

# DRAFT Terms of Reference for the Strategic Assessment Report for the Central Coast Strategic Conservation Plan

On 11 November 2024, the NSW Minister for Planning and Public Spaces entered into an agreement (**the Agreement**) with the Commonwealth Minister for the Environment and Water (**the Commonwealth Minister**), pursuant to section 146(1) of the *Environment Protection and Biodiversity Conservation Act 1999* (**EPBC Act**), to undertake a strategic assessment of the impacts of actions taken under the Central Coast Strategic Conservation Plan (**the Plan**) on matters protected by a provision of Part 3 of the EPBC Act (**protected matters**).

The Agreement provides details on the process the parties will follow to complete the strategic assessment. The definitions set out in the Agreement also apply to those terms used in this draft Terms of Reference.

The Agreement requires the State to prepare the following documents which will be considered by the Commonwealth Minister:

- A Policy, Plan or Program (**PPP**). The purpose of the PPP is to provide opportunities for the sustainable development of the strategic assessment area in accordance with the requirements of the EPBC Act.
- A Strategic Assessment Report (**the Report**).

These Terms of Reference specify what must be included in the Report to satisfy Commonwealth requirements under Part 10 of the EPBC Act.

## 1. PURPOSE OF THE STRATEGIC ASSESSMENT REPORT

- 1.1. The Report must assess the impacts of actions or classes of actions proposed to be taken under the Plan, on protected matters.
- 1.2. The Report must consider all matters protected by Part 3 of the EPBC Act and may identify 'relevant' protected matters that may be impacted directly, indirectly and/or cumulatively by actions proposed to be taken under the Plan.
- 1.3. The Report will enable the Commonwealth Minister to evaluate the ability of the PPP to ensure the long-term protection and conservation of relevant protected matters.

## 2. DESCRIPTION OF THE PLAN BEING ASSESSED

- 2.1. The Report must provide a summary of the Plan, outlining its overall purpose, key elements, spatial extent, and timeframes, including how long the Plan will be in effect.

The key elements of the Plan include:

- 2.1.1. The commitments under the Plan, and the conservation outcomes to be delivered for protected matters.
- 2.1.2. The actions likely to be taken under the Plan over the short, medium and long term.
- 2.1.3. The legal and administrative frameworks to implement the Plan and the persons and authorities responsible for implementation, including:

- i. The reasons for developing the Plan and its legal standing under New South Wales law, including any existing or proposed planning mechanisms giving legal effect to relevant components of the Plan.
  - ii. The relationship of the Plan to other relevant policies, plans, guidelines, commitments, regulations and legislation, including existing approvals under Commonwealth legislation.
  - iii. Governance, responsibilities, other approvals required for development under existing federal and state legislation, and funding arrangements for implementing the Plan.
- 2.2. The Report must describe the need and justification for the Plan including the environmental, social and economic drivers for its development, including engagement with relevant landowners, communities, developers and delivery partners.
- 2.3. The Report must describe the decision-making framework used in considering alternatives and developing conservation outcomes of the Plan. It should identify where, if any, alternative options that have been evaluated to reach the final Plan have been published.
- 2.4. The Report must describe how the principles of ecologically sustainable development (as set out in section 3A of the EPBC Act) are considered and promoted in the development of the Plan.

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

- 3.1. The Report must describe the nature of the environment relating to the strategic assessment that may be impacted by actions proposed to be taken under the Plan. This must include (at a minimum):
  - 3.1.1. a description of current and historical land-uses, including a map of current land-uses.
  - 3.1.2. a description of indigenous land-use and values.
  - 3.1.3. the broad extent, type and quality of vegetation.
  - 3.1.4. a description of the nature of the terrestrial and aquatic environment, including the state of natural and physical resources, ecological processes, and threatening processes.
  - 3.1.5. an overview of relevant local and state-protected environmental and heritage values.
  - 3.1.6. a description of the landscape context and key environmental matters, such as any known habitat connectivity, habitat fragmentation, and ecological processes.
  - 3.1.7. map or maps of areas that are already protected, including national parks, nature reserves, and known offset areas under both Commonwealth and/or State legislation.
- 3.2. The Report must identify and describe each protected matter that may be impacted directly, indirectly and/or cumulatively by actions proposed to be taken under the Plan (these are the 'relevant protected matters'), including (at a minimum):
  - 3.2.1. maps of listed ecological communities and descriptive information including listing status, known or potential extents (in hectares), condition, threatening processes, habitat quality and landscape context.
  - 3.2.2. maps of species records and habitat for listed threatened species including habitat type and quality and landscape context.

