)
- The NSW State Groundwater Dependent Ecosystems Policy (DLWC, 2002)
- National Water Quality Management Strategy Guidelines for Groundwater Protection in Australia (ARMCANZ/ANZECC, 1995)

##### Stormwater

- Managing Urban Stormwater: Soils and Construction (Landcom, 2004)
- Managing Urban Stormwater: Treatment Techniques (Draft) (DECC, 1997)

#### Assessing Threatened Species & Aboriginal Cultural Heritage Impacts

- General Guidelines for Flora and Fauna and Aboriginal Heritage Impact Assessment (DECC, undated)
- Aboriginal cultural heritage consultation requirements for proponents 2010 (DECCW, April 2010) Available online at <http://www.environment.nsw.gov.au/resources/cultureheritage/commconsultation/09781ACHconsultreq.pdf>
- Threatened species assessment guidelines: The assessment of significance (DECC, 2007) [Available online at: <http://www.environment.nsw.gov.au/threatspec/tsaguide.htm>]



NSW OFFICE OF WATER

Contact: S Webb  
Phone: 0269530726  
Fax: 0269534438  
E-mail: [steven.webb@water.nsw.gov.au](mailto:steven.webb@water.nsw.gov.au)

Anastasia Assargiotis  
Level 13, McKell Building  
2-24 Rawson Place  
Sydney NSW 2000

Our ref: 40CW801049, 40CW804612  
Your ref:  
File:

17 July 2010

Dear Ms Assargiotis

**Subject: Wagga Wagga Levee Upgrade**

The existing levees at Wagga Wagga are authorised via approvals issued under Part 8 of the Water Act.

As Licensing Manager for the area, your letter of 22 June has been forwarded to me belatedly for comment. I apologise for the delay.

Please note I am only able to comment from a Licensing perspective and any further comments re environmental issues should be directed to Lorraine Hardwick at our Wagga Wagga office.

From the attachment it appears that the proposed upgrade is basically on the current alignment but with some extension, especially with the North Wagga levee.

This being the case it is probable that a replacement approval will be required and I would suggest that the two existing approvals could be rolled into one replacement. Council should be made aware of this requirement.

Assessment of the replacement approval would be in accordance with the requirements of the Water Act and / or IDAS.

Yours sincerely

Steve Webb  
Licensing Manager  
Murrumbidgee Region



Greg Bugden  
General Manager  
Murrumbidgee Catchment Management Authority  
PO Box 5224

WAGGA WAGGA NSW 2650

16 July 2010  
Ref: A406572

NSW Public Works  
Level 13, McKell Building  
2-24 Rawson Place  
SYDNEY NSW 2000  
**Attention: Anastasia Assargiotis**

Dear Anastasia

**Re: Wagga Wagga Levee Upgrade PEPO**

Thank you for your recent invitation to participate in the development of the Preliminary Environmental and Planning Overview (PEPO) for the upgrade of Wagga Wagga's levee banks.

I am pleased to point out the following matters relevant to the Murrumbidgee Catchment Management Authority.

1. Under the Native Vegetation Act (2003) clearing of native vegetation in the Wagga Wagga local government area requires assessment and approval by the Murrumbidgee Catchment Management Authority. The exception to this requirement, is where the clearing is part of a Routine Agricultural Management Activity (RAMA) or part of Local Government Infrastructure activities as defined by the Local Government Infrastructure RAMA. The Murrumbidgee CMA has approved Clearing Property Vegetation Plans (PVP) for local Government including Wagga Wagga City Council. All approved Clearing PVP's are required to be listed on a public register in NSW. Go to <http://www.environment.nsw.gov.au/vegetation/approvedclearing.htm> to view the public register. The Murrumbidgee CMA is also obliged to register information on clearing of native vegetation for essential local government infrastructure.

2. In making judgements about what native vegetation needs to be cleared, I would encourage Wagga Wagga City Council to ensure that clearing is limited to the minimum extent necessary and that they make use of their planning control instruments including the Local Environmental Plan (Draft- 2008), the supporting Local Environment Study (2008) and other reports and mapping that Wagga Wagga City Council has undertaken in

recent years to develop a better understanding of native vegetation, biodiversity and habitat. The recent Biodiversity certification for the Wagga Wagga LGA should also provide necessary background information.


3. It should be noted that floods are a natural and necessary process of good river health, and the Murrumbidgee River is a vital part of the greater Murray-Darling Basin. Concurrent with the development of this PEPO, the Murray Darling Basin Authority is also developing a Basin Plan for the greater Murray Darling Basin, and I would encourage Council to consider the ecological function of the Murrumbidgee River floodplain in that greater context. The need to protect the infrastructure of the Wagga Wagga urban area must be balanced with the need to allow for floodplain watering of the wetlands and billabongs in the Wagga Wagga City Council LGA that require periodic and prolonged inundation. The Murrumbidgee Catchment Management Authority would expect the review and upgrading of the Wagga Wagga levee to include current best knowledge about the placement of flood control structures in the context of the health of the Murrumbidgee River, and the greater Murray Darling Basin.

4. Various permits and environmental assessments may also be required as the Wagga Wagga Local Government area is part of the listed Endangered Ecological Community of the Lower Murray River aquatic ecological community. These matters are dealt with by Industry and Investment NSW (NSW Fisheries).

Please be aware that the only approval you need to seek from the Murrumbidgee Catchment Management Authority relates to the clearing of native vegetation. Other matters however will impact on the targets and objectives of the Murrumbidgee Catchment Action Plan (2006) and I would encourage you to make the most of any opportunity to contribute to the realisation of those targets.

Once again thank you for your invitation to contribute to the Wagga Wagga Levee Upgrade PEPO and please contact Janelle Jenkins at Wagga on 02 6932 3282 for more information with respect to clearing native vegetation.

Yours sincerely,



Greg Bugden  
General Manager