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GUNNEDAH SHIRE COUNCIL

REVIEW OF LOCAL ENVIRONMENTAL STUDY



PREPARED BY

planning workshop australia

September, 2003

REVIEW OF LOCAL ENVIRONMENTAL STUDY

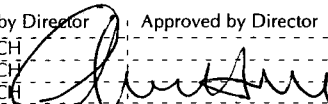
Prepared for
Gunnedah Shire Council

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This study has been prepared by Planning Workshop Australia. The Study Team consisted of the following individuals:

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A third and invaluable source of information has been the community of Gunnedah itself, and of course, Gunnedah Shire Council. The planning exercise involved, in its earliest stages, a series of lengthy discussions with Council officers and representatives of various community and local groups. At a later stage, the public will be asked to make comment on the findings of the Environmental Study, and the recommendations embodied in the resultant Draft Local Environmental Plan. These are the two avenues of public involvement provided for in the planning process by the *Environmental Planning and Assessment Act, 1979*. In this manner, the subject Environmental Study can provide a basis for public discussion on those matters which are addressed during the preparation of a Local Environmental Plan. In particular, the Study will specify the kinds of aims, objectives, policies and strategies which the Draft Local Environmental Plan should adopt.

1 INTRODUCTION

The Shire of Gunnedah is located in the upper Namoi Valley in the north-west of New South Wales. The Shire has an area of 5,092 square kilometres and is bordered by the Shires of Parry, Quirindi, Manilla, Barraba, Narrabri and Coonabarabran (**Figure 1(a)**).

Located on the Oxley Highway, Gunnedah is the "service hub" of the Shire and is located approximately 450 kilometres from Sydney, 655 kilometres from Brisbane and just over 1,000 kilometres from Melbourne. Outlying villages include Curlewis and Breeza to the south-east, Carroll to the east and Tambar Springs and Mullaley to the south-west and west (**Figure 1(b)**).

The Shire is a rich agricultural region with approximately 403,000 hectares of farming country, where a variety of summer and winter crops are grown.

Coal mining is also an important industry, together with many service type industries. Gunnedah Shire is located on one of the largest underground coal seams in New South Wales; the Sydney-Gunnedah Basin.

The Shire is also well serviced by railway (with a line to Werris Creek, and then to Sydney via Newcastle) and roads. There is an airstrip at Gunnedah, but at the time of writing this report there were no regular services in or out of Gunnedah.

At present, Gunnedah Shire is regulated by one Local Environmental Plan which was gazetted in September 1998. This plan was based on the 1982 Environmental Study undertaken by Planning Workshop Pty Ltd.

This study had a 30-year time frame and based its recommendations on the Gunnedah Local Government Area experiencing continued growth over that period.

The changing growth patterns and land use needs and community expectations, however, have led to pressure being placed on the existing land-use zones.

As a result, there have been thirteen amendments to the Gunnedah Local Environmental Plan 1998, and it is expected that without a review of that plan, further changes may be required.

Subject to the above, Council has embarked on a review of the past environmental study and other planning related studies undertaken in conjunction with the preparation of the previous Local Environmental Plans.

The purpose of the new study is to assess the effectiveness of land-use controls under the current Local Environmental Plan and recommend any required amendments. The review process is to also examine the needs of the Shire and suggest possible adjustments to all zone boundaries, to ensure consistent development and appropriate land-uses.

2 STUDY OBJECTIVES

At its ordinary meeting on 17 April 2002, Gunnedah Shire Council resolved to review the existing Local Environmental Plan for the Shire.

To assist in the preparation of the new plan, Council has appointed Planning Workshop Australia to review the Environmental Study undertaken in 1982.

The Objectives of the study include:

- *"Assist in the formulation of appropriate discussions, objectives and strategies for a Draft Local Environmental Plan.*
- *Provide the community with sufficient information by which to base discussions and decision making.*
- *Provide a reference document for use by Council and others."*

More particularly, Council has highlighted the following rural, urban and development control plan issues for assessment in the Environmental Study and review of the Local Environmental Plan.