- 3.2.3. descriptive information for listed threatened species including listing status, habitat area (in hectares), threatening processes, estimates of population size or abundance and distribution within and adjacent to the area relating to the strategic assessment.
- 3.2.4. the identification of any critical or important areas for relevant protected matters, including consideration of the importance of both small and large areas of habitat, habitat connectivity, their position in the landscape and areas likely to be important for maintaining ecological processes for relevant protected matters.
- 3.2.5. extent and condition and ecological character of declared Ramsar wetlands. This must include information on past, present and projected trends in the ecological character and its likelihood to change over time.
- 3.2.6. spatial and descriptive information for declared World Heritage properties and National Heritage places and their values, located within or adjoining to the area relating to the strategic assessment.
- 3.2.7. spatial and descriptive information on the environment of Commonwealth land within or adjoining the area relating to the strategic assessment.
- 3.2.8. maps of species records and habitat for listed migratory species located within or adjoining the area relating to the strategic assessment, and descriptive information including habitat area (hectares), estimates of habitat usage and species abundance in the context of global populations.
- 3.3. The Report must outline the process used to identify the relevant protected matters that may be impacted by actions taken under the Plan, and the basis for determining any Matters of National Environmental Significance (MNES) that are not likely to be impacted.
- 3.4. The Report may also consider protected matters that are potentially eligible for listing as a result of inclusion in a final priority assessment listing held by the Commonwealth, or a recommendation to the Commonwealth Minister for listing by the Threatened Species Scientific Committee prior to the Report being submitted.

#### **4. ASSESSMENT OF THE IMPACTS OF THE PLAN ON PROTECTED MATTERS**

- 4.1. The Report must describe and assess the likely direct, indirect and cumulative impacts of actions taken under the Plan on all relevant protected matters. This must include, but not necessarily be limited to, an assessment of impacts of clearing, disturbance and fragmentation.
- 4.2. The Report must describe and provide justification for methods used to assess likely impacts on all protected matters arising from actions proposed to be taken under the Plan, including (but not limited to) survey, data collection and analysis, mapping, quantification and selection of offsets and avoidance areas. The method must:
  - i. be appropriate for assessment at a strategic scale.
  - ii. rely on the best available information.
  - iii. discuss uncertainty, including reference to the data and information relied upon.
- 4.3. The Report must include analysis of:
  - i. how impacts on protected matters will be avoided.
  - ii. the duration, extent and likely severity of the impacts.

- iii. the mitigation measures that will be implemented and their likely effectiveness to reduce impacts on the protected matters. An evaluation of effectiveness must include whether the key mitigation measures for protecting MNES are feasible, achievable and economically viable.
  - iv. how unavoidable impacts will be offset in accordance with the principles of the *Environment Protection and Biodiversity Conservation Act Environment Offsets Policy (2012)*.
  - v. the potential impacts of the Plan, both positive and negative, on the long-term persistence of relevant protected matters within the area affected by the Plan.
- 4.4. The Report must include an analysis of the conservation benefits of the Plan, including:
  - 4.4.1. How relevant protected matters will be protected, restored and managed within the area affected by the Plan.
  - 4.4.2. The adequacy of the commitments under the Plan in protecting, restoring and managing relevant protected matters, including:
    - i. discussion of the predicted effectiveness of the commitments.
    - ii. funding arrangements.
    - iii. who will be responsible for delivering on commitments.
  - 4.4.3. How proposed commitments involving environmental offsets meet the principles of the *Environment Protection and Biodiversity Conservation Act Environmental Offsets Policy (2012)*.
  - 4.4.4. How the commitments address the relevant impacts and threats to relevant protected matters, including the potential impacts of clearing, disturbance and fragmentation from actions taken under the Plan.
- 4.5. The Report must describe climate change scenarios that might affect long term outcomes for relevant protected matters, and how this has been considered in development of the Plan and its commitments.
- 4.6. The Report must, relevant to legislative obligations under the EPBC Act, consider and reference statutory policies plans and guidelines including:
  - 4.6.1. any recovery plan for relevant listed threatened species or communities.
  - 4.6.2. a threat abatement plan.
  - 4.6.3. if applicable, management plans for a World Heritage property (prepared under sections 316 and 321 of the EPBC Act), or National Heritage place (prepared under sections 324S and 324X of the EPBC Act).
  - 4.6.4. if applicable, the Australian World Heritage management principles and National Heritage management principles.
  - 4.6.5. conservation advice, including the objectives and conservation actions, for relevant listed threatened species and communities.

