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Our Ref: DOC/14/1242 — 05 February 2014

Ashley Albury
Regional Director
NSW Department of Planning & Infrastructure
PO Box 58
DUBBO NSW 2830

ashley.albury@planning.nsw.gov.au

Dear Ashley

PLANNING PROPOSAL – WENTWORTH LOCAL ENVIRONMENTAL PLAN 2011 - AMENDMENT NO.5

For the consideration of the Department, Council hereby submits the attached Planning Proposal.

Council at its meeting on Wednesday 22 January 2014 resolved that:

The planning proposal for the change of zone and minimum lot size over the subject land being Lot 2 in DP 134929, Lot 4 in DP 1015663, Lot 5 in DP 756964 and Lot 2 in DP 1165861, a total area of 490 ha be forwarded to the Department of Planning and Infrastructure under Section 56(1) of the Environmental Planning and Assessment Act, requesting that the Minister issue a *gateway determination* that will allow the planning proposal to proceed to facilitate Wentworth Local Environmental Plan 2011 Amendment No 5.

For the information of the Department the following documents are provided to demonstrate Council's process and deliberations to make their recommendation:

- Planning Proposal – Rezoning of Lots in the RU1 Zone to RU4 to allow for consolidation of Rural Housing
- Preliminary Planning Assessment by Warrick Fisher – Contract Planner for Wentworth Shire Council dated 8 November 2013
- Report to Council's Planning Liaison Committee held on 8 November 2013
- Dot point summary of planning proposal provided by Grand Junction at the Planning Liaison Committee Meeting held on 8 November 2013
- Minutes of Council's Planning Liaison Committee Meeting held on 8 November 2013
- Further justification provided by Grand Junction as to why Zone RU4 was chosen dated 8 November 2013
- Planning Assessment by Warrick Fisher – Contract Planner for Wentworth Shire Council dated 11 November 2013
- Letter received from Grand Junction outlining concerns with respect to the prospect of postponing consideration of the proposal until completion of the Rural Land Use Study dated 25 November 2013.
- Email received from Grand Junction with a copy of the elevation plans as requested at the Planning Liaison Committee Meeting 8 November 2013

- Report to Council's Planning Liaison Committee held on 18 December 2013
- Minutes of Council's Planning Liaison Committee Meeting held on 18 December 2013
- Report to the Ordinary Meeting of Council held on 22 January 2014
- Minutes of the Ordinary Meeting of Council held on 22 January 2014

In deliberation over this matter Council have reviewed the planning proposal and support the concept now requiring the Department to make a *gateway determination*.

For further information regarding this matter please contact Ken Ross, Director Health & Planning on ☎ 5027 5027.

Yours faithfully

PETER KOZLOWSKI
GENERAL MANAGER

GrandJunction

RECEIVED
30 SEP 2013
File _____
W/Flow _____
Act/Off _____
Security _____
Copy/Rel _____
☐ Permanent
☐ 1 - 10 Years
☐ 11 - 35 Years

30 September 2013

Mr Ken Ross
Director of Planning
Wentworth Shire Council
PO Box 81
WENTWORTH NSW 2648

PLANNING PROPOSAL AT SOUTH AND NORTH POMONA

We attach a Planning Proposal which proposes to consolidate 49 dwelling entitlements covering an area of circa 4,997 ha of the Grand Junction property into an area of circa 490 ha which will be zoned RU4 Primary Production Small Lots.

The Planning Proposal represents an important economic development opportunity for Wentworth Shire and particularly the Wentworth and Pomona communities. Construction of dwellings/infrastructure of $300,000 on each of the 49 potential lots would lead to over $14,000,000 of new investment in the Wentworth/Pomona District and an injection of new families into the area. The non-monetary contribution of these families to the Wentworth and Pomona communities will be more important than the monetary contribution with new students, volunteers and sporting club members.

Relinquishment of existing development consents and applications ensures no more dwellings are created as a result of the Planning Proposal. It ensures rural fragmentation is lowered and also reduces the requirements for infrastructure and native vegetation clearing. In this respect it is relevant to note that two houses are already approved at the South and North Pomona sites so the sites are already partially cleared and in the process of being developed. Further the Planning Proposal is outside the Wentworth LEP Flood Planning Area.

Appendices to the Planning Proposal include a:

- Comparison of the Current Developable Area and the Planning Proposal Area; and
- Indicative Subdivision Layout showing how the Planning Proposal is consistent with the existing Pomona lot sizes.

RU4 Zone has been chosen as it best reflects the proposal for small rural holdings. Further, the RU1 Zone is unsuitable given restrictions on dwellings contained in 4.2B and 4.2D of the Wentworth LEP 2011. Indeed RU4 is a zone ideally suited to the inner areas of Wentworth Shire and provides opportunities for the Shire and other landholders.

The RU4 Land Use Table in the Balranald LEP has been used as a template as suggested by you.

Grand Junction Pty Ltd
PO Box 448 Wentworth NSW 2648
E kathryn@grandjunction.com.au T 03 5027 2461

GrandJunction

We submit this Planning Proposal should be dealt with promptly as:

- There is a significant socio economic benefit to the community;
- The Planning Proposal will create 49 additional ratepayers for Wentworth Shire;
- The core of this proposal was put to Council in 2004, nine years ago. Further the South Pomona site was recommended by Council in 2011 as part of the LEP process to be in the 10ha lot size area but this did not take place. The delay in considering the matter has cost the Wentworth community significant investment; and
- No new dwelling entitlements are created so there is minimal impact on the Shire's Strategic Planning.

We would be happy to present this Proposal to Council's Planning Committee and/or Council at your convenience.

Yours sincerely,

Kathryn Baird

Planning and Environment Manager

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PO Box 448 Wentworth NSW 2648
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PLANNING PROPOSAL

REZONING OF LOTS IN THE RU1 ZONE TO RU4 TO ALLOW FOR CONSOLIDATION OF RURAL HOUSING

Grand Junction Pty Ltd
Low Darling Road
POMONA NSW 2648

SEPTEMBER 2013

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4. Community Consultation

Appendices

A- Location Map
B- Deposited Plan Land Map
C- Proposed Lot Size Map
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E- Comparison of the Current Developable Area and the Planning Proposal Area; and
F- Indicative Subdivision Layout showing how the Planning Proposal is consistent with the existing Pomona lot sizes
G- Wentworth LEP 2011 Flood Planning Area Map CL1_002 and CL1_002C
H- List of lots where dwelling consents will be surrendered under S104A of the Act
I- List of lots where landowner will provide a written undertaking to Council that it will withdraw or not make application for consents
J- Threatened Species Assessment

Part 1 - Objectives or Intended Outcomes

The purpose of this planning proposal is to:

- enable dwellings on lot sizes of a minimum of 5 to 10 hectares in two locations adjacent to the irrigation district of Pomona; and
- relinquish existing rural lot dwelling approvals and entitlements based upon lot history on the other Grand Junction lots, so no additional dwellings are created but the dwellings are consolidated into a smaller area.

The Planning Proposal and related consolidation of rural dwellings into a smaller area will result in benefits such as:

- Less clearing of native vegetation;
- Effluent from shearing shed moved away from the Darling River;
- Economic development to help make the village of Pomona and town of Wentworth sustainable;
- Additional ratepayers for Wentworth Shire;
- Lower cost of infrastructure provision to rural dwellings; and
- Create appealing lots, which will attract people to live in the Wentworth/Pomona area.

The Planning Proposal is broken into two sites, South Pomona and North Pomona, both adjacent to the existing rural residential community of Pomona. Dwelling approvals exist already for these sites so the effect of the Planning Proposal is to see rural dwellings currently allowed over an area of 4,997 ha consolidated into a much smaller area of 490 ha that is already being developed for purposes of rural dwellings.

The lots to be developed are a part of Grand Junction Station owned by Grand Junction Pty Ltd and are within the Wentworth Shire Local Government area.

Part 2 - Explanation of Provisions

Amend Wentworth Shire Local Environment Plan 2011 as follows:

- Insert RU4 Primary Production Small Lots Zone with Land Use Table as follows:

Zone RU4 Primary Production Small Lots

1 Objectives of zone

- To enable sustainable primary industry and other compatible land uses.

- To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.

- To minimise conflict between land uses within this zone and land uses within adjoining zones.

