

PLANNING PROPOSAL

Amendment to the Wentworth Local Environment Plan 2011

Reclassification of Lands

Reclassification of:

- Lot 1, DP 803099; River Road, Mourquong
- Lot 2, DP 583614, Nevill Street, Wentworth;
- Lot 2, DP 789452, River Road, Pomona;
- Lot 3, DP 576696, Sturt Highway, Trentham Cliffs;
- Lot 3, DP 616182; Boeill Creek Road, Boeill Creek;
- Lot 3, DP 631732, Pooncarie Road, Wentworth;
- Lot 4, DP 631732, Pooncarie Road, Wentworth;
- Lot 3, DP 776526, Sturt Highway, Trentham Cliffs;
- Lot 3, DP 786951, Pitman Road West, Buronga;
- Lot 3, DP 788830, Florence Road, Wentworth;
- Lot 4, DP 733472; Sturt Highway, Gol Gol;
- Lot 4, DP 746063; Boeill Creek Road, Boeill Creek;
- Lot 4, DP 777861, Boeill Creek Road, Boeill Creek;
- Lot 5, DP 775245, Darling View Rd/ Kelso Rd, Wentworth;
- Lot 5, DP 787557; Boeill Creek Road, Boeill Creek;
- Lot 7, DP 773189; Kelso Road, Wentworth;
- Lot 7, DP 827371; Sturt Highway, Monak;
- Lot 10, DP 735148; Pooncarie Road, Wentworth;
- Lot 10, DP 740361; Cudmore Road, Wentworth;
- Lot 11, DP 740361; Low Darling/Cudmore Rd, Wentworth;

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PART 1: OBJECTIVES and BACKGROUND

1.1. Objectives:

The primary objectives for this Planning Proposal are to:

- a) Achieve the optimum planning, land-use and management outcomes and “public/environmental interest” for the subject lots;
- b) Ensure that limited Council funds for public open space embellishment and maintenance are used to the optimum public benefit;
- c) Contribute to the implementation of the relevant recommendations and analyses in the draft Far West Regional Plans and the Murray River Riparian Planning Controls Study (and anticipated revisions to the Murray Riverine LEP No.2) for the planning and management of riverfront land; and
- d) Where appropriate, to amend Wentworth LEP 2011 to enable potential subdivision of reclassified riverfront lots and, thereby, offers for sale to adjoining landowners in an equitable manner which supports good planning, environmental and public finance outcomes.

1.2. Background

Just over 20 years ago Council encouraged developers of riverfront land to provide riverfront land parcels (Public Reserves) for the use of the community, in lieu of cash for Open Space Contributions. These parcels are mainly land locked. The matter became one of a long-term contentious nature. Council has attempted to return some parcels to adjacent landholders in the past without cost to the landholder, but the dealing was not able to be registered on title due to Caveats and Reservations on the title. Council sought advice from the Crown Solicitor in August 2012 regarding removal of the Caveats and Reservations, and the only way these land parcels can have their classification changed from Community to Operational is via an LEP Amendment.

Twenty-three (23) such (predominantly) riverfront land parcels affecting approximately 60 adjacent land-holders have been subject of assessment for this project. The land parcels are located throughout Wentworth Shire Local Government Area including: Boeill Creek, Trentham Cliffs, Mourquong, Monak, Pomona, Buronga and Wentworth. There are, in most cases, multiple affected landholders to each single land parcel held by Council. In the event that re-classifications were approved, then Council's intention is be to subdivide the lots – aligned with property boundaries of adjacent landowners – and offer the lots for sale to those landowners. Council would not offer single re-classified parcel to only one of multiple adjacent landowners. Financial returns from such sales would be allocated to funding embellishment of more highly utilised and valued public open spaces in the Shire.

In early 2015, fifty-two (52) letters were sent to affected landholders leading up to the report to Council in March 2015. In response, twenty-seven (27) indicated interests subject to cost, two (2) advised non-interests and one (1) was unsure.

Council Resolution of March 2015

On 18 March 2015, Council resolved (in accordance with the recommendation) to:

- *Provide funding in the 2015/2016 financial year to commence the required LEP Amendment to change the classification of the Riverfront Land Parcels from Community to Operational Land*
- *Develop a policy regarding the sale of the Riverfront Parcels;*
- *Assist affected landholders by initially undertaking a quotation process on behalf of affected landholders for the survey costs;*

- Assist affected landholders by waiving all or part of the fees associated with the subdivision of the Riverfront Parcels, and
- Assist affected landholders by determining that the compensation payable to Council be at the rate determined by the Valuer-General for their property.

