

**Wentworth LEP 2011 - Amendment 12 - Extension of sunset clause provisions and timeframes for items listed in Schedule 1 Additional Permitted Uses**

|                    |                                                                                                                                                                                                                                                               |               |                   |
|--------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|-------------------|
| Proposal Title :   | <b>Wentworth LEP 2011 - Amendment 12 - Extension of sunset clause provisions and timeframes for items listed in Schedule 1 Additional Permitted Uses</b>                                                                                                      |               |                   |
| Proposal Summary : | <b>The planning proposal seeks to extend sunset period for an additional one (1) year until 16 December 2017 within Clause 4.2B(4) and the sunset provisions of items 1(3), 2(4), 3(4) and 4(4) of Schedule 1 Additional Permitted Uses of the WLEP 2011.</b> |               |                   |
| PP Number :        | <b>PP_2016_WENTW_002_00</b>                                                                                                                                                                                                                                   | Dop File No : | <b>16/04070-1</b> |

**Proposal Details**

|                                   |                       |                      |                                |
|-----------------------------------|-----------------------|----------------------|--------------------------------|
| Date Planning Proposal Received : | <b>14-Mar-2016</b>    | LGA covered :        | <b>Wentworth</b>               |
| Region :                          | <b>Western</b>        | RPA :                | <b>Wentworth Shire Council</b> |
| State Electorate :                | <b>MURRAY DARLING</b> | Section of the Act : | <b>55 - Planning Proposal</b>  |
| LEP Type :                        | <b>Policy</b>         |                      |                                |

**Location Details**

|               |                                                                                                                   |                         |            |
|---------------|-------------------------------------------------------------------------------------------------------------------|-------------------------|------------|
| Street :      |                                                                                                                   |                         |            |
| Suburb :      |                                                                                                                   | City : <b>Wentworth</b> | Postcode : |
| Land Parcel : | <b>Land within zones RU1 Primary Production and zone E3 Environmental Management under the Wentworth LEP 2011</b> |                         |            |

**DoP Planning Officer Contact Details**

|                  |                                          |
|------------------|------------------------------------------|
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**DoP Project Manager Contact Details**

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**Land Release Data**

|                                    |                            |
|------------------------------------|----------------------------|
| Growth Centre :                    | Release Area Name :        |
| Regional / Sub Regional Strategy : | Consistent with Strategy : |

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MDP Number :

Date of Release :

Area of Release (Ha)

Type of Release (eg  
Residential /  
Employment land) :

No. of Lots : 0

No. of Dwellings : 0  
(where relevant) :

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 : **There have been no known meetings or communications with registered lobbyists.**

### Supporting notes

Internal Supporting Notes :

**A report was tabled at Council's Ordinary Meeting held 16 December 2016 seeking approval to submit a planning proposal to remove Clause 4.2B(4) from the Wentworth Local Environmental Plan 2011.**

**The basis for the preparation of the planning proposal to remove Clause 4.2B(4) was to ensure that the provision did not expire, which would result in the permanent loss of dwelling entitlements on former rural lots that were created for the purpose of a dwelling and existing holdings. The proposal also included the removal of the sunset/grandfather clause of Items 1 – 4 from Schedule 1 of the LEP which expires at the same time as Clause 4.2B(4).**

**The Department raised concerns with the proposed removal of the sunset clause, due to the possibility of significant unplanned rural residential development and the fact that Wentworth does not have an endorsed rural land use strategy in place.**

**The subject planning proposal was considered at Council's 17 February 2016 meeting to extend the sunset clause provision in clause 4.2B(4) and Schedule 1 for twelve months, rather than remove the clause in its entirety.**

**Clause 4.2B(4):**

**The removal of Clause 4.2B(4) in its entirety would create unknown implications, in particular, the number of vacant former rural lots and existing holdings within the local government area are unknown. This may result in unplanned rural settlement, increasing the demand on Council services, such as roads, waste and water/sewer. Recent planning proposals have provided a significant amount of rural residential land.**

**Given these concerns, it is considered appropriate to extend Clause 4.2B(4) for an additional twelve months (expiring on 16 December 2017), while the rural land strategy is completed. This will allow for Council to investigate and properly consider the implications of the removal of Clause 4.2B(4) in a strategic context.**

**The proposed extension of the sunset clause will allow for Council to finalise the draft Strategy, including a robust rural and residential component clearly identifying the current land supply (including the recent rezoning of land) and an estimate for future demand and preferred localities for rural residential development.**

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### Schedule 1:

The removal of the sunset provision from Items 1 – 4 would allow the listed developments to proceed with consent in perpetuity. Developments that have been completed with development consent that are listed in Schedule 1 will not be affected by the amendment. It is proposed to extend the sunset provisions within these items to expire at the same time as Clause 4.2B(4).

Council has requested authorisation to undertake plan making delegations. This is considered appropriate.

External Supporting  
Notes :

## Adequacy Assessment

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

Is a statement of the objectives provided? **Yes**

Comment : **The Statement of Objectives clearly identifies the objective of the planning proposal is to ensure that the sunset provision in Clause 4.2B(4) and Schedule 1 is extended until 16 December 2017.**

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

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

Comment : **The explanation of provisions clearly state the outcome of the planning proposal will be achieved by amending Schedule 1 and Clause 4.2B(4).**

### 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**

\* May need the Director General's agreement **1.5 Rural Lands**

Is the Director General's agreement required? **No**

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

d) Which SEPPs have the RPA identified? **SEPP (Rural Lands) 2008**

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

#### Section 117 Directions:

##### - Direction 1.2 - Rural zones

**The proposal does not rezone rural land, however it does contain provisions that will increase the permissible density of land within a rural zone, through the acknowledgement of the dwelling entitlements of existing holdings and former rural lots for an additional twelve months.**

**There is no strategy which is applicable to the Wentworth LGA, however it is to be noted that Council is currently preparing a rural land use strategy. The strategy is not anticipated to be finalised prior to the expiration of the sunset clause on 16 December 2016.**

**The proposal does increase the opportunity for additional unplanned rural residential development within the LGA, however provision for this has already been considered during the Standard Instrument making process with the addition of the sunset clause in both clause 4.2B(4) and also the items in Schedule 1. It is considered that the acknowledgement of the existing holdings, former rural lots and additional permitted**

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uses in Schedule 1 for an additional twelve months while the draft rural land use strategy is completed is considered minor in nature and the proposal is therefore considered to be consistent with this direction. It will also permit additional community consultation about this issue.