2 Permitted without consent

Environmental protection works; Extensive agriculture; Farm buildings; Home occupations; Intensive plant agriculture; Roads

3 Permitted with consent

Agriculture; Animal boarding or training establishments; Bed and breakfast accommodation; Boat building and repair facilities; Boat sheds; Building identification signs; Business identification signs; Camping grounds; Caravan parks; Cellar door premises; Cemeteries; Correctional centres; Crematoria; Depots; Dwelling houses; Environmental facilities; Farm stay accommodation; Flood mitigation works; Forestry; Heavy industrial storage establishments; Home-based child care; Home businesses; Home industries; Home occupations (sex services); Information and education facilities; Moorings; Plant nurseries; Recreation areas; Recreation facilities (major); Recreation facilities (outdoor); Research stations; Roadside stalls; Rural industries; Rural workers' dwellings; Storage premises; Water recreation structures; Water supply systems

4 Prohibited

Intensive livestock agriculture; Any other development not specified in item 2 or 3

- Zone Lot 2 DP134929, Lot 4 DP1015663, Lot 5 DP756964 and Lot 2 DP 1165816 to RU4.
- Amend Wentworth LEP 2011 Lot Size Map – Sheet LSZ_002 to make Lot 2 DP134929 and Lot 4 DP1015663 10ha and Lot 2 DP 1165816 and Lot 5 DP756964 5ha minimum lot sizes.
- Amend Cl4.2.B(4) by insertion of words "... or a development consent for the erection of a dwelling house on the land has been surrendered in accordance with the Act".

The RU4 Land Use Table has been copied from the Balranald LEP.

Both the South Pomona and North Pomona sites have Darling River frontage and adjoining bitumen road access as shown by the Location Map attached as Appendix A. There is an existing dwelling consent for each site and the South Pomona site also contains an existing house and agricultural infrastructure including a shearing shed and other sheds. The Pomona North lots adjoin the current Pomona Irrigation Trust Boundary.

Neither of the South Pomona or North Pomona sites are identified by the Wentworth LEP 2011 Flood Planning maps which are listed below and attached as Appendix G:

- Wentworth LEP 2011 Flood Planning Area Map River Front Building Line Map – Sheet CL1_002
- Wentworth LEP 2011 Flood Planning Area Map River Front Building Line Map – Sheet CL1_002C

Indeed in the 1956 Wentworth Flood the South Pomona site was used as a loading area for supplies into flood affected low areas of Pomona.

This amendment, in conjunction with the Wentworth Local Environmental Plan 2011, will make subdivision on the subject land into lots of minimum size of 5 to 10ha as per the proposed amended Lot Size Map attached as Appendix C with one rural dwelling on the subdivided lots permissible with consent. Pursuant to the Wentworth Local Environmental Plan 2011 any dwelling consents will need to comply with requirements for river setbacks, flood free access and effluent disposal imposed by the LEP to protect the environment.

Upon gazettal of the Planning Proposal Grand Junction Pty Ltd will surrender under S104A of the Act development Consents for dwellings upon the lots listed in Appendix H and provide a written undertaking to Council that it will withdraw or not make application for consents upon the lots listed in Appendix I. The effect of the Planning Proposal will be to reposition 49 dwellings that would otherwise be built over a much broader area. This is shown by Appendix E, Comparison of the Current Developable Area and the Planning Proposal Area.

If the Planning Proposal is approved it would have the effect of allowing the South Pomona and North Pomona lots to be subdivided into approximately 49 lots with potentially the same number of dwellings. Upon these existing four lots there are already two approved dwelling consents and one lot upon which Grand Junction intends to submit a development application for a rural dwelling if the Planning Proposal is not approved.

Part 3 - Justification

Section A – Need for the planning proposal

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

The planning proposal is not the result of a strategic study or report. The applicant has been seeking a change to the planning provisions to allow rural residential subdivision of this land for many years. The consolidation of Grand Junction rural dwellings into the South Pomona and North Pomona sites was first suggested to Wentworth Shire Council in 2004, nine years ago. At that time the Grand Junction rural dwellings were not approved but now Grand Junction has since obtained numerous approvals for rural dwellings and has rural dwelling development applications pending which follow the same precedent as the approved rural dwellings.

In the process of preparing the Wentworth Local Environmental Plan 2011 Council proposed the South Pomona site and surrounding land be included in the 10 ha lot size map along with land in Ellerslie and Darling View. After representations to the Minister by other landowners the Ellerslie and Darling View land was subsequently included in the 10 ha lot size map.

2. **Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

Yes the Planning Proposal is the best way to achieve the intended outcomes. The lots within the South Pomona and North Pomona sites are currently zoned RU1 under the Wentworth Local Environmental Plan 2011, which zoning supports rural & agricultural practices but does contain restrictions on rural dwellings. The RU4 zone is the most appropriate zone for lots of minimum size of 5 to 10 ha as it is intended to cater for small rural holdings.

Relinquishment of current Development Consents ensures that the same number of dwellings can be constructed in a more sustainable way with less clearing of native vegetation and lower infrastructure requirements.

3. **Is there a net community benefit?**

It is considered that there will be a net benefit to the community. The Planning Proposal will benefit the community through better management of an area of the Grand Junction property.

Use of the South Pomona and North Pomona land for non-intensive sheep grazing is less viable due to the increased frequently of dog attacks from the Pomona area and small paddock size. Use of the sites for small rural holdings will introduce up to $14,000,000 of investment in the district and bring in 49 families to the area, which is a better use of the land.

The economy of the Wentworth and Pomona area is under significant stress and this Planning Proposal will help the economy of the local area to be viable and support existing infrastructure provision such as roads and the Pomona School.

The Planning Proposal will:

- Afford the Wentworth/Pomona community a growth opportunity by providing for future residential development;
- enhance the viability of existing local businesses and support future local business opportunities;
- generate additional rates;
- improve viability of the Pomona School;
- improve the viability of the Pomona/Silver City Highway Roadhouse;
- reduce the cost of infrastructure/asset provision and maintenance, which would be much lower having dwellings in close proximity to each other rather than being dispersed. For example the provision of roads, waste collection, power, telecommunications and transport services would be much more economical with the proposed subdivisions than what is otherwise permitted.
- allow the proposed allotments and dwelling sites to be much more attractive and marketable making it easier to attract new families and residents to the area who will potentially contribute to the viability and growth of the local community and economy; and
- promote community and social interaction rather than isolation.

Section B – Relationship to strategic planning framework

4. **Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?**

   The regional strategy notes that rural residential development can lead to land use conflict and the applicant has experienced problems with dog attacks. Because the Planning Proposal clusters the dwellings close to existing rural residential development, it will not result in increased land use conflict with rural land to the west or south.

   The Planning Proposal is inconsistent with the action of the regional strategy "Rural residential development should only be undertaken on the basis of an agreed local government settlement strategy" since no endorsed strategy exists. This inconsistency is not considered significant due to the location of the land adjoining an existing rural residential area and the fact that no increase in approved dwellings is proposed.

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

   Yes

6. **Is the proposal consistent with applicable state environmental planning policies?**

   Consistency with applicable State Environmental Planning Policies is indicated in the following table:

State Environmental Planning Policy	**Consistency**
SEPP (Rural Lands) 2008	The SEPP specifies rural planning principles and rural subdivision principles to be considered under s.117 (see below). The SEPP (cl. 10) lists a number of matters which must be considered before consent is granted to a subdivision or a dwelling. These matters relate to other land uses in the vicinity and do not raise any inconsistencies because adjoining land is rural residential.

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

   Consistency with s.117 Directions is indicated in the following table.

s.117 Direction	**Consistency**
1.5 Rural Lands	This s.117 direction applies because the planning proposal will affect land within an existing rural zone. The planning proposal is generally **consistent** with the

	Rural Planning Principles of SEPP (Rural Lands) 2008: a) The current use of the land for grazing is neither productive nor economically sustainable; b) The proposal will have minimal impact on agriculture in the area c) The existing rural use of the land is of minor significance; d) The proposal will provide a good balance between the social, economic and environmental interests of the community e) The proposal avoids constrained areas and provides for the protection and ongoing management of land with important ecological values; f) The proposal provides additional rural lifestyle opportunities in a locality where this is already the predominant land use and where active rural residential communities are present; g) The proposal makes use of existing infrastructure and will have minimal demands for services because of its location; h) Consistency with the regional strategy is discussed above.
2.1 Environment Protection Zones	**Consistent** – the planning proposal includes provisions that facilitate the protection and conservation of the environmentally sensitive areas of the site.
2.3 Heritage Conservation	**Inconsistent** – The planning proposal does not contain specific conservation provisions. However there are no known heritage items affected by the proposal and any that did exist would be protected by existing planning instruments. The inconsistency is of minor significance.
2.4 Recreation Vehicle Areas	**Consistent** – the planning proposal will not enable the land to be developed for the purpose of a recreation vehicle area.
4.4 Planning for Bushfire Protection	**Consistent** - The subject land is not bushfire prone land.
5.1 Implementation of Regional Strategies	The Murray Regional Strategy is currently being drafted so compatibility cannot be assessed
6.1 Approval and Referral Requirements	**Consistent** – The planning proposal does not contain concurrence, consultation or referral provisions.
6.2 Reserving Land for Public Purpose	**Consistent** – the planning proposal does not create, alter or reduce existing zoning or reservations of land for public purposes.
6.3 Site Specific Provisions	**Consistent** – The planning proposal imposes additional requirements in accordance with the relevant clause of the principle LEP.

Section C - Environmental, Social and Economic Impacts

The Planning Proposal will minimise rural land fragmentation – as per **Rural Subdivision Principles** (SEPP Section 8)

The Planning Proposal will minimise clearing of farming land due to smaller lot size clearing restrictions.