In particular, an assessment of why implementing the Plan will not be inconsistent with any relevant Recovery Plan or Threat Abatement Plan, and how the Plan has had regard to any relevant Conservation Advice.

- 4.7. The Report may also consider other Commonwealth policy guidelines on protected matters.

## **5. EVALUATION OF THE OVERALL OUTCOMES OF THE PLAN**

- 5.1. The Report must evaluate the overall conservation outcomes for relevant protected matters taking into account likely impacts on relevant protected matters from actions taken under the Plan. The evaluation must include:
  - 5.1.1. The extent to which relevant protected matters are represented in areas to be protected or managed under the Plan or in existing protected areas within the area affected by the Plan.
  - 5.1.2. The extent to which the areas to be protected or managed under the Plan or existing protected areas within the area affected by the Plan will ensure the long-term persistence of each relevant protected matter.
  - 5.1.3. An assessment of how the Plan meets the guidelines set out in Attachment 2 of the Agreement.
  - 5.1.4. The extent to which the commitments under the Plan facilitate adaptation of relevant protected matters to climate change and address any significant vulnerabilities of relevant protected matters under reasonable climate change scenarios.
  - 5.1.5. The likely effectiveness of the commitments and actions under the Plan in achieving the conservation outcomes, including any risks and uncertainties for delivery and implementation.
  - 5.1.6. A comparison of the conservation outcomes of the Plan with a scenario where development occurs without strategic conservation planning.

## **6. ADDRESSING UNCERTAINTY, MONITORING 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:
  - 6.1.1. Knowledge gaps in scientific understanding and responding to new knowledge.
  - 6.1.2. Assumptions made in assessing potential impacts and benefits.
  - 6.1.3. Effectiveness or capacity to ensure the Plan is implemented.
- 6.2. The Report must describe and assess the adequacy of the monitoring programs, regular review, public reporting and independent auditing processes under the Plan to:
  - 6.2.1. Track the implementation of conservation commitments and actions for protected matters against key performance indicators and timeframes for delivery.
  - 6.2.2. Identify where the conservation commitments are not leading to the predicted conservation outcomes.
  - 6.2.3. Identify any new risks to protected matters due to changed circumstances.
- 6.3. The Report must describe and assess the adequacy of the procedures under the Plan to ensure an adaptive approach to implementation of the Plan. This must include:
  - 6.3.1. How the results of monitoring will be used to understand the effectiveness of conservation outcomes for protected matters and improve implementation.
  - 6.3.2. How new information relating to relevant protected matters and biodiversity, including changes to State and Commonwealth legislation, policies, plans and advice, may be

assessed and accounted for in the implementation of the Plan and ongoing management of the areas impacted by the Plan.

- 6.4. The Report must identify and analyse the likely circumstances 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.

## **7. INFORMATION SOURCES**

- 7.1. The Report must identify the sources of information and data relied upon including the reliability and currency of the data.
- 7.2. If the State undertakes any independent peer review(s) as part of the strategic assessment, the Report must include summaries of the independent peer review(s) process. If the review(s) are publicly available, the Report will provide details of where they are publicly available.