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30 October 2012

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



Dear Ashley

PLANNING PROPOSAL – AMENDMENT NO.2 WENTWORTH LEP 2011

Council at its meeting on Wednesday 24 October 2012 resolved that:

1. Council endorse the attached planning proposal – Amendment 2 to Wentworth Local Environmental Plan 2011; and
2. Submit the planning proposal to the Minister of Planning & Infrastructure in accordance with Section 56 of the Environmental Planning & Assessment Act 1979.'

In deliberation over this matter Council had consideration of a letter from the Minister for Planning and Infrastructure nominating that the subject land may be assessed under the gateway determination process. 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 Sustainable Development on ☎ 0427510714.

Yours faithfully

Peter Kozlowski
General Manager

Attach.



Planning Proposal

**Part Rezoning of Lot 1578 DP 763289
Riverton Farm
107 Pooncarie Road
WENTWORTH NSW 2648**

Date: September 2012

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a- Deposited Plan Land Map

b- Proposed Zoning Map

c- Location Map-Adjoining Services

d- Wentworth Shire Council-Rural Residential Strategy December 2007

e- Environmental Effects Statement

f- History of Rezoning Proposal-Wentworth Shire Council Supporting Evidence

PART 1 – OBJECTIVES OR INTENDED OUTCOMES

The purpose of this planning proposal is to enable future Residential development on approx. 25 Hectares of land adjoining the Wentworth Township & adjacent to the Darling River, known as Riverton Farm owned by Kevin Francis Cooke, within the Wentworth Shire Local Government area which is described in Certificate of Title as Lot 1578 in Deposited Plan 763289, having an area of 220 hectares.

The planning proposal intends to rezone part of the site being 25 hectares from Zone RU1 to Zone R5 Large Lot Residential. In identifying the site it is considered to be the best fit to satisfy the departmental requirements to enable a successful gateway determination and future development of the site.

The Land to which the planning proposal applies is shown at Attachment A (Deposited Plan Land Map).

PART 2 – EXPLANATION OF PROVISIONS

- Amend Wentworth Shire Local Environmental Plan 2011 as follows:
- Amend the Wentworth Local Environmental Plan 2011 Land Zoning Map – Sheet LZN_002D to identify the site within Zone R5 (Large Lot Residential) as shown in Attachment B, the proposed Zoning Map.
- Amend the Wentworth Local Environmental Plan 2011 Lot Size Map – Sheet LSZ_002D to identify the site with minimum lot size of 5000 square metres.
- The area is an elevated Darling River frontage site, adjoined by the main road to Poongarie, approx. 1km north of the Wentworth township boundary as shown in Attachment C. (Location Map - Adjoining Services)

PART 3 – JUSTIFICATION

SECTION A – Need for the Planning Proposal

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

Yes. The planning proposal is consistent with the Wentworth Shire Council Draft Rural Residential Strategy report of 2007. The report identified and recommended the land for future residential purpose. Clause 9.2 (1C) as shown in Attachment D.

Additionally the land has been proposed for rezoning with strong support from the Wentworth Shire Council since 2003. Attachment F.

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

The property is currently zoned R1 under the Wentworth LEP 2011, which supports rural & agricultural practices.

Under the planning proposal the part of the land to be rezoned is not land recognised as being agricultural land.

The land to the east of the Pooncarie road shown at figure 1 has an irrigation works approval & is partially developed for that purpose.

The part of the land to be rezoned has no irrigation works approval & is not suited to any agricultural or farming pursuits.

The land is the only freehold tenure that immediately adjoins the Wentworth Township, making it the most practical & realistic proposal for the towns future growth.

Land to the South is Murray river floodplain, land to the west is Aboriginal reserve land, land to the Northwest is predominantly Western Lands grazing leases, while land to the East is low lying crown reserve land.

This is again evidenced by Wentworth Shire Councils support of the rezone as shown in Attachment F.

3. Is there a net community benefit ?

It is considered there will be a definite net benefit to the community.