Removal of woolshed and stock holding yards from riverfront land will reduce large amounts of stock effluent from directly entering the river system.

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

No for the detailed reasons below.

Native vegetation
The Planning Proposal will reduce the amount of native vegetation cleared for the dwellings. The great majority of approved dwellings are on lots of over 40ha, which, pursuant to the Native Vegetation Act, allows clearing of up to 5ha per dwelling in the Western Division. The Planning Proposal would allow creation of lots under 40 ha with clearing entitlement for each lot required to be kept to the minimum required. In addition much of the South Pomona site has been previously cleared of native vegetation for rural infrastructure and irrigation as it has been used for these purposes for over one hundred years.

Threatened Species
No threatened species sightings have been recorded at the South and North Pomona sites and neither site is listed as a critical habitat. In addition no change of activity is proposed for the land, it will remain rural. The land is currently grazed with motor-bike, dog and vehicle access. The land has been grazed since 1844 and historic grazing by sheep and access by sheep dogs would have rendered land unsuitable for ground nesting birds. This suggests there will be no impacts on critical habitats or threatened species.

Riverine corridor
The vegetation corridor along the Darling River will not be affected by the planning proposal. The Wentworth LEP 2011 protects the riverine corridor by prohibiting dwelling development within 40 metres from the river and restrictions upon any development close to the river. Any dwellings to be constructed will need to comply with these prohibitions and restrictions. At present extensive sheep handling infrastructure including sheep yards are contained in the riverine corridor. If the Planning Proposal is approved the effluent load on the river will be very significantly reduced.

Flood liable land
As indicated earlier the sites contain land that suitable for dwelling envelopes that is outside the Shire's Flood Planning Area. Indicative access roads are located well above the 1/20 flood heights the Shire requires for access roads. Dwellings will need to be located well away from floodways in accordance with the Wentworth LEP 2011.

Cultural heritage
Excluding the riverine corridor there is no indication of items of cultural heritage in the South and North Pomona sites. Older red gum or black box trees, which may contain cultural markings, will not be altered in any way.

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

Any particular site specific constraints associated with the development of dwellings allowed by the rezoning would be addressed at the Development Application stage, when Council would consider Section 79C of the Environmental Planning and Assessment Act 1979.

Generally the sites are able to provide for future residential development without any adverse environmental impact subject to provision of effluent disposal reports to demonstrate that there will be no adverse impacts on surface or ground water. The use of 'Aerated Waste Water Treatment Systems' allows for recycling and reuse of water in a responsible and healthy manner.

The Planning Proposal consolidates the area to be developed from an area of 4,997 hectares to an area of 490 hectares, just 10% of the current developable area. Further the area of waterfront that can be developed under the Planning Proposal is reduced by 7.7 km. Given the 490 hectares to be developed is already in use and has approvals for housing, the net effect of the Planning Proposal is a significant reduction in environmental impacts.

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

The proposal is likely to generate significant positive social and economic effects by making social and infrastructure services to the Pomona community more viable. Future residents would become part of the existing Pomona rural residential community. It is likely that school enrolments at the Pomona Primary School will increase and this will ensure the viability of that School.

The provision of large rural residential lots will offer an "in demand" rural lifestyle opportunity through wider housing choice. It will enhance existing and local business opportunity within the community.

The cost of infrastructure/asset provision and maintenance would be much less having dwellings in close proximity to each other rather than being

dispersed. For example the provision of roads, waste collection, power, telecommunications and transport services would be much more economical with the proposed subdivisions than what is otherwise permitted.

The proposed allotments and dwelling sites would be much more attractive and marketable making it easier to attract new families and residents to the area who will potentially contribute to the viability and growth of the local community and economy. The proposal would promote community and social interaction rather than isolation.

Section D – State and Commonwealth interests

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

Yes. The subject land adjoins an existing rural residential area with adequate public infrastructure including telecom and power lines. The bitumen Low Darling/Pomona Road is adjacent to the South Pomona and North Pomona sites. It is intended to minimize access points to the Low Darling/Pomona Road to accord with RTA policy.

Grand Junction already has two approved water pumping stations and irrigation approvals and licenses which can be used to provided water to subdivided lots as Private Irrigation Districts.

Pomona School and the High School Bus service the area. Wentworth Shire operates garbage collection services in the area. It is believed that the Proposal will make provision of existing infrastructure in the area more viable.

12. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

The NSW Department of Environment and Climate Change (DECC) has previously suggested a reorganization of dwelling entitlements on Grand Junction would be preferential to scattered development. DECC has not yet been provided with the Planning Proposal.

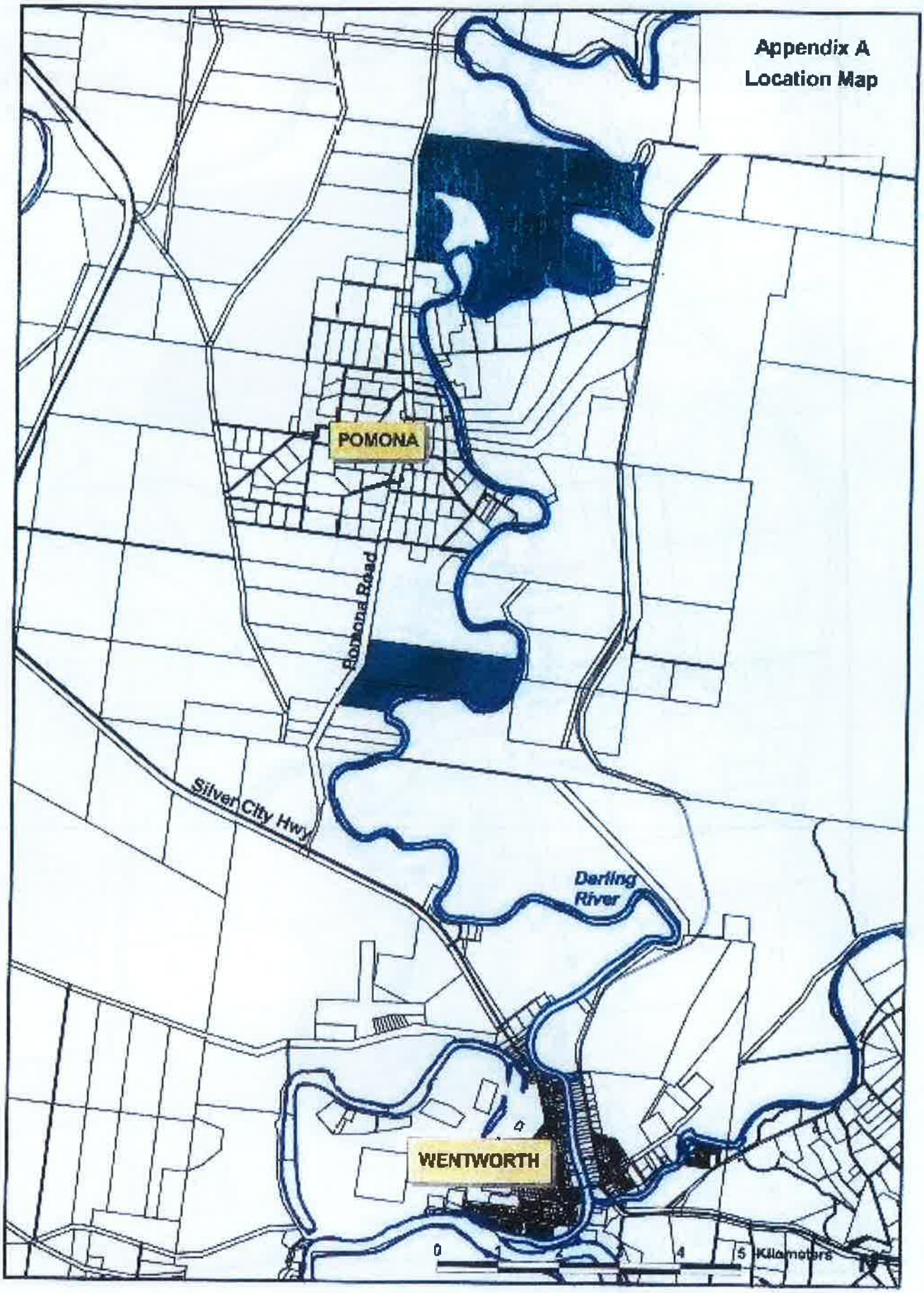
The Department of Primary Industries has a policy of advocating against fragmentation of rural land. The Planning Proposal significantly reduces the fragmentation of rural land. The Department of Primary Industries has not yet been provided with the Planning Proposal.