Rural Issues

- *"The capacity of agricultural land to sustain current and potential land use practices having regard to natural resource management.*
- *The impacts on the viability and sustainability of agricultural land due to soil erosion, salinity and water management issues.*
- *The environmental impacts on biodiversity, endangered species and water quality as a consequence of rural development and mechanism to mitigate these problems.*
- *Analyse and review the standards for rural subdivision having regard to the viability of agricultural land and potential long-term impacts of subdivision.*
- *Examine the potential, impacts and benefits of intensive agriculture development and appropriate locations for such development.*
- *Review the extent of marginal agricultural land and assess alternative development potential.*
- *Examine the appropriateness of zoning of travelling stock routes and the location and use of those in close proximity to Gunnedah.*
- *The incorporation of regional, catchment and sub-catchment strategies and plans in the assessment of the rural land use zoning.*

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- *The effects of government economic policy on agriculture and the impact on land use controls.*
- *The preservation, if possible, of rural heritage items including the built and natural environment.*

Urban Issues

- *The extent of business zones in Gunnedah and a review of the Central Business District Zone Plan with examination of flexible planning controls to perimeter and peripheral areas.*
- *The analysis of pedestrian access and disability access issues within the Central Business District of Gunnedah having regard to linkages to car parking, public facilities and community infrastructure.*
- *The preservation of the present character of urban areas and the identification and protection of historic or heritage significant sites involving both the built and natural environment.*
- *The effects of rural population adjustment as a result of changes in the rural economy and the effects on the physical, social and economic structure of the Gunnedah Local Government Area.*
- *The impact of flooding and the effect of the Gunnedah and Carroll Floodplain Management Plan on land uses.*
- *Analysis of the extent of Rural Residential land having regard to demand and development potential particularly west of Gunnedah.*
- *Examination and review of existing land use zones and development controls, with a view to a simpler, more flexible system consistent with the current pressures facing a medium size rural community.*
- *Review the extent and nature of industrial areas having regard to opportunities to broaden the industrial base of the district.*
- *Assess the extent to which urban consolidation and redevelopment of existing serviced land can be encouraged and achieved.*
- *Analysis of urban stormwater management and mechanisms to improve discharge qualities and linkages to reducing the impacts of urban salinity.*

The following environmental issues to be addressed in the Environmental Study and Review of the Local Environmental Plan includes:

- *Examination of pollution of hazard issues within the rural environment having regard to conflicting land uses particularly involving agricultural chemical usage.*
- *Analysis of land in the vicinity of Goran Lake relative to its environmental significance and current land use practices.*

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- *Assessment of the appropriateness of the Environment Protection (Scenic) Zone in terms of the extent of land use control it provides.*
- *The extent and impact of Urban Salinity and mechanisms to manage the problem.*
- *Assess the maintenance and extension of tree corridors in both rural and urban situations with the objective of establishing an Environmental Embellishment Plan.*

Development Control Plan Issues

- *Analysis of dwelling entitlements in the rural area.*
- *Assess the appropriateness of the Council's current Complying and Exempt Development schedules.*
- *The extent of the current Obstacle Limitation Surface (OLS) for the Gunnedah Aerodrome and the potential to control tree planting of a nature that would impinge upon the OLS.*
- *Examination of the current development control table format (objectives, development without consent, development with consent, prohibited development) and the potential for a system incorporating a more merit based approach to assessing development applications that meet the objectives of the zone.*
- *Examine the suitability of the current Village zoning."*

3 THE LEGISLATIVE FRAMEWORK

3.1 Background

The town of Gunnedah has grown in a relatively orderly manner from the time of the original Crown survey in 1856. Whilst Gunnedah Municipal Council had for some years been applying the principles of town and country planning, it was not until the early nineteen-fifties that it resolved to prepare the town's first joint planning scheme in association with Liverpool Plains Shire Council¹. In January 1966, however, the joint Gunnedah and Liverpool Plains Planning Scheme was proclaimed.

