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Our Ref: DOC/11/10157

31 August 2011

Mr Tom Gellibrand
NSW Planning & Infrastructure
GPO Box 39
SYDNEY GPO PRIVATE BOXES NSW 2001

Dear Mr Gellibrand

URBAN RELEASE AREA BURONGA GOL GOL PLANNING PROPOSAL TO REZONE LAND FROM 1(d) FUTURE URBAN TO 2(v) VILLAGE – WENTWORTH LOCAL ENVIRONMENTAL PLAN 1993

At the meeting of Council held on 29 August 2011, Council gave consideration of a planning proposal with the matter resolved to proceed through a Gateway Determination. The minutes of the meeting and planning proposal are attached.

The Gateway Proposal is to rezone from 1(d) future Urban Zone to Zone 2(v). The proposal is justified by previous strategic work undertaken by Council during the Buronga Gol Gol Structure Plan which forms part of the Strategic Framework Document supporting the Draft Wentworth Local Environmental Plan 2011. The Draft WLEP has been on exhibition and therefore we suggest that community consultation and public authority consultation has occurred for this proposal through this process.

This decision to proceed with the Planning Proposal was supported by discussions held between the Director General and Council's General Manager Mr Peter Kozlowski.

I would ask that the proposal be considered and the plan be made to facilitate the urban expansion of Buronga.

For further information regarding this matter please contact me on ☎ (03) 5027 5027.

Yours faithfully

Ken Ross
Director Sustainable Development

7.19 PLANNING PROPOSAL – BURONGA GOL GOL URBAN RELEASE AREA

Responsible Officer: Director Sustainable Development
Author: Director Sustainable Development
Implications: Policy
File L1/42-3
Attachments: Map of Proposed Planning Proposal
Separately Circ.: Nil
Tabled: Nil

Recommendation

That Council:

1. Resolves to admit this supplementary report for consideration in accordance with Section 18(3) of the Council Code of Meeting Practice as the subject matter is deemed urgent.
2. endorse the Planning Proposal to the Minister for Planning seeking an Amendment to the Wentworth Local Environmental Plan 1993 (WLEP 1993) that seeks to:
 - a. rezone the land shown within the heavy edged black line on the attached map from Zone No 1(d) future Urban to Zone No 2 (v) Village or Urban;
 - b. amend the land zoning map for the subject site from *Zone No 1(d) future urban* to *Zone No 2 (v) village or urban*;and request that a Gateway Determination be made, pursuant to the Environmental Planning and Assessment Act 1979 (EP&A Act) that permits either an expedited Amendment pursuant to Section 73A of the EP&A Act or an Amendment pursuant to Part 3 of the EP&A Act with no public exhibition and no State and Commonwealth Government public authority consultation requirement owing to the urgency of the matter and in recognition that the Planning Proposal seeks to bring about the outcome as previously identified in the Buronga Gol Gol Structure Plan and Draft Wentworth Local Environmental Plan 2011 for which documents have previously had significant public and government scrutiny through public exhibition of those documents;
3. furnish a copy of this report and other relevant information to the NSW Department of Planning and Infrastructure, in accordance with the EP&A Act and request the Minister for Planning undertake the appropriate actions to secure the making of the Amendment to the Wentworth Local Environmental Plan 1993 to the extent that it relates to the land use zoning for the subject land.

Purpose

The purpose of this report is for Council to endorse the planning proposal to expedite the rezoning of the land shown within the heavy edged black line on the attached map. This course of action is justified on the grounds that the timing of the Draft LEP is uncertain. The development will result in major, social and economic growth on the locality through the provision of wider housing choice and employment associated with building construction activity and commercial enterprises.