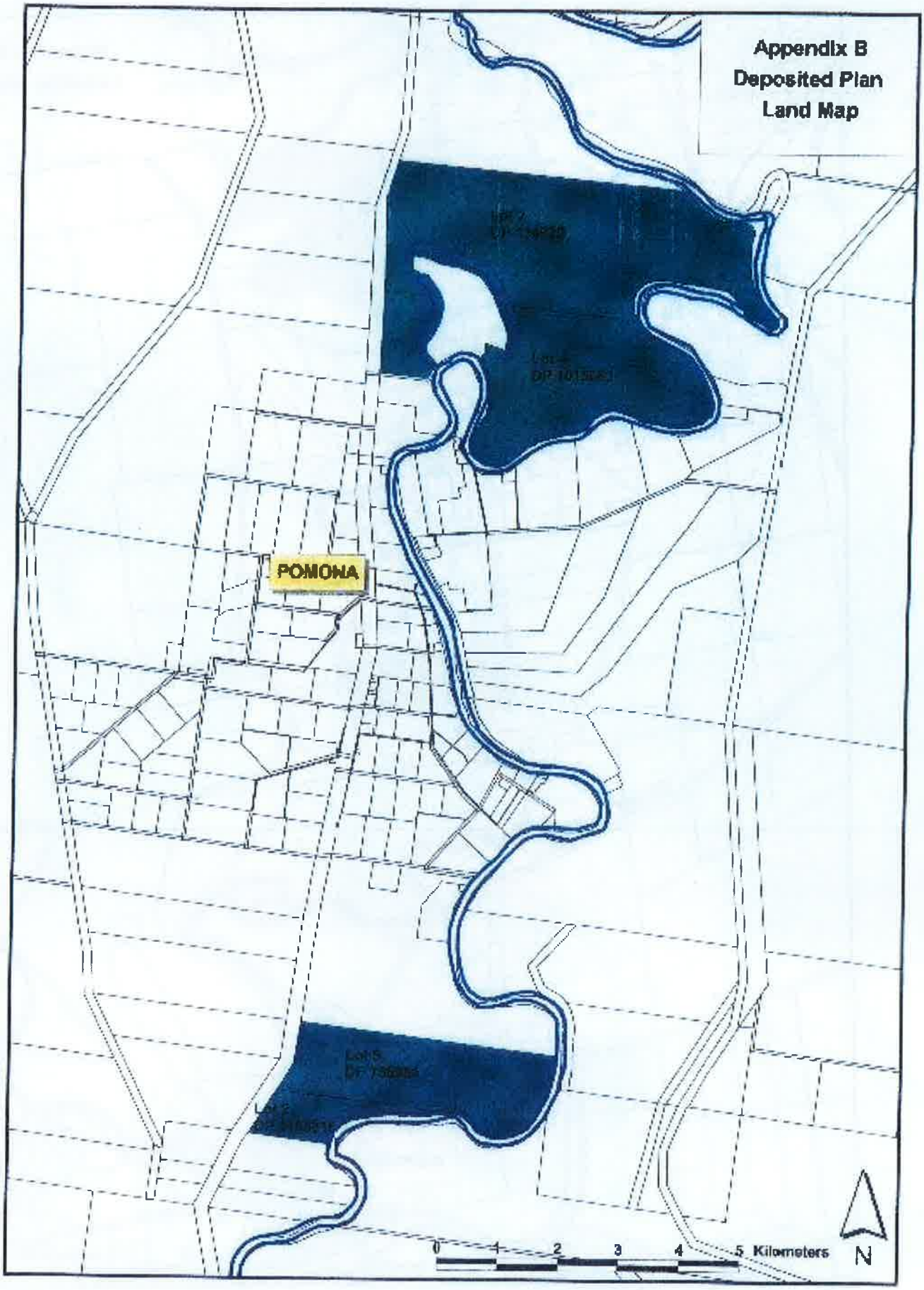
Part 4 – Community Consultation

Community consultation is proposed in accordance with Section 57 of the Environmental Planning and Assessment Act 1979.

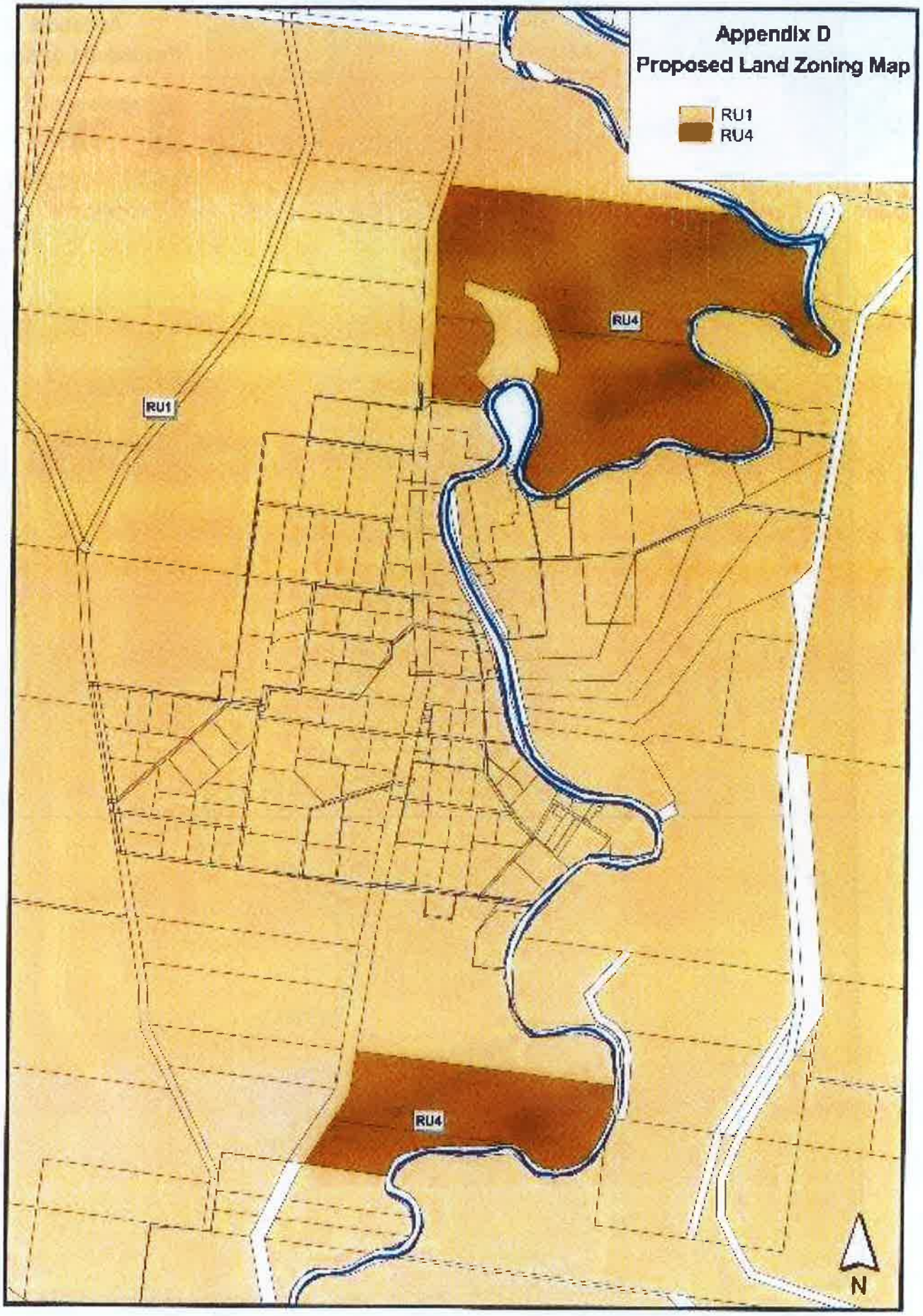
A 28 day consultation period is considered appropriate as recognized within 'A Guide to Preparing Local Environmental Plans' prepared by the Department of Planning dated 2009.

Notification can be conducted by signage on site, local press notices and information on Wentworth Shire Council's website.