In the meantime, an Interim Development Order over the Municipality and that part of the Shire involved in the scheme was introduced. This scheme became operational in December 1957. Amalgamation of the two Councils in 1980 led to the formation of the present Gunnedah Shire Council.

Faced with the proliferation of twenty two amendments to the existing scheme, and the lack of planning control on some rural parts of the Shire, the new Council prepared and gazetted a Local Environmental Plan under the then new environmental planning legislation introduced in 1980.

Local Environmental Plan No. 1 – Shire of Gunnedah, gazetted in November 1981, placed the remainder of the Shire of Gunnedah under town planning controls.

At present, Council is regulated by the Local Environmental Plan 1998 which was gazetted in September 1998. The current plan is based on the 1982 Environmental Study undertaken by Planning Workshop Pty Ltd.

In 1996, Council embarked on a review of the Local Environmental Plan. The review was primarily to bring the document into line with the *Environmental Planning and Assessment Act 1979* and the standards and structure of modern Local Environmental Plans. It did not significantly change from the direction set in the 1982 study.

Subject to the above there have been thirteen amendments to the Gunnedah Local Environmental Plan and as Council anticipates further changes, there is an opportunity to further modernise its planning schemes having regard to the new initiatives proposed by the Department of Planning, Infrastructure and Natural Resources (DIPNR), formerly PlanningNSW, within a new regional planning framework.

3.2 Environmental Planning Instruments- State Level

Gunnedah Shire Council is subject to the provisions of a number of planning instruments at the state level, which provide the planning framework and guidance for

¹ Gunnedah and Liverpool Plains Town Planning Report to accompany the preparation of the original scheme.

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development throughout the area. The following instruments relate specifically to Gunnedah Shire.

3.2.1 *The Environmental Planning and Assessment Act, 1979*

The Environmental Planning and Assessment Act forms the framework for the planning system in New South Wales. This Act creates the mechanism to prepare Local Environmental Plans, Development Control Plans and State Environmental Planning Policies.

The objectives of the Act are:

(a) to encourage:

- (i) the proper management, development and conservation of natural man-made resources for the purpose of promoting the social and economic welfare of the community and a better environment;*
- (ii) the promotion and co-ordination of the orderly and economic use and development of land;*
- (iii) the protection, provision and co-ordination of communication and utility services;*
- (iv) the provision of land for public purposes;*
- (v) the provision and co-ordination of community services and facilities;*
- (vi) the protection of the environment;*
- (vii) ecologically sustainable development; and*

(b) to promote the sharing of responsibility for environmental planning between different levels of government in the State; and

(c) to provide increased opportunity for public involvement and participation in environmental planning and assessment.

3.2.2 *S. 117 Ministerial Directions*

The Minister for Planning has made a number of Directions under Section 117 of the *Environmental Planning & Assessment Act 1979*, to be taken into consideration during the preparation of Local Environmental Plans. Relevant directions under this section include:

Direction G2- Circulars to Councils

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- Direction G3- Reservations
- Direction G4- Minister of public authority approval/concurrence
- Direction G5- Development by the Crown
- Direction G6- Savings
- Direction G7- Existing general provisions
- Direction G8- Rural zones
- Direction G9- Residential zones
- Direction G10- Business zones
- Direction G11- Industrial zones
- Direction G12- Environmental protection zones
- Direction G13- Corridors
- Direction G14- Designated Development
- Direction G16- Airport Noise
- Direction G17- Acquisition
- Direction G18- Community use of schools
- Direction G19- Public recreation zones
- Direction G20- Planning in bushfire prone areas
- Direction G21- Conservation of environmental heritage and ecologically significant items and areas
- Direction G23- Recreation vehicle areas
- Direction G24- Concurrence of Mine Subsidence Board
- Direction G25- Flood Liable Land
- Direction G26- Residential Allotment Sizes
- Direction G27- Planning for bus services
- Direction G28- Coal, other minerals, petroleum and extractive resources

3.2.3 State Environmental Planning Policies

The *Environmental Planning and Assessment Act 1979* has a provision for the Minister to make State Environmental Planning Policies, which are guidelines for specific issues for the State. They include development standards and policies on various matters.

