



15th April 2024

Brett Morrissey
Environmental Strategy Officer
Wollongong City Council
WOLLONGONG NSW 2500.

Via email: records@wollongong.nsw.gov.au

RE: WDURA Biodiversity Certification Application

Dear Brett

The Urban Development Institute of Australia NSW (UDIA) is the state's leading development industry body, representing more than 450 member companies and agencies across the public and private sector. UDIA invests in evidence-based research that informs our advocacy to state, federal and local government, so that development policies and critical investment are directed to where they are needed the most. Together with our Members, we shape the places where people will live for generations to come.

UDIA is strongly supportive of initiatives that streamline processes throughout the development pipeline. Where processes unnecessarily double up and require time-consuming responses from both developers and local authorities on regional issues, efficiencies should be explored. We are very encouraged, therefore, to see the progression of the West Dapto Biodiversity Certification Application (WDBCA), which falls squarely within this description.

Biodiversity certification, as the identified pathway for balancing development and conservation, is supported in principle by UDIA. Wollongong Council (Council), by taking this action, have taken the burden off individual proponents within West Dapto and allowed for a more strategic, precinct-scale conservation outcome. This, as opposed to site-by-site certification, will create sustainable development outcomes and better biodiversity outcomes in West Dapto.

We congratulate Council for pursuing this important initiative, which from what we observe, is the first Council-led certification application over a precinct since the Biodiversity Conservation Act was introduced. UDIA hopes that Council's leading example becomes replicated throughout the state, and we would encourage Council to share its experiences in preparing the WDBCA to other Local

Councils in NSW. For that reason, we would also encourage the timely implementation of the WDBCA.

Notwithstanding our comments above, we do take this opportunity to highlight some areas for improvement with the application.

Commonwealth Approval

UDIA is concerned that the roll out of this application, and its primary intent to streamline and simplify biodiversity, may be compromised without an equal focus on the concurrent Commonwealth approvals that some projects within the West Dapto URA will require.

One of the defining elements of a closely related and recently completed process in Western Sydney, the Cumberland Plain Conservation Plan (CPCP), was the combined State and Commonwealth approvals for the certified assessment area. This is relevant to land where “matters of national environmental significance” (MNES) exist, which according to Section 3.5 of the WDBCA covers more than 20 hectares of proposed developable land in West Dapto Stages 3, 4 and 5.

However, there is no indication that a concurrent Commonwealth process has been considered by Council as part of the WDBCA.

This means that for MNES identified areas that impact otherwise urban capable lands, there will be an entirely separate process required by proponents to receive their Commonwealth biodiversity approval under the Environment Protection and Biodiversity Conservation (EPBC) Act, as per the normal process for biodiversity.

UDIA’s members’ experiences with the EPBC approvals process have been described as onerous, costly, and timely. While we are working with the relevant federal Department to try to improve this process, we emphasise that EPBC approvals can add significant delays and costs for development projects.

UDIA strongly prefers that the certification process includes both State and Commonwealth approvals, such as the approach taken to deliver the CPCP. Including both State and Commonwealth approvals is far more efficient, certain and effective in supporting the delivery of land zoned for development uses. We would argue that it also more closely reflects the objectives of strategic conservation planning.

Cognisant that we would like to see the WDBCA progressed in a timely manner, we would recommend that Council considers the limitations of this certification for those developments that require Commonwealth approvals.

UDIA offers to work constructively with Council on a regular basis, as the WDBCA is implemented, to understand and communicate any issues arising, and how they could be resolved through Council assistance with, for example, delayed EPBC approvals on development fronts within West Dapto.

The Biodiversity Certification Assessment Area (BCAA)

UDIA understands that certification requires a very strict footprint. However, we have seen time delays in the past resulting from BCAA's not including infrastructure corridors that are critical to a development site. This includes roads, as well as sewer, water and power lines.

While we appreciate that there is not a requirement under the certification methodology to include these infrastructure and servicing corridors, we note that this has been an issue in the past with other certified precincts. A core benefit of certification – to provide certainty for development outcomes – is lost when a developer still needs to seek approval under the Biodiversity Conservation Act for infrastructure and servicing outside their lot boundaries.

To mitigate this, we would recommend that Council conducts a review of those special infrastructure zoned corridors that are outside the direct BCAA but could be relevant to the servicing of the future West Dapto URA. Council should then consider seeking certification of those corridors to enable the full benefit of certifying these stages of the URA.

UDIA again congratulates Council for taking on this important initiative to certify West Dapto. We hope the additional matters are also considered when finalising this important material. If you would like to discuss this in any further detail, please reach out to Nathan Boulous, Southern Regional and Research Manager at nboulous@udiansw.com.au or at 0499 399 978.

Regards,



Gavin Melvin
Acting Chief Executive Officer
UDIA NSW