Appendix A
Location Map
POMONA
Pomona Road
Silver City Hwy
Darling River
WENTWORTH
0
4
5 Kilometers


Appendix B
Deposited Plan
Land Map
POMONA
0 1 2 3 4 5 Kilometers
N

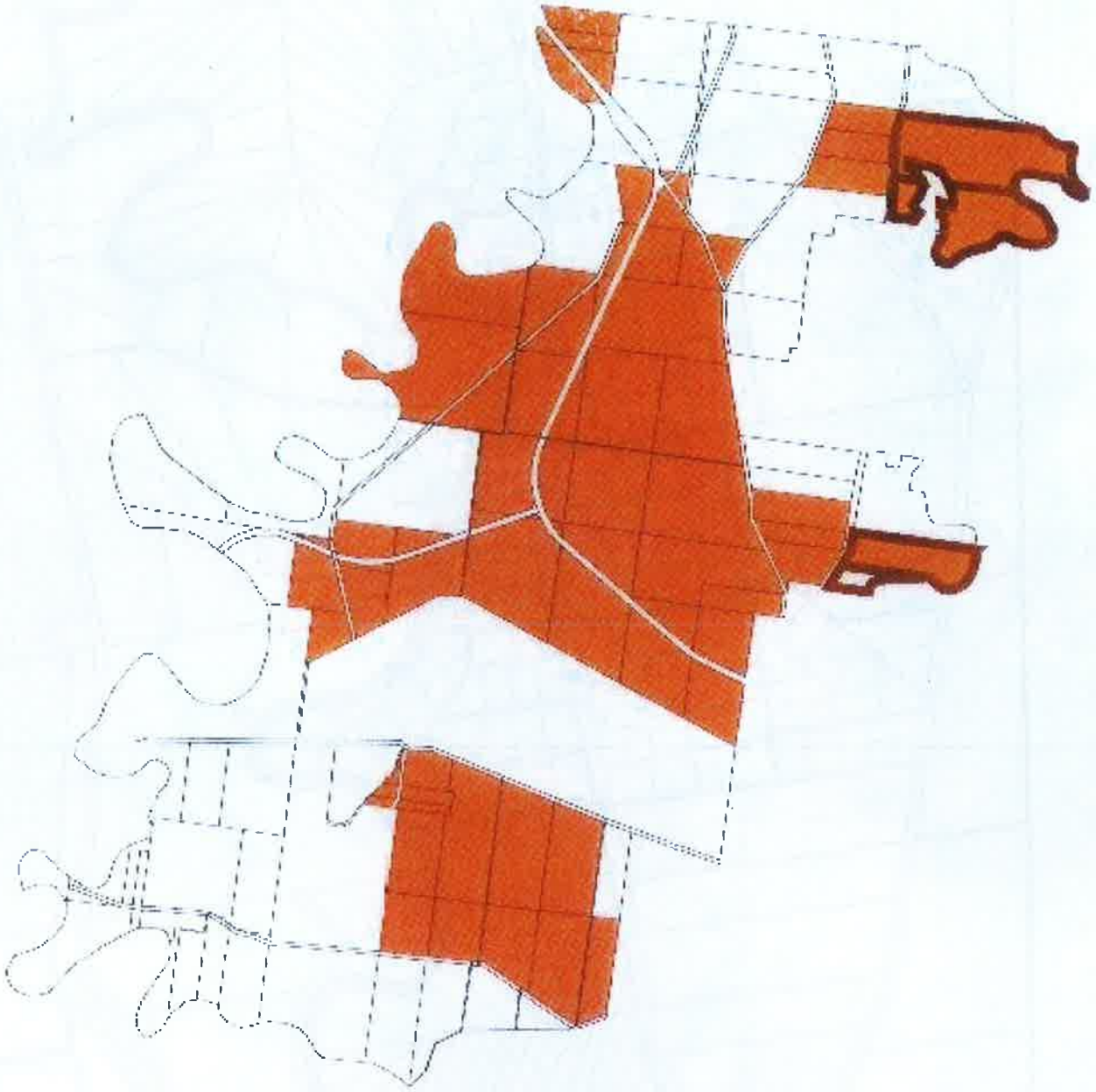
Appendix C
Proposed Lot Size Map
10,000 ha
10 ha
5 ha
N


Appendix D
Proposed Land Zoning Map
RU1
RU4
RU4
RU1
RU4
N

Appendix E
Comparison of Current Developable Area and Planning Proposal Area

Current Developable Area 4997ha with circa 18.7 km waterfront

Planning Proposal Area to be developed 490ha with circa 11km waterfront



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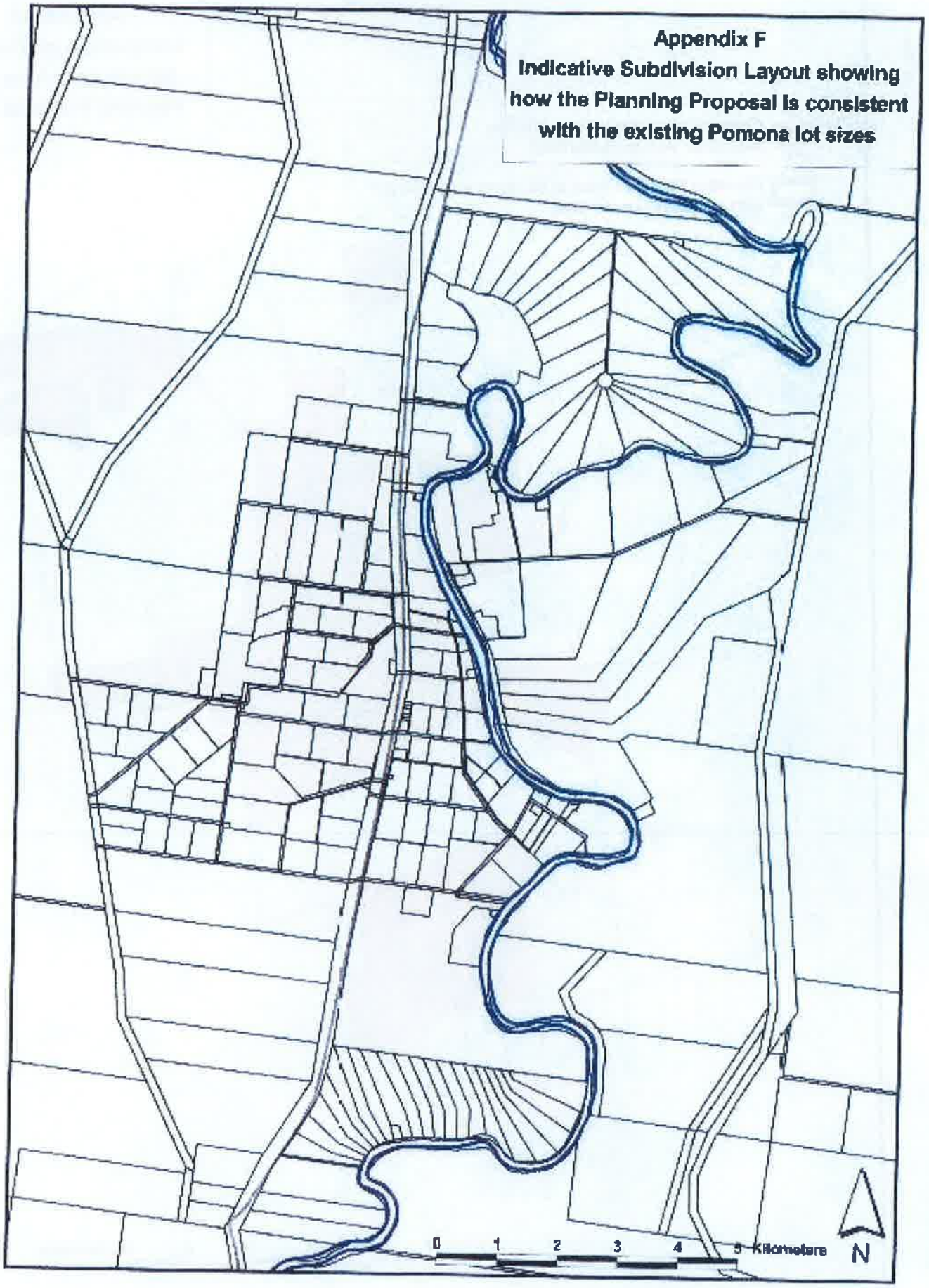
Appendix F
Indicative Subdivision Layout showing how the Planning Proposal is consistent with the existing Pomona lot sizes