The following is the list of State Environmental Planning Policies that apply to the Gunnedah Shire Local Government Area:

SEPP 1 - Development Standards

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- SEPP 4 - Development without Consent and Miscellaneous Complying Development
- SEPP 5 - Housing for Older People or People with a Disability
- SEPP 6 - Number of Storeys in a Building
- SEPP 8 - Surplus Public Land
- SEPP 9 - Group Homes
- SEPP 11 - Traffic Generating Developments
- SEPP 15 - Rural Land Sharing Communities
- SEPP 16 - Tertiary Institutions
- SEPP 21 - Caravan Parks
- SEPP 22 - Shops and Commercial Premises
- SEPP 30 - Intensive Agriculture
- SEPP 32 - Urban Consolidation (Redevelopment or Urban Land)
- SEPP 33 - Hazardous and Offensive Development
- SEPP 34 - Major Employment Generating Industrial Development
- SEPP 36 - Manufactured Home Estates
- SEPP 37 - Continued Mines and Extractive Industry
- SEPP 44 - Koala Habitat Protection
- SEPP 45 - Permissibility of Mining
- SEPP 48 - Major Putrescible Landfill Sites
- SEPP 55 - Remediation of Land
- SEPP 64 - Advertising and Signage.

3.2.4 Additional Legislation

In addition to the provisions of the *Environmental Planning and Assessment Act, 1979* and those plans and policies created under this, Council has from time to time, requirements to consider the provisions of other Acts and legislation, such as:

- Native Vegetation and Conservation Act, 1997
- National Parks and Wildlife Act, 1974
- Wilderness Act, 1987
- Land Management Regulation, 1995
- Heritage Act, 1977

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- Heritage Regulations, 1993
- Noxious Weeds Act, 1993
- Soil Conservation Act, 1938
- Water Management Act, 2000
- Rivers and Foreshores Improvement Act 1948
- Protection of the Environment Operations Act, 1997
- Catchment Management Act, 1989
- Crown Lands Act, 1989.

3.3 Environmental Planning Instruments – Regional Level

3.3.1 Regional Plans

The *Environmental Planning and Assessment Act 1979*, provides for the making of regional plans, which cover such issues as urban growth, expansion or specific areas.

A Regional Environmental Plan – *Orana Regional Environmental Plan No.1 – Siding Spring*, has been prepared as part of an overall strategy for the protection of the Siding Springs Observatory, which is situated approximately 70 kilometres from the Gunnedah Shire Boundary (**Figure 1**). Currently one of the world's best facilities, problems with artificial light glow can interfere with the effective operation of the equipment.

The Plan controls both light emissions from buildings and external lighting so that critical light levels are not exceeded.

Although the *Orana Regional Environmental Plan No. 1 – Siding Spring* does not apply to Gunnedah Shire at this stage, DIPNR has foreshadowed changes to the plan that will see the plan applying to an area within a 200km radius of this existing facilities. Accordingly, it is appropriate that the Shire embraces the contents of the REP and ensures that any future developments comply with this Regional Environmental Plan.

3.4 Local Statutory and Non-Statutory Planning Controls

3.4.1 Gunnedah Local Environmental Plans

A Local Environmental Plan is the instrument whereby most day-to-day planning decisions are made in Gunnedah Shire. It is a Plan that is prepared in respect to one specific Local Government Area, to meet the objectives and requirements of both the *Environmental Planning and Assessment Act, 1979* and the local Council and community. It provides a means by which development is assessed and should reflect

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the values and objectives of the local community, as well as incorporating those of the region and the state.

