

Wentworth Local Environmental Plan 2011 - Amendment No. 4 - Rezoning of Lots 56 and 73 DP 756946 from RU1 to R5, and the Rezoning of Lot 188 DP 756946 from R5 to SP1

Proposal Title : **Wentworth Local Environmental Plan 2011 - Amendment No. 4 - Rezoning of Lots 56 and 73 DP 756946 from RU1 to R5, and the Rezoning of Lot 188 DP 756946 from R5 to SP1**

Proposal Summary : **To rezone Lots 56 and 73 DP 756946 from RU1 to R5 for the purposes of a large lot residential subdivision, and also the rezoning Lot 188 DP 756946 from R5 to SP1.**

PP Number : **PP_2014_WENTW_001_00** Dop File No : **14/02810**

Proposal Details

Date Planning Proposal Received : **10-Feb-2014** LGA covered : **Wentworth**

Region : **Western** RPA : **Wentworth Shire Council**

State Electorate : **MURRAY DARLING** Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **Wilga Road**

Suburb : City : **Go! Go!** Postcode : **2738**

Land Parcel : **Lots 56 and 73 DP 756946**

Street :

Suburb : City : **Go! Go!** Postcode : **27**

Land Parcel : **Lot 188 DP 756946**

DoP Planning Officer Contact Details

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RPA Contact Details

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**Wentworth Local Environmental Plan 2011 - Amendment No. 4 - Rezoning of Lots 56 and 73
DP 756946 from RU1 to R5, and the Rezoning of Lot 188 DP 756946 from R5 to SP1**

Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	N/A	Consistent with Strategy :	No
MDP Number :		Date of Release :	
Area of Release (Ha) :	20.03	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	54	No. of Dwellings (where relevant) :	54
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government
Lobbyists Code of
Conduct has been
complied with : **Yes**

If No, comment :

Have there been
meetings or
communications with
registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting
Notes : **The Planning Proposal involves 2 aspects:**

1) To rezone Lot 188 DP 756946 from RU5 to either SP1, E3 or RU1:

The site is known as the Old Gol Gol Tip, and is currently zoned R5 - Large Lot Residential. The subject land was previously included as part of 2 planning proposals to reduce the minimum lot size (MLS) of the site from 10,000 hectares (ha) to 5000m2 (PP_WENTW_2012_001_00). Under the original Wentworth LEP 2011 the land was inadvertently zoned R5 with a MLS of 10,000ha. The inclusion of this additional land for rural residential purposes was not supported by any study or nominated/identified by Council in its s68 submission. The R5 land was an obvious error as the original Lot Size Map showed the land as zoned R5 with a MLS of 10,000ha.

PP_2013_WENTW_001_00 (approved by Panel 9/1/2014) reduced the minimum lot size (MLS) from 5000m2 to 3000m2 of 138ha, including the subject allotment, and provided for an additional 41 residential allotments with a MLS of 3000m2. The reduction in the MLS at the site was considered to be of minor significance, and the reduction of the MLS would provide a more appropriate lot density at the subdivision stage. At this time, Council had endorsed the draft Wentworth Rural Residential Land Strategy (dated June 2008), which identified the subject land as suitable for large lot residential development (subject to further investigations), however, this Strategy has not been endorsed or supported by the Department at this stage.

The current planning proposal seeks to rezone 14.5ha of R5 land to either SP1 - Special Activities, E3 - Environmental Management, or RU1 - Primary Production. The subject site is owned by the Crown, and currently utilised by the Sunraysia Wildlife Carers Group Inc, a volunteer organisation which cares and rehabilitates native wildlife that has been rescued.

It is Council's opinion that the rezoning of the old Gol Gol Tip site should occur and an appropriate zone should be implemented to acknowledge the previous and existing use of

the site as it is unlikely any residential use will ever eventuate on the site due to existing site constraints, including contamination, which would require significant and costly remediation prior to being suitable for residential uses.

There is not a suitable definition within the Dictionary of the LEP which appropriately defines the existing use of the site. It is considered that the SP1 zone may be the most appropriate zone as the zone is generally intended for land uses or sites with special characteristics which cannot be accommodated in other zones.

The Objectives of the SP 1 zone are:

- To provide for special land uses that are not provided for in other zones.
- To provide for sites with special natural characteristics that are not provided for in other zones.
- To facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land.

Alternatively, the land could be zoned RU1 - Primary Production to enable future agricultural uses on the land should the animal welfare group vacate the site. Significant remediation of the site may be required for agricultural purposes, given the sites history as the Old Gol Gol Tip. As the site is owned by the Crown, it is unlikely that the Crown would utilise the site for agricultural purposes.