The planning proposal affords the Wentworth township a growth opportunity by providing for future residential development.

The location of the land provides for easy access to services such as the east Wentworth Sewerage treatment works. (Attachment C.)

More residents can only enhance existing local businesses & future business opportunity in the long term, while the building Industry is one of many that will benefit in the shorter term.

SECTION B – RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

4. Is the planning proposal consistent with the objections and actions contained within the applicable region or subregional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)

The Wentworth Shire Council completed a Rural Residential Strategy in 2007 which was exhibited. Part of the Rural Residential Strategy formed the basis of the Wentworth LEP 2011.

Within the Rural Residential Strategy the subject land was identified & recommended for future residential rezoning.

The Wentworth LEP 2011 was a conversion LEP which did not allow for the rezoning of land.

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

- Allow for additional future growth of the Wentworth township, being well serviced adjoining the township
- Protects the riverfront environment of the Darling River
- Does not result in any loss of Agricultural land

5. Is the planning proposal consistent with the Local Councils Community Strategic Plan or other local strategic plan ?

The planning proposal is consistent with the Wentworth Shire Council Rural Residential Strategy as referenced in Section B. 4. above.

Additionally as evidenced in Attachment F. the planning proposal is consistent with the Wentworth Shire Councils preference for the growth of the Wentworth township. Local Council has been strongly supportive of this rezoning for almost 10 years, when the land converted to a freehold tenure.

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

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

SEPP	COMMENT
SEPP No. 1 - Development Standards	Consistent
SEPP No. 4 – Development without Consent & Miscellaneous Exempt & Complying Development	Not applicable
SEPP No. 6 - Number of Storeys in a Building	Consistent
SEPP No.15-Rural Land Sharing Communities	Not applicable
SEPP No.19-Bushland in Urban Areas	Not applicable
SEPP No.21-Caravan Parks	Consistent
SEPP No.22-Shops & Commercial Premises	Not applicable
SEPP No.30-Intensive Agriculture	Not applicable
SEPP No. 32-Urban Consolidation (Redevelopment of Urban Land)	Not applicable
SEPP No.33-Hazardous & Offensive Development	Not applicable
SEPP No.36-Manufactured Home Estates	Not applicable
SEPP No.44-Koala Habitat Protection	Consistent, the area does not currently support Koalas.
SEPP No.50-Canal Estate Development	Not applicable
SEPP No.52-Farm Dams & Other Works in Land & Water Management Plan Areas	Not applicable
SEPP No. 55-Remediation of Land	Consistent, no known contamination exists on the site.
SEPP No.60-Exempt & Complying Development	Not applicable
SEPP No.62-Sustainable Aquaculture	Not applicable
SEPP No.64-Advertising & Signage	Not applicable
SEPP No.65-Design Quality of Residential Flat Development	Not applicable
SEPP No.70-Affordable Housing (Revised Schemes)	Not applicable
SEPP No.71-Coastal Protection	Not applicable
SEPP-Affordable Rental Housing (2009)	Not applicable
SEPP-Building Sustainability Index (BASIX) 2004	Consistent, BASIX is able to be complied with at the DA Stage
SEPP-Exempt & Complying Development Codes (2008)	Not applicable

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

SEPP (Rural Lands) 2008

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

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

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

- The area does not contain State significant agricultural land and is not located within an area of regional farming significance.
- The proposal achieves an appropriate balance between social, environmental &

economic interests of the community by providing opportunities for additional housing choice within an area that is not adversely affected by any significant restraints.

- The proposal provides for large lot residential rural lifestyle opportunity which in the short and long term will benefit the township of Wentworth.
- The site is located in close proximity to the Wentworth township and can be easily serviced.
- The planning proposal is consistent with the recommendations contained in the Wentworth Shire Council Rural Residential Strategy of the site.

Murray REP No.2 - Riverine Land

Murray REP No.2 – Riverine Land is a deemed SEPP that was gazetted on 31 March 1994 and applies to the Shire of Wentworth.