The Council resolution of 18 March 2015 includes the development of "a policy regarding the sale of the Riverfront Parcels". The accompanying report states that:

"Council needs to develop a policy regarding this matter to ensure that the land only goes to adjacent landholders and that those who do not wish to purchase are not compelled to do so. In some circumstances there are odd shaped parcels and Council needs to determine a fair way of dividing a parcel that is not just a small strip between the landholder and the river. The policy could be developed concurrently with the LEP Amendment."

This Policy, based upon legal advice, will now be submitted to Council following determination of this Planning Proposal.

It is important to recognise that, for those lots which are reclassified from community to operational:

- a) The strong legal and policy controls sustain to protect the environmental attributes – particularly water quality, bank stability and terrestrial biodiversity;
- b) Council still retains full control of the outcomes for the subject lots – by retained ownership and by controls after sales; and
- c) Council can ensure that leases, licences, conditions of sale and agreements clearly educate about, and regulate, uses and development which adjoining, benefitting landowners can undertake.

1.3. The Key Issues for Pre-Gateway Consultation

The key Issues for this pre-gateway consultation are:

- e) Whether the optimal public interest, implementation of regional planning policies and environmental outcomes for some of these riverfront lots best are achieved by re-classification and potential sales/transfers to adjoining private owners given that these riverfront lots are:
 - In all cases community land and in most cases, Public Reserves;
 - Land-locked and not accessible by the Council (without negotiated or enforced entry to the adjacent private land) or the public (except from the water);
 - Not historically maintained by Council;
 - Subject to some significant public safety and liability risks .e.g. dangerous trees, steep banks and potential damage to adjoining private properties;
 - Not maintained by Council (as the responsible owner) given inaccessibility and such maintenance does not represent the fair and equitable application of limited public funds to maintenance of public open space and riverfront land in the Shire;
 - Subject to bank disturbances and collapses which cause sediment flows into the rivers, potentially significant risks to the public and, in some cases, adjacent private properties;
 - Subject of substantial requests by adjoining landowners who are motivated to purchase these riverfront lots adjoining their properties with expressed intents to improve, stabilise and properly maintain the lots;
- f) Whether the relevant recommendations and analyses in Regional Plans and the Murray River Riparian Planning Controls Study should equally apply to the Darling River in Wentworth Shire;
- g) Acknowledging that the riverfront lots will be subject to the same planning controls whether in public or private ownership but that bank stabilisation works may not be carried out when needed and therefore not respond to the "public/environmental interest";
- h) The historically contentious issue of river setbacks in rural zones in Wentworth Shire with the current Wentworth LEP provisions including setbacks of 40 metres for certain development permissibility in the rural zones which are 100 metres in the draft Murray

Regional Strategy and as recommended in the Murray River Riparian Planning Controls Study;

- i) The related need to ensure that the regional planning policies – and anticipated revisions to the Murray Riverine LEP No.2 (based upon the Murray River Riparian Planning Controls Study) are consistently implemented;
- j) Whether, in the event that certain lots are re-classified and sold to adjoin landowners-whether that sale can include some incentives and/or conditions where appropriate for works of environmental benefit to be committed and based upon certain standards;
- k) The predominant zoning of the subject lots of RU1 Primary Production with minimum lot sizes of 10 ha and 10000 ha and whether Site Specific clauses or LEP mapping showing relevant lots as having no minimum lot sizes to enable subdivision and offers for sale to adjoin landowners can be included as an amendment/amendments to the Wentworth LEP 2011; and
- l) The clear Council intent that reclassification should not proceed without such capability to subdivide because it would not be acceptable to sell any one of the subject lots to one landholder and, if there are multiple adjoin landowners, hope that they are fair in their dealings with the others. (It should be acknowledged however that reclassification to operational land still, in itself, retains full control over the subject lots by Council).

(Note: The proposed sub divisions will not create new net-additional blocks. The purpose of the subdivision is to enable the riverfront component to be consolidated into the existing title - making large blocks larger. Many landholders thought they owned the land up to and including the river bank and have discovered that is not the case if they wish to have a pump or mooring on the river - they have to get a licence from Council. This project is progressing at the request of the majority of the affected landholders).

In summary therefore:

- the subject sites are mainly land-locked - and therefore not accessible to the public;
- the high level of interest from adjacent landholders in purchasing the subject parcels;
- the optimal maintenance (without further potential cost to Council) is enabled; and
- the best land-use outcomes for the subject sites are best facilitated by reclassification, and subsequent subdivision, purchases and consolidation.