The subject land is not contained within the Flood Mapping the Wentworth LEP 2011, however, the existing R5 zoning is not considered appropriate for residential use, due to significant native vegetation on the site, and contamination issues.

The rezoning of Lot 188 DP 756946 should be supported in principle, and the LZN_004G map be updated to show the subject allotment zoned as SP1 for the purposes of the existing use, however, no documentation has been provided to sufficiently address the requirements of a planning proposal, including a Council resolution, statement of objectives, explanation of provisions and assessment of s117 directions. The Department has previously experienced lengthy delays from Wentworth Shire Council when requesting additional information regarding incomplete planning proposals (up to 6 months). It is considered that the additional documentation could be provided as a condition of the Gateway.

2) To undertake the rezoning of Lots 56 and 73 DP 756904 from RU1 - Primary Production to R5 - Large Lot Residential.

The subject allotments have a combined area of approximately 20.03ha and are currently zoned RU1 - Primary Production. It is proposed to rezone the allotments to R5 - Large Lot Residential, for the purposes of development into a 54 allotment residential subdivision, including 11 allotments with frontage to Gol Gol Creek.

An "exchange" of R5 land is proposed - whereby the Council is proposing to swap the R5 land at the Old Gol Gol Tip (14.5ha) for the RU1 land (20.03ha) at Lots 56 and 73, which would result in only an additional 5.28ha of R5 land.

Council resolved to prepare an amendment to the Wentworth LEP 1993 to allow for an urban land release at Buronga-Gol Gol on 26/1/2006 (Amendment 26). Council resolved to prepare a new LEP in the Standard Instrument format for the LGA on 16/5/2007. On 16/7/2008, The Department agreed to Wentworth Shire Council to merge LEP Amendment 26 (Buronga-Gol Gol) and the principal LEP (in the Standard Instrument format). The Planning Proposal provided for the rezoning of 257ha of land at Buronga and Gol Gol for both residential (165ha) and industrial (61ha) uses. The release provided for 2156

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residential allotments - with the average dwelling demand of 33 lots per year, the release of an additional 2156 lots (at a density of 11 lots per ha) equated to 65 years supply.

The reduction of the MLS of R5 zoned land adjacent to Lots 56 and 73 provided for an additional 41 allotments at Gol Gol.

Again, both of these planning proposals were approved without the strategic planning backing of an endorsed Strategy - as discussed earlier, the draft Wentworth Rural Residential Strategy has not been adopted or endorsed by the Department. Wentworth is currently undertaking a strategy that will assess the supply and demand of land in Wentworth Shire, and the appropriateness of additional land releases.

The proposed rezoning of additional R5 land at Lots 56 and 73 would provide a supply of approximately 70 years of residential land in Gol Gol and Buronga. Whilst the proposed rezoning is considered to be consistent with the zoning of adjacent R5 land, the oversupply of land in Gol Gol is considered to be suitable justification to not proceed with this rezoning.

Lots 56 and 73 are currently utilised for horticultural purposes, and a dwelling and ancillary outbuildings are located on each allotment. It is noted that the dwelling on Lot 56 is inhabitable due to poor condition.

NSW Office of Water (NOW) has not been consulted regarding the MLS and the allotments capabilities to adequately contain an OSSM system, if required, and it is considered that 3000m² may not be sufficient land area for the 11 allotments which are proposed to front Gol Gol Creek.

In addition, whilst the subject land has frontage to Gol Gol Creek, it is not identified as contained within the flood mapping in the LEP. Council has advised the landowner has provided the land is between 0.2m and 0.8m below the 1:100 year flood event (via filed survey), and that there is a regulator under the Sturt Highway to prevent water flows along Gol Gol Creek from the Murray River in a flood event. The regulator is not under the control of Council. This raises significant liability issues, especially as the land is below the 1:100 year flood level, and has frontage to Gol Gol Creek.

The proposed rezoning of Lots 56 and 73 from RU1 to R5 is not supported at this stage, due to an already large supply of land in Buronga-Gol Gol and the lack of land use strategy and evidence to support the rezoning. As the Strategy is currently being development, it is submitted that the proposed rezoning should be included in the document, and that the proposed rezoning be included within the broader strategic planning framework of Wentworth LGA and Gol Gol.

External Supporting
Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? Yes

Comment :

The Danson and Blaby Pty Ltd Report clearly states that the objective of the proposal is to rezone Lots 56 and 73 DP 756946 from RU1 to R5 and apply a MLS of 3000m², to facilitate the residential subdivision of the land.

