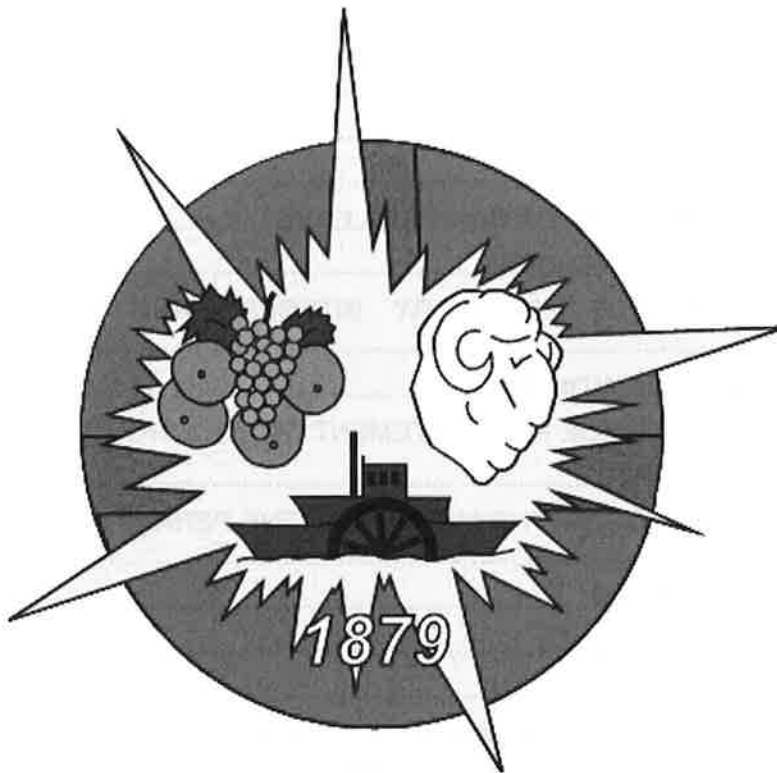




WENTWORTH SHIRE COUNCIL

MINUTES

ORDINARY MONTHLY COUNCIL MEETING

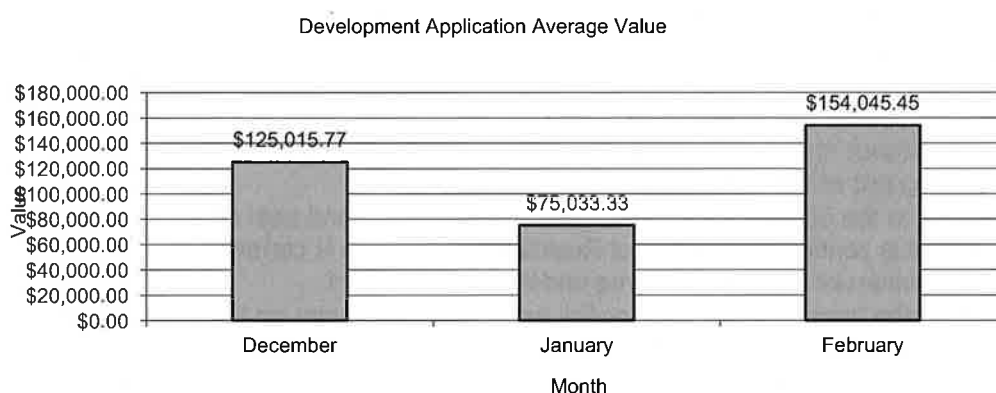
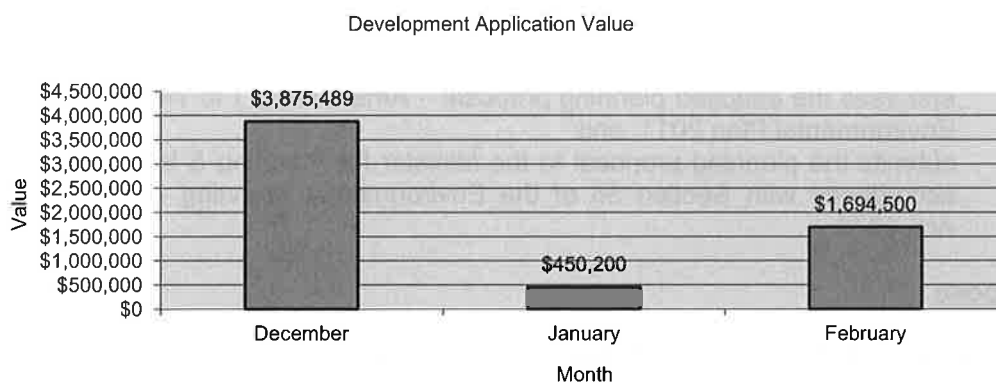
COMMENCING 9.00AM