Summary

The land which is the subject of this report has been identified as the future growth area since the lead up work and final gazettal of the Wentworth Local Environmental

Plan 1993. Under the provisions of that planning instrument the land is Zone no 1(d) future urban. The strategic framework document of which the Buronga Gol Gol Structure Plan is part of, supporting draft Wentworth Local Environmental Plan 2011 proposes the land to be RU5 Village as part of the Urban Release area. This proposal is consistent with the provisions of that document. For the record it should be noted that this proposal was agreed to be added to form part of amendment 27 with the Departmental staff in Dubbo. This was represented through to the Sydney office of the Department of Planning and Infrastructure, who did not support the addition based on the fact the comprehensive LEP process would be completed in the near future. The latest information in relation to this matter is that the legal branch and parliamentary Counsel will again consult with Council in relation to the rural dwelling provisions and the river setback provisions. This has not yet occurred and therefore the matter which is the subject of this report should be progressed as a matter of urgency.

Report

The land, the subject of this proposal, was previously zoned 1(d) future Urban under Wentworth Local Environmental Plan 1993. Draft Wentworth Local Environmental Plan 2011 intends to zone the land Zone RU5 Village. For all intents and purposes the land has been identified for this proposed use since the early 1990's. Within this area of land there have been four development applications lodged to yield approximately 230 allotments. To facilitate the approval of these development applications the rezoning must occur first. The land has been identified in the Buronga Gol Gol Structure Plan as residential land and in the Draft Wentworth LEP 2011 is part of the Urban Release Area. On this basis it is recommended that Council seek an expedited process for the planning proposal, especially no requirement for public exhibition or consultation with government agencies. This process has been discussed with the Department of Planning and Infrastructure. That particular arm of the department has supported Council in this regard to facilitate this planning proposal.

Policy and Management Plan Implications

This planning proposal intends to support the social and economic development of the shire which will have financial benefits for the Council.

Conclusion

With the delays to the making of Wentworth Local Environmental Plan 2011 it is now prudent for Council to seek this gateway determination in line with the recently approved amendment 27. With the impact the delays have caused to some owners of land within the proposed area it is requested that this matter be dealt with urgently and Council officers agree that this matter should be pursued as soon as possible.

Accordingly, Council support is now sought to endorse the Planning Proposal and seek NSW Department of Planning and Infrastructure authority to progress this matter as either an expedited Amendment pursuant to Section 73A of the Environmental Planning and Assessment Act 1979 (EP&A Act) or as an Amendment pursuant to Part 3 of the EP&A Act with no public exhibition and State and Commonwealth Government public authority consultation requirement.

Notwithstanding, should an exhibition period and State and Commonwealth Government public authority consultation be required by the Gateway Determination,

consultation will be undertaken in accordance with any conditions of the Gateway Determination and in accordance with the EP&A Act.

Moved Councillor King and seconded Councillor Brook that the recommendation be adopted.

CARRIED



PLANNING PROPOSAL

URBAN RELEASE AREA
BURONGA GOL GOL

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Attachments

Attachment A – Wentworth Local Environmental Plan 1993 (Amendment No 28) Zone Map

Attachment B - Wentworth Local Environmental Plan 1993 (Amendment No 28) Urban Release Area Map

1. PART 1 – OBJECTIVES OR INTENDED OUTCOMES

The purpose of this planning proposal is to enable future residential development within the Urban Release Area as identified in the Buronga Gol Gol structure plan. The structure plan aims to draw together the Buronga Gol Gol area focusing on previous decisions to develop the Midway Centre as the main community and commercial centre for the local area.

This planning proposal intends to rezone the area from 1(d) Future Urban Zone under Wentworth Local Environmental Plan (WLEP) 1993 to 2(v) Village or Urban.

The land to which this planning proposal applies is shown at **Attachment A**.

2. PART 2 – EXPLANATION OF PROVISIONS

Amend WLEP 1993 as follows:

- Amend the Wentworth LEP 1993 Land Zoning Map to identify the area within Zone No. 2(v) (Village or Urban Zone) as illustrated at **Attachment A**

The area is an elevated sandy loam formation determined to be outside the flood liable land. The land is identified as the Urban Release Area in Wentworth Draft Local Environmental Plan 2011. Accordingly the land is supported for rezoning through the supporting documentation for the principal LEP being the strategic framework document including the Buronga Gol Gol Structure Plan and soil contamination analysis.