Wentworth Council has included a letter which requests the rezoning of the land known as the Old Gol Gol Tip, from R5 to a more suitable zone, which the Department has assessed as being SP1. There is no statement of objectives, explanation of provisions or Council resolution relating to this part of the proposal.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The Planning Proposal correctly indicates that it is intended to amend the zoning map LZN_004G and the lot size map LSZ_004G to show Lots 56 and 73 DP 756946 as zoned R5 with a MLS of 3000m2.**

There is no statement of objectives, explanation of provisions or Council resolution relating to the rezoning of Lot 188 DP 756946 from R5 to SP1.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

1.2 Rural Zones

1.5 Rural Lands

* May need the Director General's agreement

2.1 Environment Protection Zones

2.3 Heritage Conservation

3.1 Residential Zones

3.3 Home Occupations

3.4 Integrating Land Use and Transport

4.3 Flood Prone Land

6.1 Approval and Referral Requirements

6.2 Reserving Land for Public Purposes

6.3 Site Specific Provisions

Is the Director General's agreement required? **Unknown**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 1—Development Standards

SEPP No 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

SEPP (Building Sustainability Index: BASIX) 2004

SEPP (Rural Lands) 2008

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain : **No assessment of applicable SEPPS has been provided by Council in relation to the proposed rezoning of the Old Gol Gol Tip from R5 to SP1.**

The following inconsistencies with SEPPS are not justified in relation to the proposed rezoning of Lots 56 and 73 DP 756946 from RU1 to R5 and the application of a 3000m2 MLS:

SEPP (Rural Lands) 2008:

The proposed rezoning of Lots 56 and 73 is considered to be inconsistent with Rural Planning Principles (Clause 7) of the SEPP (Rural Lands). The provision for rural lifestyle opportunities is considered to be well-catered for already within Wentworth, given the 2000+ allotments which were rezoned in Buronga-Gol Gol in 2011. There is also no regional or local strategy which applies to the site, recommending its use for rural residential purposes, and no studies have been supplied in the documentation which further justify and support the residential use of the land.

The rezoning of lots 56 and 73 is also inconsistent with Rural Subdivision Principles (Clause 8) of the SEPP (Rural Lands). Whilst the subject site is not identified as flood prone land in Council's mapping, it is below the 1:100 year flood level. A flood gate is located at the entrance to Gol Gol Creek, however, this gate is operated privately and is

not Council owned. Not details have been provided on flood mitigation measures, besides the flood gate. It is also proposed to impose a 3000m² MLS on the land. A land capability assessment has been undertaken, which states that the allotments will be large enough to adequately contain an OSSM system, however NOW have not been consulted on the issue, and 11 allotments are proposed to be waterfront to Gol Gol Creek, which may require a larger lot size to contain an OSSM.

SEPP 55 - Remediation of Land:

The planning proposal states that there is no known contamination on the subject site. No evidence of testing has been provided.

No assessment of s117 Directions has been provided by Council in relation to the proposed rezoning of the Old Gol Gol Tip from R5 to SP1.

The following inconsistencies with s.117 Directions are not justified in relation to the rezoning of Lots 56 and 73 DP 756946 from RU1 to R5 and the application of a 3000m² MLS:

Direction 1.2 - Rural Zones

The planning proposal states that the proposal does not seek to rezone land from a rural zone to a residential, business, industrial, village or tourist zone. The proposal is considered inconsistent, as it involves the rezoning Lots 56 and 73 DP 756946 (20.03ha) from RU1 - Primary Production land to R5 - Large Lot Residential. The proposal is inconsistent with the direction as:

- the rezoning is not justified by a strategy; and
 - the rezoning is not justified by a study prepared in support of the planning proposal; and
 - is not in accordance with the relevant Regional Strategy of Sub-Regional Strategy (do not exist); and
- the rezoning is not considered to be of minor significance.

The rezoning of 20.03ha of RU1 land to R5 is not considered to be appropriate, given the already large supply of land available in Buronga-Gol Gol, with provision for an additional 2000+ allotments made as part of the standard instrument process.

Direction 1.5 - Rural Lands

The subject land is not identified in any of Council's Strategies as being suitable for rural-residential living purposes. The rezoning of the subject allotments is inconsistent with the Rural Planning Principles and Rural Subdivision Principles within SEPP (Rural Lands 2008). The proposed R5 zoning and 3000m² MLS does not provide the landowners with suitable land area for agricultural uses, and does not facilitate the orderly and economic development of rural lands. The planning proposal is not considered to be consistent with this direction.