AT THE DARETON SENIOR CITIZENS ROOMS, DARETON

WEDNESDAY 21 MARCH 2012

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Moved Councillor Hederics and seconded Councillor Wakefield that

CARRIED

In accordance with Section 375A of the Local Government Act the Mayor called for a division.

For the motion: **Councillors Wheeldon, Clarke, King, Brook, Wakefield, Hederics and Thomson**

Against the motion: **Nil**

At 11.29am Councillor Wheeldon declared a conflict of interest in item 12.8.2 and vacated the meeting room.

12.8.2 Planning Proposal – Amendment 1 Wentworth Local Environmental Plan 2011

Responsible Officer: Director Sustainable Development
 Author: Manager Health & Development
 Implications: Policy
 File: L1/42-3
 Attachments: Wentworth LEP 2011 Amendment No. 1
 Separately Circ.: Maps
 Tabled: Nil

Recommendation

That Council:

1. endorses the attached planning proposal – Amendment 1 to Wentworth Local Environmental Plan 2011; and
2. submits the planning proposal to the Minister for Planning & Infrastructure in accordance with Section 56 of the Environmental Planning & Assessment Act, 1979.

Purpose

The purpose of this report is to have Council endorse the planning proposal to amend the Wentworth LEP 2011 to:

- include in the 10ha minimum lot size maps land that is land that currently or has historically been planted to horticulture within historic irrigation districts / settlements at Ellerslie, Darling View and Curlwaa;
- provide an additional sub-clause in Clause 4.2D to provide for construction of dwellings on former rural lots without the need for the land to be used or intended to be used for the purpose of intensive plant agriculture or extensive agriculture and without the need for the dwelling house being required to support the carrying out of any such purpose;
- include in the 5000m² minimum lot size mapped area land east of the township of Gol Gol that is zoned R5 – Large Lot Residential and which is currently included in 10,000 Ha minimum lot size mapped area under the WLEP 2011;
- rezone the land used for the Gol Gol water treatment plant on Lot 1 DP 829902 from R5 – Large Lot residential to SP2 – Infrastructure;
- correct the description of the land in respect to Cal Lal Post Office identified as Local heritage item I9 in the WLEP from Lot 17, DP 756151 to Lot 25, DP 756151;
- correct the description of the land in respect to Cal Lal Police Station, Courthouse identified as Local heritage item I10 in the WLEP from Lot 17, DP 756151 to Lot 24, DP 756151; and
- correct the description of the land in respect to a dwelling identified as Local heritage item I87 in the WLEP from Lot 3 DP 5601346, 34 Sandwych St, Wentworth to Lot 1 DP 304749, 36 Sandwych St, Wentworth.