3. PART 3 - JUSTIFICATION

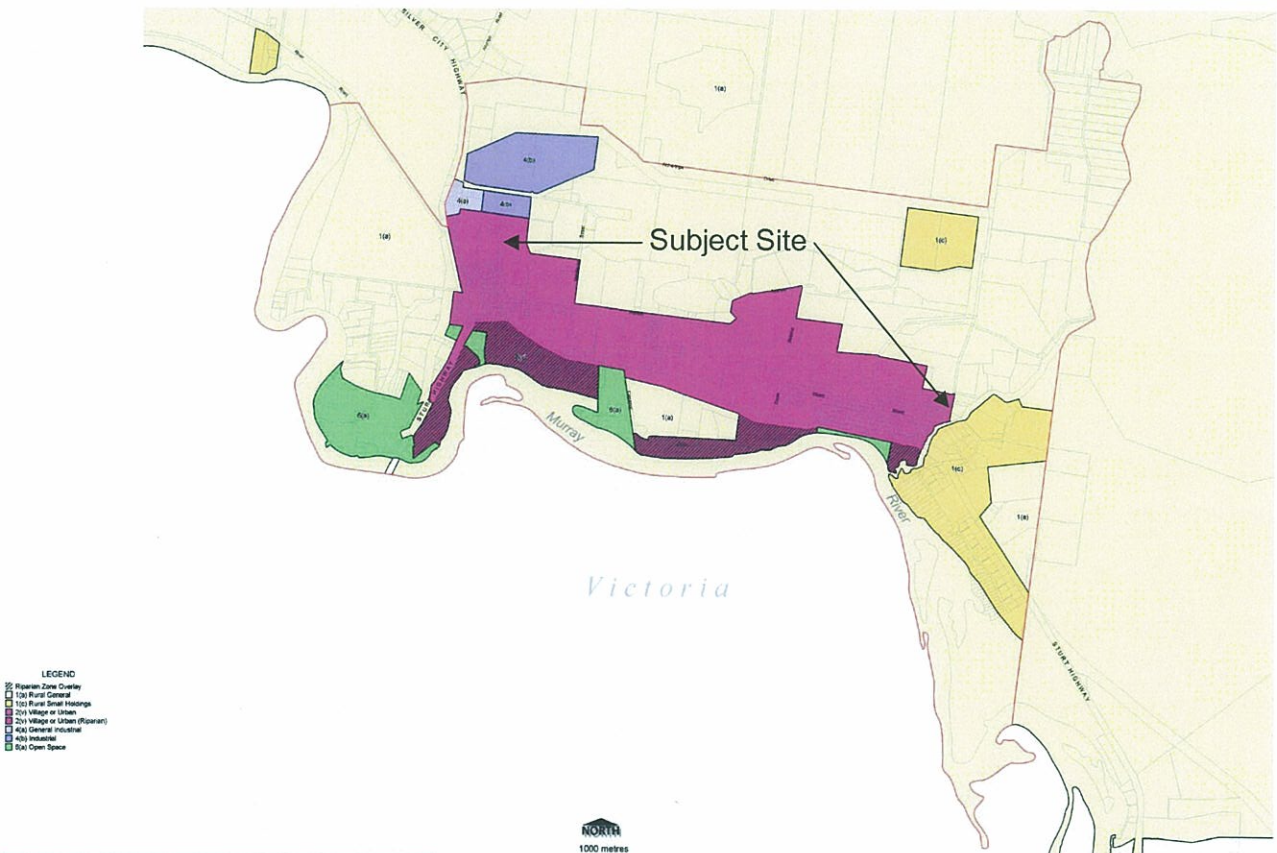
3.1 Section A – Need for the Planning Proposal

1. Is the planning proposal a result of any strategic study or report?

Yes. The planning proposal is consistent with the Buronga Gol Gol Structure plan. This plan was adopted by Wentworth Shire Council in December 2005. The structure plan prepared by David Richardson Environmental Planning for Buronga Gol Gol was prepared to draw together a range of existing information to develop an agreed structure planning option for Buronga Gol Gol and to provide a level of support to a range of key land use planning principles developed by the local community.