Direction 3.1 - Residential Zones

The planning proposal states the the proposed rezoning and additional 54 allotments will broaden the available housing choice within the Shire. It is considered that the proposal is inconsistent with this direction, as there already is a significant amount of R5 land zoned in the Shire (approximately 70 years supply) and the creation of additional land for residential purposes is not considered to be responsible. In addition, there is no Strategy which identifies the land as suitable for rural-residential living, and no supporting documentation has been provided with the proposal. In addition, no indication has been provided as to whether the proposed allotments will be serviced. The planning proposal is not considered to be consistent with this direction.

Direction 3.4 - Integrating Land Use and Transport

The planning proposal is inconsistent with this direction, as the location of the proposed subdivision is away from the village area of Gol Gol, with no proposed public transport provision. The creation of an addition 54 allotments is a significant increase in

traffic (average 8 vehicle trips per day x 54 allotments = 432 additional vehicle trips per day to residential area and onto Sturt Highway to access Gol Gol village), and the proposed subdivision design of a single loop road is not considered to be "good" design. Residents would be reliant on private vehicles to travel to Gol Gol Village and surrounding areas. It is considered that the proposal, with no supporting Strategy, is not consistent with this direction.

Direction 4.3 - Flood Prone Land

The subject land is not identified on Council's LEP Flood Mapping, despite having frontage to Gol Gol Creek. The land is also identified as being below the 1:100 year flood level. A radial arm gate regulator has been installed under the Sturt Highway, which can be opened or closed when required. The regulator is not controlled by Council, which raises some issues with liability and the operation of the gate during periods of flooding emergency. Also, the planning proposal is directly inconsistent with the direction, which states that a planning proposal must not rezone land within a flood planning area from a rural zone to a residential zone. No additional study or reporting has been provided with the proposal, and no land use strategy is in place to support the proposed rezoning. It is considered that the rezoning of the site for residential purposes may create significant flood impacts to other properties, and the proposal is therefore considered to be inconsistent with the direction.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **28 days community consultation has been proposed for the rezoning of lots 56 and 73.**

No consultation has been proposed for the rezoning of the Old Gol Gol Tip.

Additional Director General's requirements

Are there any additional Director General's requirements? **N/A**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment : **The proposal for the rezoning of Lots 56 and 73 meets the adequacy criteria.**

The proposal for the rezoning of the Old Gol Gol Tip does not meet the adequacy criteria. As discussed earlier in this report, the Department has historically experienced significant delays (up to 6 months) for the submission of additional information regarding planning proposals which are considered to be incomplete. It is considered in this instance, as the rezoning is supported in principle, that the submission of the documentation for the planning proposal be conditioned to be completed as part of the Gateway determination.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP :

The principle Wentworth LEP 2011 in the Standard Instrument Format was notified on 16 December 2011.

Assessment Criteria

Need for planning proposal : It is considered appropriate to rezone Lot 188 DP 756946, being the Old Gol Gol Tip site, from R5 to SP1. This is considered to be a more appropriate zoning for the site, given the significant contamination issues, and the fact that it is owned by the Crown, and would be unlikely developed into residential housing.

It is considered that there is no need for the rezoning of Lots 56 and 73 DP756496 from RU1 to R5, which would result in the subdivision of the site to create an addition 54 rural residential allotments. There is already considered to be an oversupply of rural residential land in the Wentworth LGA, and, as previously discussed, during the Standard Instrument process, 2000+ rural residential allotments (approximately 65 years supply) were provided for around the Buronga-Gol Gol villages. No supply and demand analysis has been provided to justify the release of additional land. Should the proposed rezoning proceed, there would be approximately 70 years supply of land in the Buronga-Gol Gol area, which is considered to be sufficient.

Consistency with strategic planning framework : There is no endorsed Strategy relating the the subject lands. Council is currently undertaking the preparation of a Strategy which will assess the supply and demand of land available in Wentworth, and the appropriateness of additional rural-residential land should be assessed in the broader strategic framework of Wentworth LGA, and the subject lands should be included in the Strategy.

Environmental social economic impacts : Lots 56 and 73 DP 756946 are not identified as flood prone land, however, are noted as being below the 1:100 flood level. The site has frontage to Gol Gol Creek, and it is noted that a flood gate has been installed, however, this is operated privately. No investigations have been conducted to determine the potential impacts of flooding on the site. Similarly, no contamination investigations have been undertaken on the site, which are prudent, given the sites current agricultural use.

The rezoning and potential subdivision of the site into 54 rural residential allotments will increase the oversupply of land available in Buronga-Gol Gol.

Lot 188 DP 756946, being the Old Gol Gol Tip Site poses significant contamination issues with its current R5 zoning. Significant remediation works would be required to develop the land into allotments suitable for residential use.