Report

Council at its February, 2012 meeting adopted the following recommendation (*superseded by the above recommendation*):

“Recommendation 2

2. Endorse the Planning Proposal to the Minister for Planning seeking an Amendment to the Wentworth Local Environmental Plan 2011 (WLEP 2011) that seeks to:

a. include the irrigation areas of Ellerslie, Darling View, Pomona and that section of land owned by Kassulke’s that is within the Curlwaa levee on Murray Road, Curlwaa within the 10ha minimum lot size mapped areas of the Wentworth LEP 2011;

b. amend Clause 4.2D of the Wentworth LEP 2011 to provide an exclusion for land defined as “existing holdings” or “former rural lot” from meeting the

requirements of being used or intended to be used for intensive plant agriculture or extensive agricultural by addition of the following sub-clause in the Wentworth LEP 2011:

4.2D (4) Notwithstanding sub clauses (1), (2), (3)(a), (b) & (c), the Council may consent to the erection of a dwelling house on land within zone No 1(a) where the Council is satisfied the land meets the definition of an existing holding or a former rural lot as defined in Clause 4.2B(6)".

1. 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 with no public exhibition and no State and Commonwealth Government public authority consultation requirement in recognition that the Draft Wentworth LEP 2011 has been extensively exhibited for scrutiny by the general public and government agencies and the Planning Proposal seeks to:

a. bring about an outcome identified after the public submissions received by Council in response to the exhibition of the Draft Wentworth LEP 2011, to correct the omission from the draft exhibition maps of the existing irrigation areas of Ellerslie, Darling View, Pomona and land within the levee at Curlwaa within the 10Ha minimum lot size mapped areas under the Wentworth LEP 2011; and

b. to provide for an equivalent exception clause in the Wentworth LEP 2011 for "existing holdings" and "former rural lots" as was provided under Clause 16(3) of the Wentworth LEP 1993.

2. Furnish a copy of this report and other relevant information to the NSW Department of Planning and Infrastructure, in accordance with Sec 56 of 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 2011 to the extent that it relates to the inclusion of the subject land within the 10Ha minimum lot size mapped areas, and the addition of an exemption clause with respect to 'former rural Lots' and 'existing holdings'".

Prior to the submission of the planning proposal to the Minister, as resolved by Council at its February 2012 meeting:

- a. historic irrigation areas / settlement maps were sourced and site inspections were carried out to look at the extent of areas to be mapped for the planning proposal. The maps and site inspections revealed that:
 - there are no areas within the historic mapped areas of Pomona that are outside of the area already mapped within the 10Ha minimum lot size mapped areas of the Wentworth LEP 2011. The northern most blocks that are included in the 10Ha minimum lot size mapped area maps were not even part of the early maps for Pomona. As such the planning proposal attached as Amendment 1 to the Wentworth LEP 2011 does not include any mapped areas for Pomona.
 - the only land at Darling View that was part of the Darling View settlement on historic mapped areas is land that adjoins the Darling River. The lot shown on the southern side of Darling View Rd is part of an allotment joined to an allotment on the river side when land was subdivided in 2005. It is noted that

there is no permanent plantings of horticulture being irrigated within Darling View at the moment. Approximately 40% of the land at Darling View is being used for irrigated fodder crops for cattle grazing.

- The majority of the horticulture area at Eilerslie remains in use as permanent plantings of irrigated horticulture.
- The land at Lot 8 DP807827 Murray Rd, Curlwaa is wholly within the Curlwaa levee, is part of the original Curlwaa irrigation area and is currently being prepared for replanting.

- b. Council staff received an enquiry about the anomaly of the land shown as being within the R5 Large Lot Residential zone and the 10,000Ha minimum lot size mapped area in the maps associated with the Wentworth LEP, 2011. This came about as an oversight of the extension of the R5 zone in the maps included with the Wentworth LEP 2011.

This land is a logical extension of the R5 area to the east of Gol Gol and an area Council considered for Rural Residential land in its draft strategy considered in 2006. It is noted that the water treatment plant is now mapped in a zone in which it is a prohibited use – the R5 zone.