The structure plan identifies the land for future residential use as part of the strategic framework document to support Wentworth Draft LEP 2011.

The map below is an extract from the Buronga Gol Gol structure plan indicating the proposal to rezone the land to 2(v) Village or Urban.



The land is currently located within the 1(d) Future Urban Zone under WLEP 1993 which primarily supports rural pursuits of agricultural lots.

The area has been unnecessarily burdened by the ongoing delays of the implementation of standard instrument LEP process and concerns regarding the uncertain timeframes have resulted in the URGENT need for a planning proposal to be prepared to facilitate rezoning of the land.

The planning proposal offers the most transparent, effective and efficient means of changing the controls on development associated with the area. As such the planning proposal will assist in achieving the objects contained within Section 5 of the Environmental Planning and Assessment Act 1979 pertaining to the economic and orderly development of land and will also assist with the implementation of strategic planning policies being the Buronga Gol Gol Structure Plan that have previously anticipated a residential zoning over the land.

2. Is there a net community benefit?

The planning proposal will result in a positive community benefit with subsequent residential development leading to increased housing choice with high quality amenities.

The area is estimated to realise over \$180 million spent in construction costs alone, a massive boost for any regional economy. This rezoning will have major economic benefits for the area both short and long term and will have a significant impact on population growth.

It will consist of:

1. 2000 residential Lots
2. Public open space
3. Infrastructure including roads, drainage and utility services
4. Landscaping to public areas.

The rezoning of the land will be a catalyst for future residential subdivision in the area and a place people are proud to call home.

The community benefit particularly as the planning proposal enables the implementation of land use zoning controls that are consistent with the proposed land uses identified within the Buronga Gol Gol structure plan.

Short term benefits associated with the proposal include employment within the building construction sector.

3.2 Section B – Relationship to Buronga Gol Gol Structure Plan

1. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The Draft Murray Regional Strategy was exhibited from 30 October 2009 to 11 December 2009 and provides a guideline for development to accommodate the region's growth over the next 25 years.

The planning proposal is consistent with the draft strategy as the proposed rezoning will:

- accommodate additional population growth within an area that is generally well serviced and identified as a village;
- not result in the loss of significant agriculturally productive land.

2. Is the planning proposal consistent with the local council's Community Strategic Plan or other local strategic plan?

Yes the area is clearly identified in the Buronga Gol Gol Structure Plan adopted by Council in December 2005. The Structure Plan forms part of the strategic framework document to support the Draft Wentworth Local Environmental Plan 2011. As noted within Section A of this report, the planning proposal is consistent with the local strategic plans that have been developed to guide future development at Buronga within the Wentworth Shire.

3. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Relevant State Environmental Planning Policies and their relationship with the planning proposal are outlined in the table below:

STATE ENVIRONMENTAL PLANNING POLICIES (SEPP)	COMMENTS
SEPP No. 1 – Development Standards	Consistent
SEPP No. 4 – Development Without Consent & Miscellaneous Exempt and Complying Development	Not applicable
SEPP No. 6 – Number of Storeys in a Building	Consistent
SEPP No. 15 – Rural Land Sharing Communities	Not applicable
SEPP No. 19 – Bushland in Urban Areas	Not applicable
SEPP No. 21 – Caravan Parks	Consistent
SEPP No. 22 – Shops and Commercial Premises	Not applicable
SEPP No. 30 – Intensive Agriculture	Not applicable
SEPP No. 32 – Urban Consolidation (Redevelopment Of Urban Land)	Not applicable
SEPP No. 33 – Hazardous and Offensive Development	Not applicable
SEPP No. 36 – Manufactured Home Estates	Not applicable
SEPP No. 44 – Koala Habitat Protection	Consistent, the area does not currently support Koalas. It is also noted that no trees are required to be removed as part of the planning proposal or any subsequent subdivision.
SEPP No. 50 – Canal Estate Development	Not applicable
SEPP NO. 52 – Farm Dams and Other Works in Land and Water Management Plan Areas	Not applicable
SEPP No. 55 – Remediation of Land	Consistent, no known contamination exists on the site as per Council's contamination report.
SEPP No. 60 – Exempt and Complying Development	Not applicable
SEPP No. 62 – Sustainable Aquaculture	Not applicable
SEPP No. 64 – Advertising and Signage	Not applicable
SEPP No. 65 – Design Quality of Residential Flat Development	Not applicable
SEPP No. 70 – Affordable Housing (Revised Schemes)	Not applicable
SEPP No. 71 – Coastal Protection	Not applicable
SEPP – Affordable Rental Housing (2009)	Not applicable
SEPP – Building Sustainability Index (BASIX) 2004	Consistent, BASIX is able to be complied with at the DA stage.
SEPP – Exempt and Complying Development Codes	Not applicable

(2008)	
SEPP – Housing for Seniors or People with a Disability (2004)	Not applicable
SEPP – Infrastructure (2007)	Not applicable
SEPP – Major Development (2005)	Not applicable
SEPP – Mining, Petroleum Production and Extractive Industries (2007)	Not applicable
SEPP – Rural Lands (2008)	Not applicable
SEPP – Temporary Structures (2007)	Not applicable
Murray Regional Environmental Plan (MREP) No. 2 – Riverine Land. Note: MREP No. 2 is a deemed SEPP.	Consistent, refer to comments below.

SEPP (Rural Lands) 2008

Clause 7 of SEPP (Rural Lands) 2008 contains the following rural planning principles that require consideration as part of this planning proposal:

- (a) The promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas.*
- (b) Recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State.*
- (c) Recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development.*
- (d) In planning for rural lands, to balance the social, economic and environmental interests of the community.*
- (e) The identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land.*
- (f) The provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities.*
- (g) The consideration of impacts on services and infrastructure and appropriate location when providing for rural housing.*
- (h) Ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.*

The planning proposal addresses the above rural planning principles as follows:

- The area does not contain State significant agricultural land and is not located within an area of regional farming significance.
- The proposal achieves an appropriate balance between social, environmental and economic interests of the community by providing opportunities for additional housing choice within an area that is not adversely affected by any significant constraints.
- Short and long term social and economic benefits are likely to benefit both the village of Buronga Gol Gol and the nearby town of Mildura.
- The planning proposal is consistent with the provisions contained within the Buronga Gol Gol Structure Plan and is incorporated within the principal Draft Wentworth Local

4. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The relevant Section 117 Directions contained within the Environmental Planning and Assessment Act 1979 is outlined in the tables below:

1. Employment and Resources

Direction	Applicable	Consistent
1.1 Business and Industrial Zones	No	Not applicable
1.2 Rural Zones	Yes	No
1.3 Mining Petroleum, Production and Extractive	No	Not applicable
1.4 Oyster Agriculture	No	Not applicable
1.5 Rural Lands	Yes	Yes

Justification

Direction 1.2 applies to planning proposals which affect land within an existing or proposed rural zone and states that a planning proposal must not rezone land from a rural zone to a residential zone. The inconsistency is justified in this instance as the area is identified for future residential use within the Draft Wentworth LEP. The mentioned land is part of the Buronga Gol Gol structure plan being part of the strategic framework document to support the Draft LEP.

The planning proposal is consistent with Direction 1.5 as the proposed residential use is consistent with the strategic policies adopted by Wentworth Shire Council whereby the social and environmental benefits associated with rezoning of rural land to residential land, such as additional housing choice and opportunities are recognised.