Assessment Process

Proposal type : **Inconsistent** Community Consultation Period : **28 Days**

Timeframe to make LEP : **9 months** Delegation : **RPA**

Public Authority Consultation - 56(2) (d) : **Murray Catchment Management Authority
Essential Energy
Office of Environment and Heritage
NSW Department of Primary Industries - Agriculture**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons : **The proposed rezoning of the Old Gol Gol Tip, whilst no documentation has been provided, is supported in principle, given the site is not considered suitable for residential development due to contamination and land use conflicts.**

The proposed rezoning of Lots 56 and 73 DP 756496 is not recommended to proceed, as

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the proposal is inconsistent with the s117 directions, not justified by a strategy, is not consistent with the Rural Lands Principles and the approval of the rezoning would result in additional residential land in an area where there is already a significant oversupply.

Resubmission - s56(2)(b) : **Yes**

If Yes, reasons : **Documentation in accordance with Section 55(2) of the EP&A Act is required to be submitted to the Department, to justify the proposed rezoning of the Old Gol Gol Tip Site.**

Identify any additional studies, if required. :

Flooding

Other - provide details below

If Other, provide reasons :

Supply and Demand analysis required, should the rezoning of Lots 56 and 73 DP 756946 be supported by the Panel.

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Cover Letter Planning Proposal -Wentworth LEP 2011 - Amendment.pdf	Proposal Covering Letter	No
Danson and Blaby Documentation for Rezoning of Lots 56 and 73.pdf	Proposal	No
Minutes - Ordinary Council 22 January 2014.pdf	Proposal	No
Minutes - Planning Liaison Committee 18 September 2013.pdf	Proposal	No
Planning Liaison Committee - 22 Jan 2014 - Ordinary Council.pdf	Proposal	No
Planning Liason Committee Meeting Agenda 18 December 2013.pdf	Proposal	No
Planning Liason Committee Meeting Agenda 18 Sept 2013.pdf	Proposal	No
Preliminary Assessment by Warrick Fisher 18 September 2013.pdf	Proposal	No
Available Land Wentworth.pdf	Map	No

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

- S.117 directions:
- 1.2 Rural Zones**
 - 1.5 Rural Lands**
 - 2.1 Environment Protection Zones**
 - 2.3 Heritage Conservation**
 - 3.1 Residential Zones**
 - 3.3 Home Occupations**
 - 3.4 Integrating Land Use and Transport**
 - 4.3 Flood Prone Land**
 - 6.1 Approval and Referral Requirements**
 - 6.2 Reserving Land for Public Purposes**
 - 6.3 Site Specific Provisions**

Additional Information : **1) The submission of documents in accordance with Clause 55(2) of the EP & A Act is required to adequately assess proposed rezoning of the Old Gol Gol Tip Site, being Lot**

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188 DP 756946, from R5 to SP1.

2) Following the submission of documentation to the satisfaction of the Department, the planning proposal should proceed and be finalised within 9 months of the Gateway Determination Date.

3) Community consultation is to be undertaken for a period of 28 days.

4) Council is to prepare amended maps which are at an appropriate scale and clearly identify the subject land for the Section 59 Submission that are compliant with the Departments Standard technical requirements for LEP Maps. The following maps are to be amended:

- Land Zone Map (LZN_004G).

5) Council is to request the drafting and finalisation of the amendment no later than 6 weeks prior to the projected making of the amendment date.

6) Consult with the following agencies:

Murray Catchment Management Authority
Essential Energy
Office of Environment and Heritage
NSW Department of Primary Industries - Agriculture

7) It is recommended that the proposed rezoning of Lots 56 and 73 DP 756946, Wilga Road, not proceed, for the reasons outlined in this report.

Supporting Reasons :

The proposed rezoning of Lots 56 and 73 DP 756496 is not recommended to proceed, as the proposal is inconsistent with the s117 directions, not justified by a strategy, is not consistent with the Rural Lands Principles and the approval of the rezoning would result in additional residential land in an area where there is already a significant oversupply.

The proposed rezoning of Lot 188 DP 756946 from R5 to SP1 is supported in principle, as the SP1 zone is considered more appropriate due to the significant contamination issues prevalent on the site, making it unsuitable for residential purposes. No documentation was submitted by the Council which complies with clause 55(2) of the EP & A Act for this part of the planning proposal, and it is considered that given previous lengthy delays by Council in providing this information prior to the assessment of a Planning Proposal, that the submission of the documentation be provided as a condition of the Gateway Determination.

Signature: _____

Printed Name: _____

Date: _____