Currently, Gunnedah Shire has one planning instrument, being the *Gunnedah Local Environmental Plan 1998* (LEP), which was gazetted on 25 September 1998, and applies to the whole of the Shire.

The above LEP, however, has had thirteen minor amendments to this base instrument, as well as amendments to the Environmental Planning and Assessment Act and a number of other legislative changes. The shortcomings of Council's current planning document have been highlighted and Gunnedah Council has resolved to prepare this Study, leading to the preparation of the Draft Local Environmental Plan.

3.4.2 Gunnedah Shire Council Development Control Plans

In addition to the current Local Environmental Plans, Gunnedah Shire has a number of Development Control Plans that add greater detail to specific areas. These are formed and prepared under the provision of the *Environmental Planning and Assessment Act, 1979*.

The following is a list of Development Control Plans, currently relating to the Gunnedah Shire.

- Development Control Plan No. 1 – Dual Occupancy Development
- Development Control Plan No. 2 – Medium Density Development
- Development Control Plan No. 5- South Gunnedah
- Development Control Plan No. 6 – East Gunnedah
- Development Control Plan No. 7 – Pine Hill Rural Residential and Warranurra Industrial Estate.
- Development Control Plan No. 8 – Local Development Advertising and Notifications Policy
- Development Control Plan No. 10 – Rural Residential Development
- Development Control Plan No. 12 – Gunnedah and Carroll Floodprone Land
- Development Control Plan No. 13- Outdoor Dining Areas and the Display of Merchandise on Footpaths
- Development Control Plan No. 14- Installation of Rainwater Tanks
- Carparking Policy
- Draft Development Control Plan- Footpath Cafes and Outdoor Trading

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It is planned that all Development Control Plans will be revised once the new Local Environmental Plan has been prepared, if appropriate.

3.5 Changes to Legislation (PlanFirst)

The NSW Government, through DIPNR, has undertaken a review and modernising of the existing plan making system.

Although legislation has not been adopted at this stage, the objective of the new planning system known as Plan First is to:

promote economic development and job creation and help achieve an ecological sustainable future.

The aim of the new planning system (if adopted) is to simplify the plan making system by reducing the number and layers of plans applying to land and making those plans easy to find and understand.

New Regional Strategies are proposed, which will enable the State Government and Councils to set clear directions for the future of the region and which will form the basis for the preparation of local environmental plans.

It is also proposed to make State Policies and environmental planning instruments available in one place with clearly expressed outcomes to be achieved.

According to DIPNR, **PlanFirst** will:

- simplify the current complex web of plans and processes;
- provide greater certainty to business and the community and clear, accessible information to users;
- co-ordinate decisions and actions that shape the future of neighbourhoods and environments;
- recognise the diversity and dynamic nature of our neighbourhoods and environment by managing whole places, drawing together different issues into a single plan;
- better involve the community and key interest groups, including those that are often marginalised: older people, young people, and ethnic and indigenous communities;
- produce strategies and plans that are up-to-date and actively implemented, and have measured results;
- produce strategies and plans that help to deliver:
 - sustainable management of our resources;
 - environmental protection;

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- jobs and infrastructure
- suitable and affordable housing;
- healthy and vibrant communities; and
- neighbourhoods that are attractive and safe.

Notable key features of the new system include:

Plan First contains four key features to improve plan making in NSW. These can be summarised as follows:

- Clear Rules in Accessible, User Friendly Plans
- A More Versatile Planning "Toolbox"

An aim of Plan First is to also ensure that the community is involved from the outset in the plan preparation process, and not just commenting when a draft local plan is exhibited.

Since this study was commenced however, the NSW Government has decided to review PlanFirst. In the absence of any other guidance to the contrary, however, the Study (and the subsequent LEP) has been prepared based on the principles of PlanFirst.