Wentworth Local Environmental Plan 2011

Flood Planning Area Map
River Front Building Line Map
Sheet CL1_002

Flood Planning

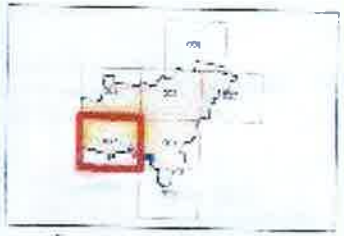
Flood Planning Area

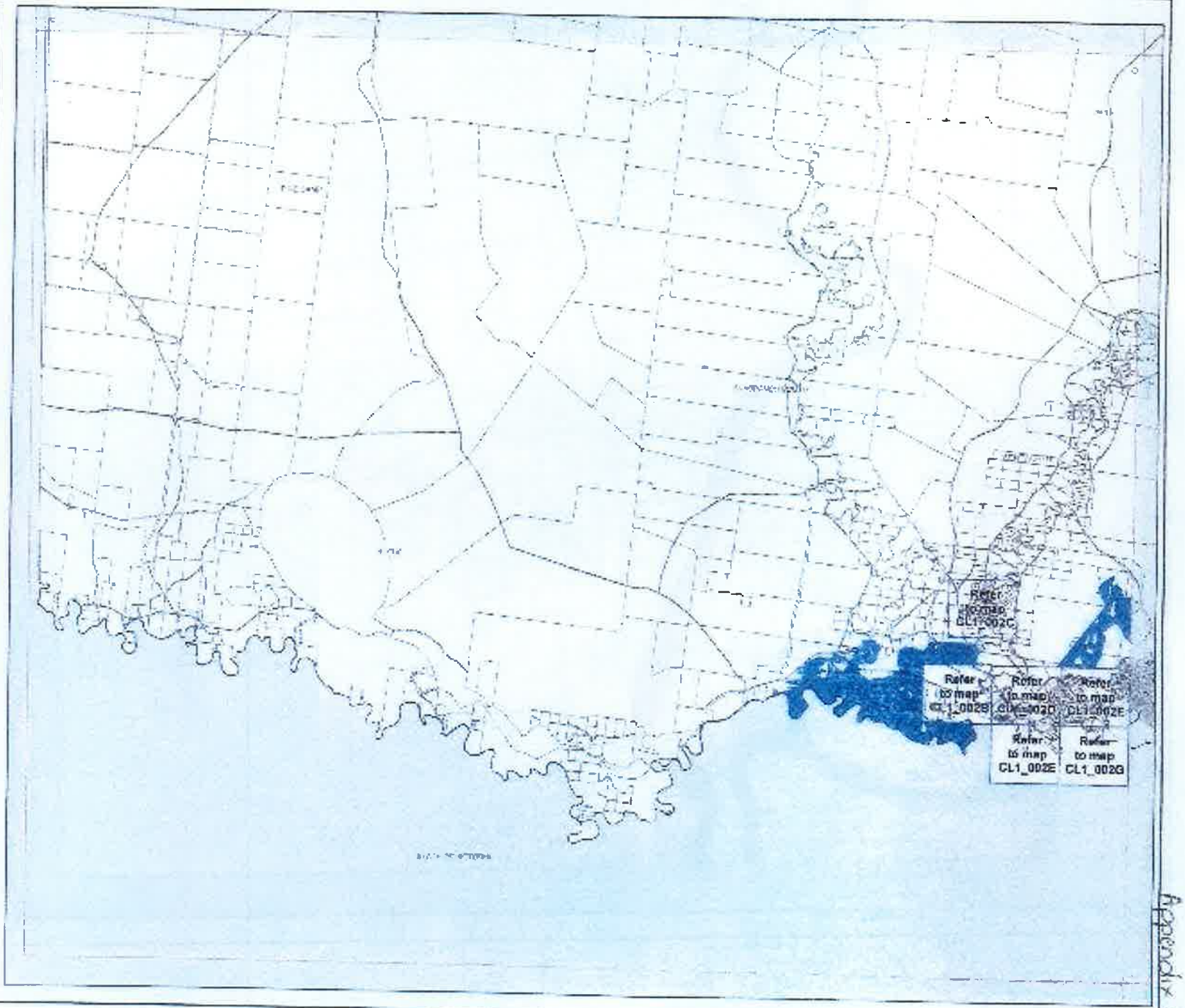
River Front Building Line

River Front Building Line (Boundary)

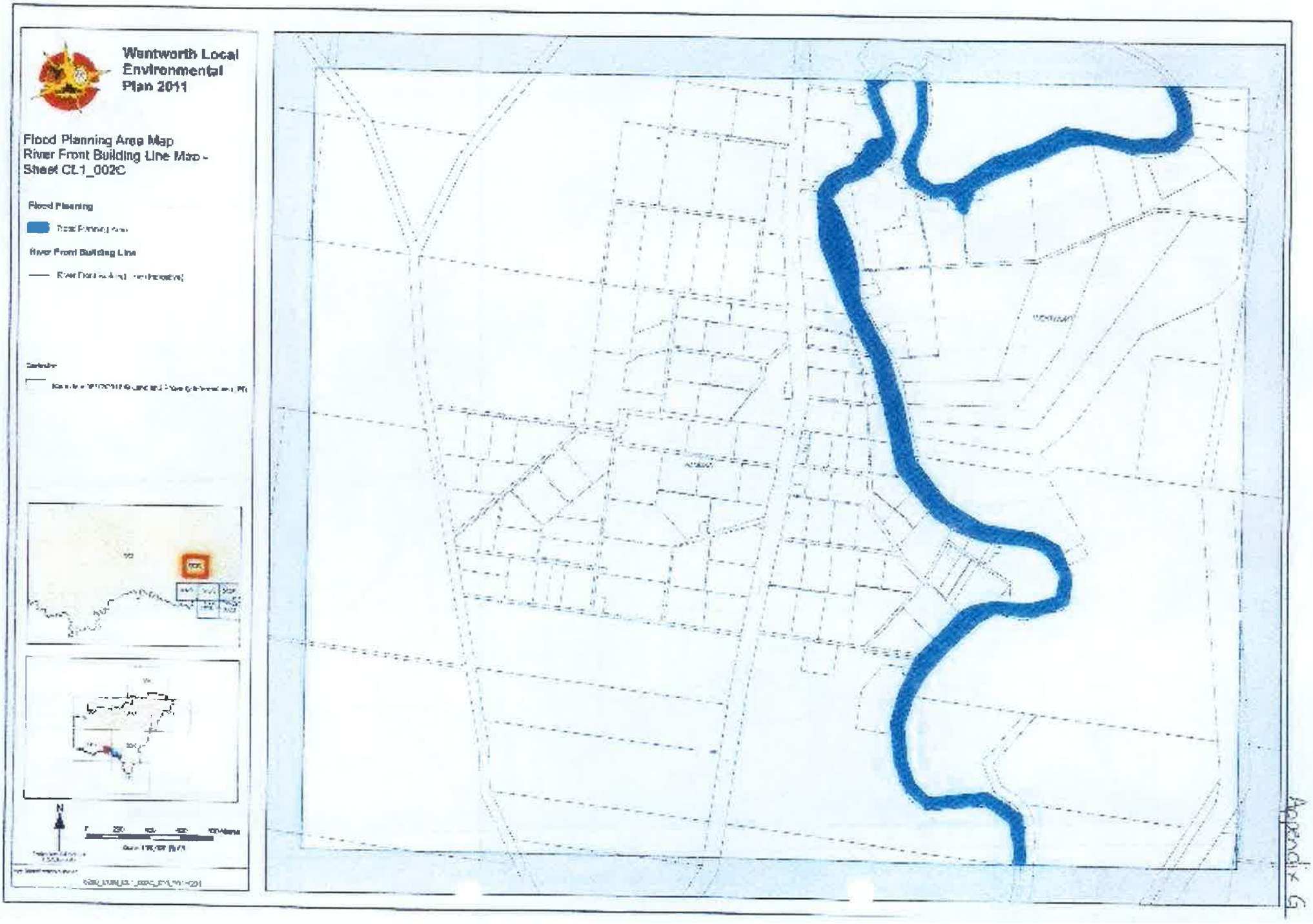
Cadastre

Cadastre 25/10/2013 © Land and Property Information (LPI)





Appendix C


Wentworth Local Environmental Plan 2011
Flood Planning Area Map
River Front Building Line Map -
Sheet CL1_002C
Flood Planning
River Front Building Line
Appendix 5

Appendix H

List of Lots where dwelling consents will be surrendered under S104A of the Act

LOT	DP	AREA_HA
30	756926	27
88	756964	36
27	756926	37
94	756964	38
68	756926	41
93	756964	51
43	756964	56
70	756926	58
31	756926	58
87	756964	60
62	756964	64
49	756964	65
82	756964	66
83	756964	69
86	756964	73
45	756926	74
77	756964	84
81	756964	92
5	756964	101
78	756964	113
32	756964	119
85	756964	120
75	756964	121
84	756964	140
76	756964	143
38	756964	144
26	756964	167
34	756964	168
33	756964	170
35	756964	190
31	756964	201
2	134929	217
40	756964	223
27	756964	265

Appendix I

List of Lots where landowner will provide a written undertaking to Council that it will withdraw or not make application for consents

LOT	DP	AREA_HA
46	756964	4
17	756964	16
74	756964	23
79	756964	38
55	756964	42
69	756926	45
10	735559	52
9	735559	67
42	756964	107
39	756964	140
4	1015663	146
45	756964	150
80	756964	151
37	756964	163
41	756964	202

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Appendix J

THREATENED SPECIES ASSESSMENT

Lot 2 DP134929, Lot 4 DP1015663, Lot 5 DP756964 and Lot 2 DP1165816

Prepared by Kathryn Baird, Bachelor Environmental Management
Planning & Environment Manager, Grand Junction Pty Ltd

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IS THE LAND PART OF A CRITICAL HABITAT?

Critical habitat in NSW is listed at:
http://www.environment.nsw.gov.au/criticalhabitat/CriticalHabitatProtectionByDoctype.htm
and clearly does not include the subject lot.

In fact there is no critical habitat listed in all of Wentworth Shire.

IS THE DEVELOPMENT "LIKELY TO SIGNIFICANTLY AFFECT A THREATENED SPECIES, POPULATION, OR ECOLOGICAL COMMUNITY, OR ITS HABITAT"?

WHAT THREATENED SPECIES SIGHTINGS HAVE BEEN RECORDED IN THE STUDY AREA?

The Study Area, areas affected by the proposal directly or indirectly, comprises the site of the development and that land within 100 metres of the rural dwelling site. According to the attached Australian Bioregions Map, it is located within the Murray Scroll Belt Subregion.