1.4. Details of Sites

The following properties, as legally described below, are proposed for reclassification from community to operational land:

- **Lot 1, DP 803099; River Road, Mourquong**
- **Lot 2, DP 583614, Nevill Street, Wentworth;**
- **Lot 2, DP 789452, River Road, Pomona;**
- **Lot 3, DP 576696, Sturt Highway, Trentham Cliffs;**
- **Lot 3, DP 616182; Boeill Creek Road, Boeill Creek;**
- **Lot 3, DP 631732, Pooncarie Road, Wentworth;**
- **Lot 4, DP 631732, Pooncarie Road, Wentworth;**
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- **Lot 7, DP 773189; Kelso Road, Wentworth;**
- **Lot 7, DP 827371; Sturt Highway, Monak;**
- **Lot 10, DP 735148; Pooncarie Road, Wentworth;**

- Lot 10, DP 740361; Cudmore Road, Wentworth;
- Lot 11, DP 740361; Low Darling/Cudmore Rd, Wentworth;

1.5. Assessment

David Broyd Consulting Services Pty Ltd has been engaged to provide independent analyses and recommendations for assessment of potential reclassification.

It is strongly emphasised that:

- The assessment process will be independent and rigorous, respond to all matters for consideration as stated in the LEP Practice Note PN 16-001 and subject to strategic and local assessments by my company taking into account the advices of State Government agencies – notably the NSW Department of Planning, the NSW Office of Environment and Heritage and the NSW Office of Water;
- The potentially proposed reclassifications will be assessed relative to the planning policies and controls as currently embodied in the Murray Regional Plan, the draft Far West Regional Plan and the Wentworth LEP 2011 - particularly the rural zonings, the minimum lot sizes for subdivision of land and the provisions in relation to river setbacks that apply; and
- Some land parcels are subject to a range of caveats, restrictions etc. - which require the NSW Governor's approval to delete / rescind.

PART 2: EXPLANATION OF PROVISIONS

2.1. Achievement of the Proposed Objectives

The proposed objectives will be achieved by:

- Reclassifying the recommended 21 subject lots from community to operational;
- Retaining current zonings of the subject lots where appropriate and - where zoned RU1 Primary Production with minimum lot sizes of 10 ha and 10000 ha – to amend the Lot Size Map in Wentworth LEP 2011 so that no minimum lot sizes apply to the reclassified lots, thereby potentially enabling subdivision and offers for sale to adjoining/affected landowners;
- Retaining the current provisions of Clauses 7.3 to 7.8 inclusive relating to:
- "Flood Planning;*
- Terrestrial Biodiversity,*
- Wetlands,*
- Development on river front areas,*
- Riparian land and Murray River and other watercourses—general principles ; and*
- Additional provisions—development on river bed and banks of the Murray River"* (Appendices 3 to 8 to this Planning Proposal) – thereby retaining strong controls over development and environmental works on all of the subject lots.

2.2. Current Land Use Provisions in the Wentworth LEP 2011

The three zones applicable to the subject lots are:

- RU1 - Primary Production;
- RU5 - Village;
- R5 - Large Lot Residential; and
- W1 – Natural Waterways.

These zones are proposed to be retained and the relevant land use tables are stated below.

Zone RU1 - Primary Production

Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To ensure the protection of both mixed dry-land and irrigation agricultural land uses that together form the distinctive rural character of Wentworth.
- To ensure land is available for intensive plant agricultural activities.
- To encourage diversity and promote employment opportunities related to primary industry enterprises, including those that require smaller holdings or are more intensive in nature.

Permitted without consent

Environmental protection works; Extensive agriculture; Farm buildings; Forestry; Home-based child care; Home businesses; Home occupations; Intensive plant agriculture; Roads; Water reticulation systems

Permitted with consent

Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Bed and breakfast accommodation; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Camping grounds; Cellar door premises; Cemeteries; Charter and tourism boating facilities; Community facilities; Correctional centres; Depots; Dual occupancies; Dwelling houses; Eco-tourist facilities; Educational establishments; Environmental facilities; Extractive industries; Farm stay accommodation; Freight transport facilities; Heavy industrial storage establishments; Helipads; Home industries; Home occupations (sex services); Industrial training facilities; Information and education facilities; Intensive livestock agriculture; Jetties; Landscaping material supplies; Moorings; Offensive industries; Open cut mining; Plant nurseries; Recreation areas; Recreation facilities (major); Recreation facilities (outdoor); Research stations; Roadside stalls; Rural industries; Rural workers' dwellings; Sewerage systems; Veterinary hospitals; Water recreation structures; Water supply systems

Prohibited

Dual occupancies (detached); Schools; Any other development not specified in item 2 or 3

Zone RU5 - Village

Objectives of zone

- To provide for a range of land uses, services and facilities that are associated with a rural village.
- To promote development in existing towns and villages in a manner that is compatible with their urban function.
- To encourage well-serviced sustainable development.
- To ensure there are opportunities for economic development.
- To deliver new residential and employment growth in Buronga and Gol Gol.
- To ensure business and retail land uses are grouped within and around existing activity centres.