- c. Council became aware of some possible incorrect property descriptions in respect to Heritage items and carried out site inspection to check these items.
- d. Council had discussion with staff at the Dubbo office of NSW Department of Planning & Infrastructure. From this discussion Council staff were advised:
- that it would be most efficient to include all items within the one planning proposal;
 - their office would not be supporting the making of the Planning Proposal as a amendment to be made in accordance with Section 73A of the Environmental Planning & Assessment Act, 1979;
 - their office would require public consultation of the planning proposal; and
 - whilst they believed they could support the inclusion of the additional clause granting an exemption for “former rural lots” from having to be used or intended to be used for horticulture as a conversion from Clause 16(3) the Wentworth LEP 1993, they would not support an exemption for “existing holdings” which were covered under clause 16(2) of the Wentworth LEP 1993.

Council are advised that given the resolution of Council’s meeting in February 2012 included Pomona Mr Bob Wheeldon and Mrs Kathryn Baird of Grand Junction Pty Ltd have submitted two maps for inclusion of land owned by Grand Junction Pty Ltd in the 10Ha minimum lot size mapped areas. The first map included land to the north of Pomona to Red Hill Rd and south of Pomona between Pomona and the Silver City Hwy and more extensive areas of land south of Darling View Rd owned by others. The second map only included land south of Pomona between Pomona and the Silver City Hwy. A small section of the land owned by Grand Junction Pty Ltd south of Pomona is irrigated grazing pasture and the remainder unimproved pastoral land. The land is not being and does not appear to have ever been used for permanent irrigated horticulture plantings.

Council's Manager of Health & Development Greg Johnston has had discussions with both Mrs Baird and Mr Wheeldon advising that the intent of this planning proposal is to include land that is part of historic or ongoing horticulture irrigated areas within the 10Ha minimum lot size mapped areas, not seeking inclusion of areas that have never been used for irrigated horticulture so the Wentworth LEP 2011 is a conversion LEP.

As such, they have been advised that the land owned by Grand Junction Pty Ltd and others which appears to have never been used for permanent irrigated horticultural plantings would not be recommended for inclusion within the 10Ha minimum lot size mapped areas as part of this planning proposal. They have been further advised that their land and similar land owned by others would need to be considered by Council when the proposed Rural Lands Strategy is carried out by Council.

Policy and Management Plan Implications

This Planning Proposal intends to support the social and economic development of the shire and provide an opportunity for use of land that is not viable for intensive plant agriculture or extensive agriculture. If not carefully managed this may provide potential for land use conflict between residential uses and existing horticultural land use as property owners change.

The Planning Proposal will also correct an inconsistency between the 5000m² minimum lot size mapped area and the R5 – Large Lot Residential Zone, correct the inclusion of the water treatment plant in the R5 zone where it is prohibited and correct errors in some heritage item descriptions.

Conclusion

The Planning Proposal seeks to correct an oversight in the original 10Ha minimum lot size mapped areas and maintain consistent rights of historic irrigation settlement areas across the Wentworth Shire Council area, correct an anomaly in the mapping of the R5 Large Lot Residential zone, correct the zoning of the Gol Gol water treatment plant that is located in a zone where it is a prohibited use and correct the property description for Items of Local heritage significance in the Wentworth LEP 2011.

Moved Councillor King and seconded Councillor Wakefield that the recommendation be adopted with the inclusion of the following amendments to the Planning Proposal:-

- 1. In Part 2 – Explanation of Provisions, second paragraph should be amended to read “These are historic irrigated horticultural settlements that had existed for many years. Ellerslie was originally released as soldier settlement blocks. These areas are similar.....”.***
- 2. In Part 4 page 12 – Community Consultation paragraph 2 where “A period of 28 days” be amended to read “A period of 14 days” and changes to recommended wording.***

CARRIED

In accordance with Section 375A of the Local Government Act the Mayor called for a division.

For the motion: Clarke, King, Brook, Wakefield, Hederics and Thomson

Against the motion: Nil