Murray REP No. 2 seeks to conserve and enhance the riverine environment of the River for the benefit of all users. In particular, the objectives of REP No. 2 are:

- (a) To ensure that appropriate consideration is given to development with the potential to adversely affect the riverine environment of the River.*
- (b) To establish a consistent & co-ordinated approach to environmental planning and assessment along the River.*
- (c) To conserve and promote the better management of the natural and cultural heritage value of the riverine environment of the River.*

Clause 9 of Murray REP No. 2 includes general principles that are required to be considered during the preparation of a local environment plan as follows:

- (a) The aims, objectives and planning principles of this plan*
- (b) Any relevant River Management Plan*
- (c) Any likely effect of the proposed plan or development on adjacent and downstream local government areas.*
- (d) The cumulative impact of the proposed development on the River.*

Clause 14 of Murray REP no. 2 pertains to building setbacks and notes that all buildings outside land zoned for urban purposes under a local environmental plan should be set well back from the bank of the River.

The main objectives contained within Clause 14 are, to:

- *maintain and improve water quality*
- *minimise hazard risk & the redistributive effect on floodwater associated with the erection of buildings on the floodplain*
- *protect the scenic landscape of the riverine corridor*
- *improve bank stability*
- *conserve wildlife habitat*

Also included within clause 14 are provisions to address effluent disposal and landscaping.

The planning proposal satisfactorily addresses Murray REP No. 2 as follows:

- The site is not affected by a River Management Plan
- The aims, objectives, planning principles and potential cumulative impacts have been considered in an Environmental Effects Statement Attachment E and the Wentworth Shire Council Rural Residential Strategy Attachment D.
- Future residential development will not adversely affect land within surrounding local government area or result in the redistribution of flood waters
- Foreshore setbacks are adopted to ensure the aesthetic quality and high amenity value of the Darling River is maintained
- Residential development on the site will not compromise the integrity of the riverbank. Majority of the site comprises an old road reserve which has been cleared for that purposes.
- Effluent from future development is able to be treated by connection to the East Wentworth Sewerage Works as shown in attachment C.

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

The relevant section 117 directions contained within the Environmental Planning Assessment Act 1979 are outlined in the table below:

1. Employment and Resources

Direction	Applicable	Consistent
1.1 Business Industrial Zones	No	N/A
1.2 Rural Zones	Yes	No
1.3 Mining, Petroleum Production and Extractive Industries	No	N/A
1.4 Oyster Aquaculture	No	N/A
1.5 Rural Lands	Yes	Yes

Justification

Direction 1.2 applies to planning proposal which affect land within an existing or proposed rural zone and states that a planning proposal must not rezone land from a rural zone to a residential zone. The inconsistency is justified in this instance as the site is identified for future residential use in the Wentworth Shire Council Rural Residential Strategy Report.

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

2. Environmental and Heritage

Direction	Applicable	Consistent
2.1 Environmental Protection Zones	No	N/A
2.2 Coastal Protection	No	N/A
2.3 Heritage Conservation	No	N/A
2.4 Recreation Vehicle Areas	No	N/A

Justification

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

3. Housing, Infrastructure & Urban Development

Direction	Applicable	Consistent
3.1 Residential Zones	Yes	Yes
3.2 Caravan Parks & Manufactured Home Estates	No	N/A
3.3 Home Occupations	Yes	Yes
3.4 Integrating Land Use & Transport	Yes	No
3.5 Development near Licensed Aerodromes	No	N/A

Justification

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

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

Whilst the planning proposal is inconsistent with Direction No. 3.4 pertaining to integrating land use and transport, the inconsistency is justified on the basis that the area has been the subject of comprehensive investigations and as such has been identified for residential purposes in the Wentworth Shire Rural Residential Strategy and Consideration of Environmental supporting the Land Use Strategy and the Wentworth LEP 2011.

4. Hazard and Risk

Direction	Applicable	Consistent
4.1 Acid Sulphate Soils	No	N/A
4.2 Mine Subsidence and Unstable Land	No	N/A
4.3 Flood Prone Land	Yes	Yes
4.4 Planning for Bushfire Protection	No	N/A

Justification

Direction 4.3 seeks to ensure that the provisions of an LEP on flood prone land are commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the site.