Threatened species relevant are listed on the Threatened Species website and sightings recorded on the NSW Government's BIONET website.

BIONET shows no threatened species sightings are recorded for the lot or for the Study Area.

While outside the Study Area, there have been some Threatened Species sightings in the Wentworth area and Murray Scroll Belt Subregion that are worthy of consideration. These are:

- a single sighting of the Freckled Duck (*Stictonetta naevosa*) in the Six Mile Creek area. These ducks live on waterways so no dwelling can be located in their habitat.
- a single sighting of the Blue-billed Duck (*Oxyura australis*) in the Six Mile Creek area. These ducks live on waterways so no dwelling can be located in their habitat.
- a single sighting of the Redthroat (*Pyrrholaemus brunneus*), a ground nesting bird, near the Wentworth township.

The Study Area is located approximately 12 kilometres from the duck siting area and 6km from the Wentworth Redthroat sighting location. Both sightings are well away from the Study Area.

NATURE OF THE DEVELOPMENT

As the Planning Proposal involves a consolidation of existing dwelling rights and less vegetation is entitled to be cleared, there will not be a significant affect on threatened species.

In addition no change of activity is proposed for the land, it will remain rural. The land is currently grazed with motor-bike, dog and vehicle access. The land has been grazed since 1844 and historic grazing by sheep and access by sheep dogs would have rendered land unsuitable for ground nesting birds.

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The only clearing to be undertaken will be for any house, access road and associated infrastructure. Such clearing is exempt from requiring consent pursuant to the Native Vegetation Act. As the Study Area is already cleared for housing and developed for agricultural purposes the effect of the Planning Proposal is to significantly reduce the amount of land developed.

STUDY AREA INSPECTION

An inspection of the Study Area shows that the vegetation is predominantly chenopod shrubland with River Red Gum and Black Box communities immediately adjacent to the River. No ground nesting bird nests suitable for Redthroat are located at or adjacent to the proposed development site.

There is no evidence of Threatened Species on the site of the development or within the Study Area.

CONCLUSION

I respectfully suggest it is very clear that the proposed development:

- Is not within a critical habitat
- Will not significantly affect a threatened species

Consequently I submit that the development does not trigger the requirements under Section 79B of the Environmental Planning and Assessment Act or require further review based on Threatened Species issues.

Neilpo

Neilpo Pastoral Company Pty Ltd
ACN 073 946 157

1.0 Neilpo History

Neilpo is quite different to other large landholdings in the Wentworth Shire in that it comprises:

- 81 freehold titles located adjacent to Wentworth and Pomona townships
- three river frontages: Murray River 13 km, Darling River 10km and Great Darling Anabranch 33km
- Darling frontage which includes the river bends immediately South and North of Pomona
- Boxer's Island on the Murray which includes the Murray's Junction with the Anabranch

In addition Neilpo was subdivided in the 1800's as follows:

1. The lots were created in or around 1879, approximately 114 years prior to the Wentworth Local Environment Plan (LEP)
2. The lots were created under the 1861 Robertson Land Act which had the objective of encouraging rural residential settlement
3. Two categories of lots were created under 1861 Act:

❖ public auction lots (in respect of these lots auctions were held at the Wentworth Police Station)

❖ lots purchased by previous lessee on account of improvements made to the property

4. Both categories of lots comprise the 81 freehold lots
5. Copies of the Government Gazette from 1879 show the auction of the lots in the Parish of Neilpo and Avoca.
6. A requirement under some land allotments under the 1861 Act was that the Purchaser live on the land. In addition there were no approvals required for a dwelling in 1879.
7. The property pre-dated creation of the Western Division.
8. The Auction Sales were advertised as being of "Country Lots" as was common throughout NSW outside of Sydney. It is Neilpo's belief that they would have been intended as small farms and expected to contain a rural dwelling.
9. Neilpo is aware of a minimum of five lots that have had rural dwellings on them since 1850. There is only one allotment with a house at present. A number of other different operations have existed on lots including a Dairy, Tomato Sauce Factory and Boiling Down Works – all under differing ownership.
10. As shown by the original Parish Plan and Plan of Sub-division, there were 11 different owners initially of the lots.
11. There are no other properties in the Wentworth Shire with this propensity of freehold lots. This is no accident, the reason is that the lots are right outside the town of Wentworth and were created for the growth of Wentworth. Most other large holdings in the District are

Western Lands Lease which were never converted to freehold as they were only ever intended for grazing.

Neilpo is currently obtaining legal advice confirming it has the right to build a dwelling on the existing lots pursuant to Clause 16(3) of the Wentworth LEP. Under Cl 16(3) Council may approve a dwelling on a lot that was created for the purposes of a rural dwelling prior to the date of the LEP (1993). It is Neilpo's view that a dwelling can be built on all of these titles without any rezoning.

2.0 Development Objectives

2.1 OBJECTIVES OF NEILPO

Neilpo wishes to state and show by its actions that it has a long-term commitment to investing sustainably in the Wentworth Shire. Neilpo intends to re-invest the bulk of any profits it makes from Neilpo back into the Wentworth Shire. In addition Neilpo seeks to attract additional development to the Wentworth Shire utilising its contacts in the major capital cities of Australia.

Neilpo believes environmentally responsible residential riverfront development of the extensive river frontages in the Wentworth Shire is clearly the "number one" opportunity for the economic development of the Wentworth Shire.

2.2 MASTERPLAN FOR POMONA

As the owner of all the freehold land surrounding Pomona, Neilpo sees mutual benefit to it, existing Pomona residents and the Wentworth Shire through production of a Masterplan for Pomona. Neilpo understands Wentworth Shire is already undertaking Masterplans for areas within the Shire and seeks to work within existing Wentworth Shire frameworks.

In Neilpo's opinion such a Masterplan would include:

- new and improved signage visible from the Silver City Highway
- landscaping of the land along the Low Darling Rd through to Stud Bend
- new recreational facilities for residents – possibly on Neilpo land

Neilpo would be prepared in principle to provide substantial funding to assist in the preparation and implementation of the Masterplan. Neilpo has also discussed the funding of the landscaping of the Low Darling Road with another Pomona landholder and believes it could be substantially funded privately. Neilpo would seek to co-operate with Council's Parks & Gardens Department and Pomona residents to execute such Projects.

2.3 BOUNDARY RE-ALIGNMENT OF EXISTING LOTS

Neilpo seeks Council support to re-align the existing boundaries of its existing subdivision to produce a preferable subdivivision from an environmental, planning and economic viewpoint.

Rather than the existing subdivision where lots are spread fairly evenly over the entire property Neilpo seeks to:

- readjust the position of 51 freehold lots located between the Darling River, Anabranch and the Renmark Road (at the south) to produce two large lots and 49 lots of 25-35 acres with frontage to the Darling and/or Anabranch
- readjust the position of 30 freehold lots located between the Murray River and the Renmark Road to produce one large lot and 29 lots of 25-35 acres with frontage to the Murray
- substantially confine development to the area around Pomona and a small area on the Murray on and near to Boxer's Island and create a number of large lots similar to the pastoral lots in other parts of the Wentworth Shire

While the circumstances of Neilpo are unique for historical reasons, the proposal is not radical as no new rezoning or subdivision occurs and there are already substantial lot frontages to the Murray, Anabranch and Darling.