### - Direction 1.5 - Rural Lands

The planning proposal does not contain provisions that will reduce the minimum lot size of any land within a rural zone.

The proposal is considered to be consistent with the direction, as the extension of the sunset provisions is only for an additional twelve months to facilitate the completion of the draft rural land use strategy.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

### Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : **There are no changes to any mapping as part of this proposal.**

### Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council has proposed a community consultation period of 2 weeks. It is considered that a period of 28 days is more appropriate in this instance.**

### Additional Director General's requirements

Are there any additional Director General's requirements? **Unknown**

If Yes, reasons :

### Overall adequacy of the proposal

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

If No, comment :

## Proposal Assessment

### Principal LEP:

Due Date :

Comments in relation to Principal LEP : **The Wentworth LEP 2011 was notified on 16 December 2011.**

### Assessment Criteria

Need for planning proposal : **The provisions of the Wentworth LEP 1993 permitted the erection of a rural dwelling on an allotment that was created for the purposes of a dwelling and listed dwelling entitlements in Schedule 1 - there was no expiry applied to these provisions.**

**At the time of conversion from the LEP 1993 to the LEP 2011, these provisions were included with a limited timeframe, whereby the dwelling entitlement on vacant existing holdings and former rural lots expired on the 5th anniversary of the commencement of the LEP 2011, being 16 December 2016.**

**Council ultimately wishes to reinstate the provisions of the LEP 1993, where dwelling**

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entitlements of vacant existing holdings and former rural lots are held in perpetuity.

There may be significant implications if this was to occur, including servicing unplanned rural settlement which has not been considered in a strategic context. The extension of the sunset provisions will allow for Council to finalise the draft Strategy, and consider the implications of dwelling entitlements in perpetuity in rural areas.

Recently Council has been successful in rezoning a significant portion of land for living purposes across the LGA. It is considered that Council requires additional time to further justify the requirement for perpetual rural dwelling entitlements in the LGA, which is why the extension of the sunset clause is considered appropriate at this time.

Consistency with strategic planning framework :

Wentworth does not have an endorsed Land Use Strategy.

Council is currently in the process of completing the draft rural land use strategy, which will allow Council to consider future demand and preferred locations for additional rural residential development.

The Department can support an extension of the sunset provisions for an additional twelve months to allow Council to consider the strategic implications of providing dwelling entitlements in perpetuity.

Environmental social economic impacts :

The environmental, social and economic impacts of the extension of the sunset provisions are unknown, as the exact number of dwelling entitlements is unknown.

These impacts will be required to be assessed on a case by case basis at the development application stage for a dwelling on the sites listed in Schedule 1, and the lots identified as existing holdings or former rural lots.

Assessment Process

|                                                    |            |                                 |         |
|----------------------------------------------------|------------|---------------------------------|---------|
| Proposal type :                                    | Consistent | Community Consultation Period : | 28 Days |
| Timeframe to make LEP :                            | 9 months   | Delegation :                    | RPA     |
| Public Authority Consultation - 56(2)(d) :         |            |                                 |         |
| Is Public Hearing by the PAC required?             | No         |                                 |         |
| (2)(a) Should the matter proceed ?                 | Yes        |                                 |         |
| If no, provide reasons :                           |            |                                 |         |
| Resubmission - s56(2)(b) :                         | No         |                                 |         |
| If Yes, reasons :                                  |            |                                 |         |
| Identify any additional studies, if required. :    |            |                                 |         |
| If Other, provide reasons :                        |            |                                 |         |
| Identify any internal consultations, if required : |            |                                 |         |
| No internal consultation required                  |            |                                 |         |

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

If Yes, reasons :

**Documents**

| Document File Name    | DocumentType Name | Is Public |
|-----------------------|-------------------|-----------|
| Planning Proposal.pdf | Proposal          | Yes       |

**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**

Additional Information :   **That Gateway determines to support the Planning Proposal, subject to the following conditions:**

**1. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") for 28 days.**

**2. No consultation with public authorities is required.**

**3. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).**

**4. The planning proposal is to be finalised within 9 months of the Gateway Determination date.**

**5. Wentworth Shire Council is authorised to exercise plan making delegations.**

Supporting Reasons :   **The extension of the sunset clause provision ensures that the existing dwelling entitlements for former rural lots and existing holdings in certain rural and environmental protection zones and items 1 - 4 in Schedule 1 are retained for an additional twelve months. This will allow for the completion of the draft rural land use strategy and further investigation of any potential impacts of either permanently removing the clause or allowing the expiry of the clause to occur.**

**The Director Regions, Western can use delegation in this instance to extend the sunset clause provisions for twelve months while the draft rural strategy is completed.**

Signature: \_\_\_\_\_



Printed Name: \_\_\_\_\_

Jenna McNabb

Date: \_\_\_\_\_

23/3/16

Endoned

Wynne TL

23/3/16