2. Environmental and Heritage

Direction	Applicable	Consistent
2.1 Environmental Protection Zones	No	Not applicable
2.2 Coastal Protection	No	Not applicable
2.3 Heritage Conservation	No	Not applicable
2.4 Recreation Vehicle Areas	No	Not applicable

Justification

The area does not contain any known items of European or Aboriginal heritage.

3. Housing, Infrastructure and Urban Development

Direction	Applicable	Consistent
3.1 Residential Zones	Yes	Yes
3.2 Caravan Parks & Manufactured Home Estates	No	Not applicable
3.3 Home Occupations	Yes	Yes
3.4 Integrating Land Use & Transport	Yes	No
3.5 Development near Licensed Aerodromes	No	Not applicable

Justification

In response to Direction 3.1, the planning proposal will broaden the choice of building types and locations available within the Wentworth Shire and will assist with the efficient use of infrastructure and services. Accordingly, the planning proposal will enable the development of land consistent with the objectives contained within Section 5 of the Environmental Planning and Assessment Act, 1979 and therefore reflects evolving lifestyle and demographic trends.

Home occupations will be able to be carried out in a dwelling without the need for development consent, consistent with Direction No. 3.3.

Whilst the planning proposal is inconsistent with Direction No. 3.4 pertaining to integrating land use and transport, the inconsistency is justified on the basis that the area has been the subject of comprehensive investigations and as such, has been identified for residential development within the Buronga Gol Gol Structure Plan and the Consideration of Environmental Matters being part of the strategic framework document supporting the Draft Wentworth LEP 2011.

4. Hazard and Risk

Direction	Applicable	Consistent
4.1 Acid Sulphate Soils	No	Not applicable
4.2 Mine Subsidence & Unstable Land	No	Not applicable
4.3 Flood Prone Land	No	Not applicable
4.4 Planning for Bushfire Protection	No	Not applicable

5. Regional Planning

Direction	Applicable	Consistent
5.1 Implementation of Murray River Strategy	No	Not applicable
5.2 Sydney Drinking Water Catchments	No	Not applicable
5.3 Farmland of State and Regional Significance on NSW Far	No	Not applicable

North Coast		
5.4 Commercial & Retail Development along the Pacific Hwy, North Coast	No	Not applicable
5.5 Development in the vicinity of Ellalong, Paxton & Millfield	No	Not applicable
5.6 Second Sydney Airport: Badgery's Creek	No	Not applicable

Justification

There is no regional strategy that applies to the area that would otherwise require consideration under Direction No. 5.1. Notwithstanding, the provisions of the Draft Murray Regional Strategy have been addressed within Section 3.2 of this report.

6. Local Plan Making

Direction	Applicable	Consistent
6.1 Approval & Referral Requirements	Yes	Yes
6.2 Reserving Land for Public Purposed	Yes	Yes
6.3 Site Specific Purposed	Yes	Yes

Justification

Pursuant to Direction No. 6.1, the LEP provisions encourage the efficient and appropriate assessment of development.

Consistent with Direction No. 6.2, the planning proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.

The planning proposal does not impose unnecessarily restrictive site specific planning controls and therefore is consistent with Direction No. 6.3.

7. Metropolitan Planning

Direction	Applicable	Consistent
7.1 Implementation of the Metropolitan Strategy	No	Not applicable

Justification

Nil. The planning proposal has addressed the s.117 Directions prescribed by the Minister contained within the Environmental Planning and Assessment Act 1979.

3.3 Section C – Environmental, Social and Economic Impact

1. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

There are no foreseen impacts based on the fact that the area has been used for horticultural farming for approximately 20 years and hence has been disturbed through previous activities.

2. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

General constraints associated with development are able to be addressed at the development application stage when Council is obliged to consider Section 79C of the Environmental Planning and Assessment Act, 1979. Likewise, impacts on the built environment such as overshadowing, height, bulk and scale and streetscape presentation are also able to be determined at the DA stage.