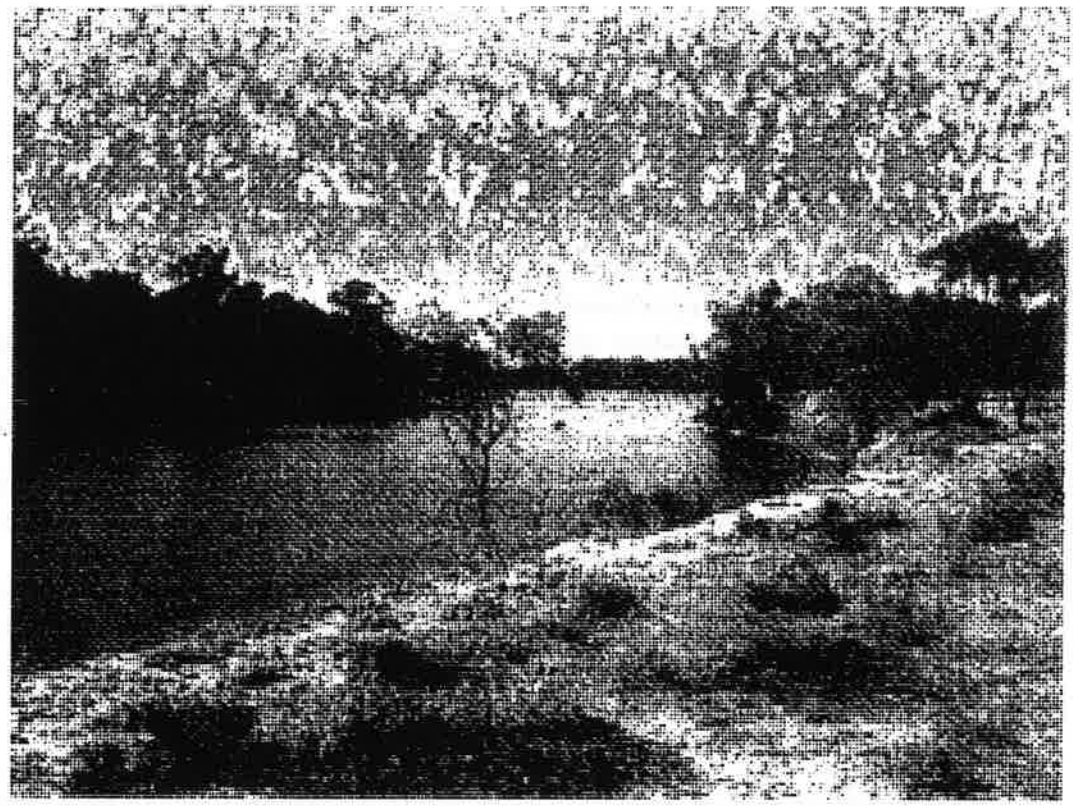
2.4 CONFIRM DWELLING RIGHTS ENTITLEMENT FOR EXISTING FREEHOLD LOTS

Neilpo seeks Council's confirmation that the 81 freehold lots comprising Neilpo have dwelling rights under the Wentworth LEP.

2.5 INVESTIGATE IF LOTS WERE ZONED CORRECTLY IN 1993

As a separate matter Neilpo believes the Lots may have been incorrectly zoned in 1993 and given their history they should have been Zoned Rural Residential 1C rather than Rural 1A.

Neilpo seeks to jointly investigate with Council whether the lots were incorrectly zoned Rural 1A in 1993 when they should have been zoned Rural Residential 1C.



3.0 Other Issues

3.1 Public Recreation Reserve #97997 – Perry Sand Hills

Neilpo has been advised by DIPNR that the boundary fence between its land and the Perry Sand Hills Public Recreation Reserve has not been fenced upon the exact boundary and that a fence on the actual boundary would be likely to be flood impacted and require regular replacement.

DIPNR suggested to Neilpo that it should seek to lease the land within the Reserve on the Neilpo side of the existing fence.

Neilpo seeks to resolve this matter with Council to mutual satisfaction.

3.2 Fencing of Roads to remove Stock Grids

Neilpo would like to fence its lands on both sides of the Low Darling, High Darling and Renmark Roads to allow removal of stock grids and reduce risks to both stock and vehicles from collisions. As the road frontage would approximate 30 kilometres as a stand-alone measure the cost is not economically justifiable at present.

Neilpo seeks to resolve this matter with Council to mutual satisfaction.

GrandJunction

PLANNING PROPOSAL AT SOUTH AND NORTH POMONA

- We are one of the largest land owners close to the shires towns – we do not seek any special treatment, but would like to point out our substantial capacity to contribute to the shires growth if we have the support of Council.

- The core of this proposal was put to Council in 2004, nine years ago. We recognize alot has changed since then, we now have dwelling approvals and a new LEP to work with.

- We chose not to sell off lots individually so we could create a clean, long term approach, to make our projects sustainable.

- The Planning Proposal proposes to consolidate 49 dwelling entitlements covering an area of circa 4,997 ha of the Grand Junction property into an area of circa 490 ha which will be zoned RU4 Primary Production Small Lots. See attachment E.

- There is NO net increase in lots

- Relinquishment of existing development consents and applications ensures no more dwellings are created as a result of the Planning Proposal. See attachments H & I.

- No new dwelling entitlements are created so there is minimal impact on the Shire's Strategic Planning.

- The Proposal ensures rural fragmentation is lowered and also reduces the requirements for infrastructure and native vegetation clearing.

- The Wentworth and Pomona communities would benefit from the potential economic development of these 49 lots.

- The Planning Proposal is outside the Wentworth LEP Flood Planning Area. Appendix G – 2 plans.

- Indicative Subdivision Layout showing how the Planning Proposal is consistent with the existing Pomona lot sizes. Appendix F

- The Planning Proposal will create 49 additional ratepayers for Wentworth Shire;

- We acknowledge the Wentworth Council has successfully put through a number of planning proposals and recommended others for approval. We ask to be considered the same as these other land owners who have submitted planning proposals with Councils support.

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Mr Ken Ross
Director of Planning
Wentworth Shire Council
PO Box 81
WENTWORTH NSW 2648

PLANNING PROPOSAL AT SOUTH AND NORTH POMONA

Ken,

Thank you for meeting with me today along with Warrick Fisher. I am however concerned about the prospect of postponing consideration of our Planning Proposal until completion of the WSC Rural Landuse Study.

There were two requests from the last PLC meeting; the first was for Grand Junction to further consider which zone would best suit our needs and explain to PLC how the lots would be allowed a dwelling house within the chosen zone. Secondly to provide land elevation for both sites to ensure high ground is available for dwelling houses.

Since the last PLC meeting I have provided a letter to the PLC outlining the appropriate zone and options for amending the LEP to allow dwelling houses using minimum lot size. I have also met with you twice to discuss the zoning and request Councils advice on suitable zoning. Both the Dubbo LEP and the Balranald LEP use the RU4 zone and allow dwelling houses providing minimum lot size is met.

I have also today provided 2 x A3 plans with land elevation contours showing the lay of the land for both sites. So all requested information has been supplied.

Warrick's suggestion to consider our Planning Proposal within the Rural Landuse Study will see our Proposal further delayed, with no end in sight. The Rural Landuse Study could potentially take years to complete. No other planning proposals have been subject to such delays and I don't believe we should be treated any differently.

We are not seeking to create more Dwelling Approvals (as we propose to relinquish the Dwelling Approvals we already have). We ask for Council to not delay any longer and give consideration to the information you requested at the next PLC meeting. We can then move forward with our project in the New Year.

Yours sincerely,

Kathryn Baird
Planning and Environment Manager
cc. Mayor McKinnon, GM Peter Kozlowski, Cr Cohrs, Cr Wakefield, Warrick Fisher

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8 November 2013

Mr Ken Ross
Director of Planning
Wentworth Shire Council
PO Box 81
WENTWORTH NSW 2648

PLANNING PROPOSAL AT SOUTH AND NORTH POMONA

DETERMINING ELEVATIONS

We will happily take up Council's suggestion to have a surveyor obtain elevations around the two sites and provide this information to Council.

The Pomona area contains a number of very accurate markings of the 1956 flood height which includes specific markings at the South Pomona site.

SUITABLE ZONE FOR PROPOSED PLANNING PROPOSAL

In choosing the appropriate Zone it is necessary to consider the Land Use Table of Prohibited and Permitted land uses for relevant zones.

RU4 Zone has been chosen as it best reflects the proposal for small rural holdings. The RU4 Land Use Table in the Balranald LEP has been used as a template as suggested by you. The Land Use Table reflects what is appropriate for small rural holdings. Given dwellings are Permitted with Consent by the RU4 Land Use Table then dwellings will be permitted on lots that are of the minimum lot size. RU4 is a zone ideally suited to the inner areas of Wentworth Shire and provides opportunities for the Shire and other landholders.

The RU1 Zone is unsuitable given restrictions on dwellings contained in 4.2B and 4.2D of the Wentworth LEP 2011. <u>These restrictions apply to dwellings in the RU1 Zone and will not apply to the RU4 Zone</u>. The RU1 Zone also has many Permitted with Consent land uses which would not be appropriate in a small rural holdings area eg. Air transport facilities; Cemeteries; Heavy industrial storage establishments; Home occupations (sex services); Industrial training facilities; Offensive industries; Open cut mining; Sewerage systems.

The R5 Large Lot Residential Zone is prima facie a logical suggestion but it is arguably unsuitable given a range Permitted with Consent land uses which would not be appropriate in a small rural holdings area eg. Food and drink premises and Neighbourhood shops. The intent is to create an area of small rural holdings that will support the existing infrastructure of Pomona and Wentworth.

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While both RU1 and R5 could be "stretched" and "modified" so that they are suitable for the Planning Proposal the inclusion of a new RU4 Zone is a less messy and more elegant solution. The RU1 Zone is intended for larger landholdings, R5 for smaller holdings and the RU4 Zone for lot sizes in the middle.

Further, we obtained specialist town planning advice from Mat Pringle (then of RHM Consulting Engineers Pty Ltd) that RU4 was the most appropriate Zone. Mat has been Director of Planning at Muswellbrook Shire Council and he now has that same role at the Upper Hunter Shire Council.

Please advise if there is any further information you require in relation to this Planning Proposal. Thank you for the opportunity to present to the Planning Committee Meeting, we would appreciate your recommendations being put forward at the November Council meeting.

Yours sincerely

Kathryn Baird

Planning and Environment Manager

cc. Mayor McKinnon, GM Peter Kozlowski, Cr Cohrs, Cr Wakefield

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