The Wentworth LEP 2011 provides for the management of flood planning on land that is shown as "flood planning area" on the Flood Planning Map.

Clause 7.3 Flood Planning

(1) *The objectives of this clause are as follows:*

(a) to minimise the flood risk to life and property associated with the use of the land

(b) to allow development on land that is compatible with land's flood hazard, taking into account projected changes as a result of climate change

(c) to avoid significant adverse impacts on flood behaviour and the environment

(2) *This clause applies to:*

(a) Land that is shown as "Flood Planning Area" on the flood planning map and

(b) Other land at or below the flood planning level

(5) *In this clause:*

Flood planning level means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.

The planning proposal is considered to be consistent with Direction 4.3 in that no future residential development will be allowed under a level of 0.75m freeboard of the flood planning level RL 34.65 AHD. With direct access to a sealed road built at approximately the 1 in 100 year flood level the future occupants of the site will be readily accessible to emergency services.

On-site water sensitive urban design is able to be adopted as part of any future residential development so that downstream properties and local government areas remain unaffected.

5. Regional Planning

Direction

Applicable

Consistent

5.1 Implementation of Regional Strategy	No	N/A
5.2 Sydney Drinking Water Catchments	No	N/A
5.3 Farmland of State and Regional Significance on NSW far North Coast	No	N/A
5.4 Commercial & Retail Development Along the Pacific Highway, North Coast	No	N/A
5.5 Development in the vicinity of Ellalong, Paxton & Millfield	No	N/A
5.6 Second Sydney Airport: Badgery's Creek	No	N/A

Justification

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

6. Local Plan Making

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

Justification

Persuant to Direction 6.1, the LEP provisions encourage the efficient and appropriate assessment of development.

Consistent with Direction 6.2, the planning proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.

The planning proposal does not impose unnecessarily restrictive site specific planning controls and therefore is consistent with Direction 6.3.

7. Metropolitan Planning

Direction	Applicable	Consistent
7.1 Implementation of the		

Justification

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

3.3 Section C – Environmental, Social and Economic Impact

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

No critical Habitat or threatened species, populations or ecological communities, or their habitats will be adversely affected as a result of the planning proposal.

There is minimum vegetation on the land proposed for rezoning. The majority of the land was an old road reserve, previously cleared for that purpose.

The vegetation corridor along the Darling River will not be affected by the planning proposal.

Future residential development will be required to maintain a 30 metre buffer zone from the bank of the Darling River.

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

Any general constraints associated with the development would be addressed at the development application stage, when Council would consider Section 79C of the Environmental Planning and Assessment Act 1979.

Generally the site is able to provide for future residential development, without any adverse environmental impact.

- 10. Has the planning proposal adequately addressed any social and economic effects ?**

The proposal will have a positive social and economic on the township of Wentworth.

The provision of large Rural Residential Lots adjoining the town will offer an “in

demand” rural lifestyle opportunity through wider housing choice and create opportunity to the building Industry and enhance existing & future local business opportunity, within the town.

3.4 Section D – State and Commonwealth Interests

11. Is there adequate Public Infrastructure for the Planning ?

Existing Pooncarie Road provides adequate bitumen road access to the site, other essential services such as emergency services,(police, ambulance, SES), education & health services are all available in the Wentworth township. Mains Power, telephone and broadband cabling front the site and are more than adequate to service and meet the needs of the proposal.

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

The views of the State and Commonwealth Public authorities will be known once consultation has occurred as part of the gateway determination of the planning proposal.

4. PART 4 – Community Consultation

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

A period of 28 days is appropriate for the exhibition of the planning proposal as it's 'low impact' status is recognised within A Guide to Preparing Local Environmental Plans prepared by the Department of Planning dated 2009.

Notification is able to be conducted by signage on site, local press notices and information on the Wentworth Shire Councils website.