The area is flood free and is conducive to being able to support future residential development without creating any significant adverse environmental impact.

3. How has the planning proposal adequately addressed any social and economic effects?

The proposal will result major, social and economic growth on the locality through the provision of wider housing choice and employment associated with building construction activity and commercial enterprises.

Residential development within the area is likely to support existing businesses within the town of Mildura and promote the village of Buronga Gol Gol .

All other social and economic effects have been considered as part of the Buronga Gol Gol structure plan.

3.4 Section D – State and Commonwealth Interests

1. Is there adequate public infrastructure for the planning proposal?

Existing roads, public utilities and other essential services such as health, education and emergency services exist within the Wentworth Local Government Area and are generally adequate to serve and meet the needs of the proposal. In particular, Mildura is a major town that is able to service the incoming population of Buronga Gol Gol. Both raw & filtered water, sewerage, drainage and power are available to the area.

As part of the section 62 consultation process for the Wentworth Draft LEP, government agencies were consulted on the larger urban release area with no matters of concern raised. Five Development Applications received by Council since the exhibition of the comprehensive WLEP 2011 within the area have been referred to the Regional Office of Department of Planning and Infrastructure for their consultation with relevant agencies in consideration of this matter.

2. What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the planning proposal?

Council through the consultation phase of the principal LEP have undertaken required consultation. The responses have not generated any issues requiring further consideration or variation to the plan.

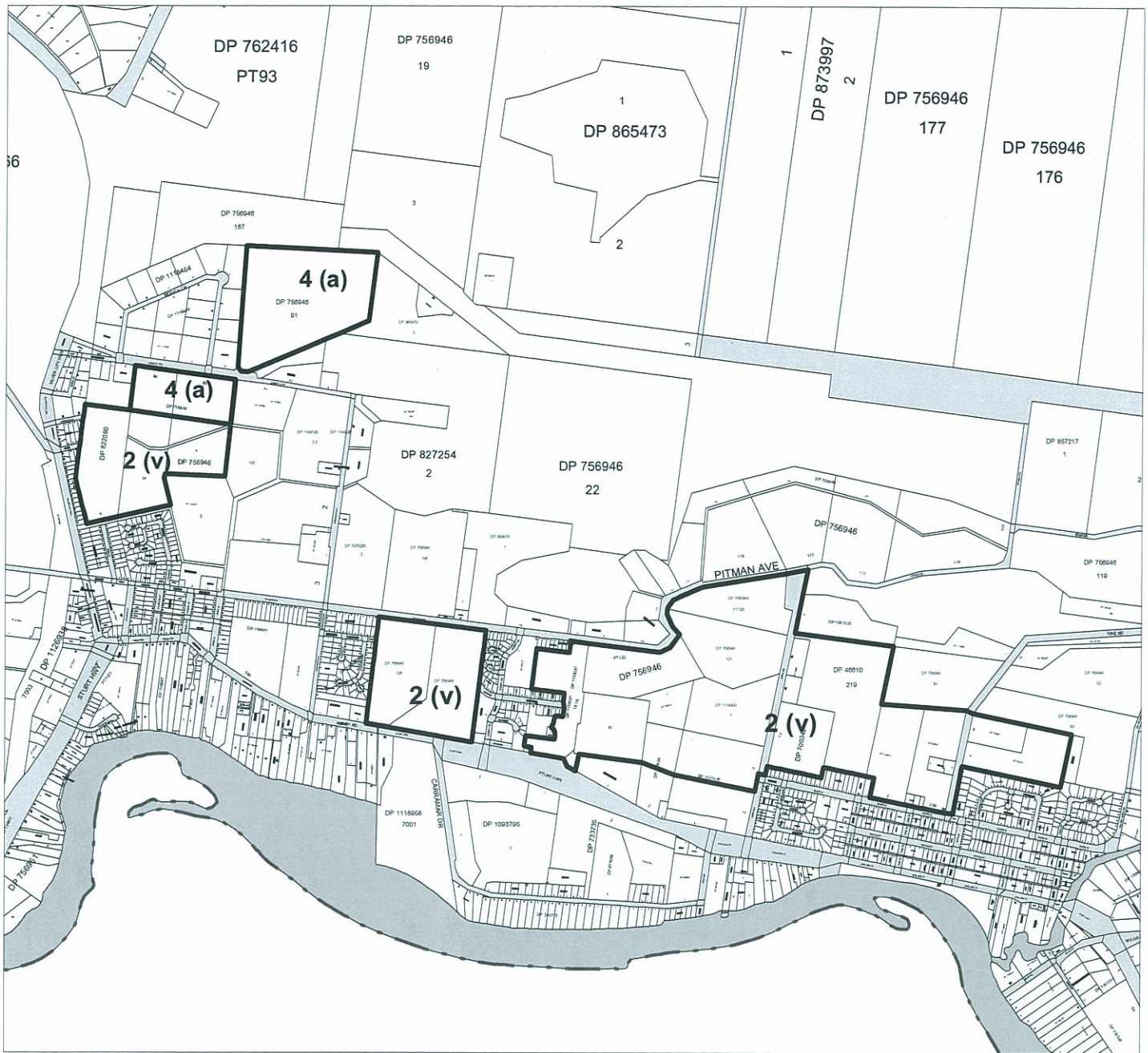
4. PART 4 – COMMUNITY CONSULTATION

Wentworth Draft Local Environmental Plan 2011 of which this Urban Release Area is part has undergone significant consultation through the section 62 process with Government Agencies and the section 66 exhibition phase.

Support is now sought to endorse the Planning Proposal and seek NSW Department of Planning and Infrastructure authority to progress this matter as either an expedited Amendment pursuant to Section 73A of the Environmental Planning and Assessment Act 1979 (EP&A Act) or as an Amendment pursuant to Part 3 of the EP&A Act with no public exhibition and State and Commonwealth Government public authority consultation requirement.

Notwithstanding, should an exhibition period and State and Commonwealth Government public authority consultation be required by the Gateway Determination, consultation will be undertaken in accordance any conditions of the Gateway Determination and in accordance with the EP&A Act.

The Draft LEP has been advertised. Therefore it is considered that this provision has been satisfied.



SUBJECT LAND

2(v) 2 (v) (Village or Urban Zone)

4(a) 4 (a) (General Industrial Zone)

SCALE 1:14750

LOCALITY: BURONGA

PARISH: GOL GOL

COUNTY OF WENTWORTH

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979
WENTWORTH LOCAL ENVIRONMENTAL PLAN 1993
(AMENDMENT NO 28)

Sheet 1 of 2

DRAWN BY S.Scott

DATE 29/08/2011

PLANNING OFFICER

M. PHILLIPS

DEPT. FILE No.

11/

PROPERTY FILE No.

STATEMENT OF RELATIONSHIPS WITH OTHER PLANS

AMENDS WENTWORTH LOCAL ENVIRONMENTAL
PLAN 1993

CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING
AND ASSESSMENT ACT 1979 AND REGULATIONS AS AMENDED

MR PETER KOZLOWSKI
GENERAL MANAGER

DATE

31/08/2011



**Wentworth Local
Environmental
Plan 1993
(Amendment No. 28)**

Urban Release Area Map

Sheet 2 of 2

Urban Release Area



Urban Release Area

Cadastre



Cadastre 01/08/2011 NSW LPMA

Statement of relationship with
other plans:
Amends Wentworth Local
Environmental Plan 1993

Certified in accordance with the Environmental
Planning And Assessment Act 1979 and
Regulations as amended


MR PETER KOZLOWSKI
GENERAL MANAGER

31/08/2011
DATE



Projection: GDA 1994
MGA Zone 54

Scale: 1:20,000 @ A3

amendment28sheet2_20110829

Dept. File No.: D11/