Permitted without consent

Environmental protection works; Home-based child care; Home businesses; Home occupations; Roads; Water reticulation systems

Permitted with consent

Child care centres; Community facilities; Dwelling houses; Home industries; Liquid fuel depots; Neighbourhood shops; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Respite day care centres; Schools; Any other development not specified in item 2 or 4

Prohibited

Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Cellar door premises; Correctional centres; Crematoria; Farm buildings; Farm stay accommodation; Forestry; Freight transport facilities; Heavy industrial storage establishments; Industrial training facilities; Industries; Port facilities; Rural industries; Rural workers' dwellings; Sex services premises; Vehicle body repair workshops; Wharf or boating facilities

Zone R5 - Large Lot Residential

Objectives of zone

- *To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.*
- *To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.*
- *To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To restrict the construction of new residential and other sensitive uses in flood prone areas.*

Permitted without consent

Environmental protection works; Extensive agriculture; Home-based child care; Home businesses; Home occupations; Roads; Water reticulation systems

Permitted with consent

Building identification signs; Business identification signs; Dwelling houses; Food and drink premises; Garden centres; Home industries; Kiosks; Landscaping material supplies; Neighbourhood shops; Plant nurseries; Roadside stalls; Any other development not specified in item 2 or 4

Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Attached dwellings; Backpackers' accommodation; Biosolids treatment facilities; Boarding houses; Boat building and repair facilities; Car parks; Cemeteries; Commercial premises; Correctional centres; Crematoria; Dairies (pasture-based); Depots; Dual occupancies; Entertainment facilities; Farm stay accommodation; Forestry; Freight transport facilities; Function centres; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Hostels; Industrial retail outlets; Industrial training facilities; Industries; Marinas; Mooring pens; Mortuaries; Multi dwelling housing; Passenger transport facilities; Public administration buildings; Recreation facilities (indoor); Recreation facilities (major); Registered clubs; Research stations; Residential flat buildings; Restricted premises; Rural industries; Rural workers' dwellings; Semi-detached dwellings; Service stations; Serviced apartments; Sewage treatment plants; Sex services premises; Shop top housing; Signage; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Waste or resource management facilities; Water treatment facilities; Wharf or boating facilities; Wholesale supplies

W1 – Natural Waterways

Zone W1 Natural Waterways

1 Objectives of zone

- *To protect the ecological and scenic values of natural waterways.*
- *To prevent development that would have an adverse effect on the natural values of waterways in this zone.*
- *To provide for sustainable fishing industries and recreational fishing.*

2 Permitted without consent

Nil

3 Permitted with consent

Aquaculture; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Community facilities; Emergency services facilities; Environmental facilities; Environmental protection works; Information and education facilities; Jetties; Mooring pens; Moorings; Recreation areas; Research stations; Roads; Water recreation structures; Water recycling facilities; Water supply systems; Wharf or boating facilities

4 Prohibited

Business premises; Hotel or motel accommodation; Industries; Multi dwelling housing; Recreation facilities (major); Residential flat buildings; Restricted premises; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

2.3. Current Relevant Clauses in the Wentworth LEP 2011

Clause 4.1 of the Wentworth LEP 2011 regarding minimum lot size is relevant as it refers to the Lot Size Map which is proposed to be amended. The clause is as follows:

Minimum subdivision lot size

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

- (a) *to ensure subdivision of land occurs in a manner that promotes suitable land uses and development,*
- (b) *to ensure subdivision occurs in a staged manner that minimises the cost to the community from the provision of public infrastructure and services,*
- (c) *to ensure rural lands are not fragmented in a manner that threatens their future use for agriculture or primary production,*
- (d) *to ensure that subdivision is not likely to result in inappropriate impacts on the natural environment including native vegetation, natural watercourses and habitats for threatened species and populations and endangered ecological communities,*
- (e) *to maximise the economic potential of, and provide for more intensive, small lot agricultural uses in areas able to access commercial quantities of irrigation water.*

(2) *This clause applies to a subdivision of any land shown on the [Lot Size Map](#) that requires development consent and that is carried out after the commencement of this Plan.*

(3) *The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the [Lot Size Map](#) in relation to that land.*

(4) *This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.*

Clauses 7.3 to 7.8 inclusive regarding: "Flood Planning; Terrestrial Biodiversity, Wetlands, Development on river front areas, Riparian land and Murray River and other watercourses—general principles and Additional provisions—development on river bed and banks of the Murray River" are also relevant to this Planning Proposal and are Appendices 1 to 6 to this Planning Proposals. No amendments are proposed to these clauses which will therefore retain strong controls over development and environmental works on all of the subject lots.

2.4. Assessments and recommendations for each of the Subject Lots

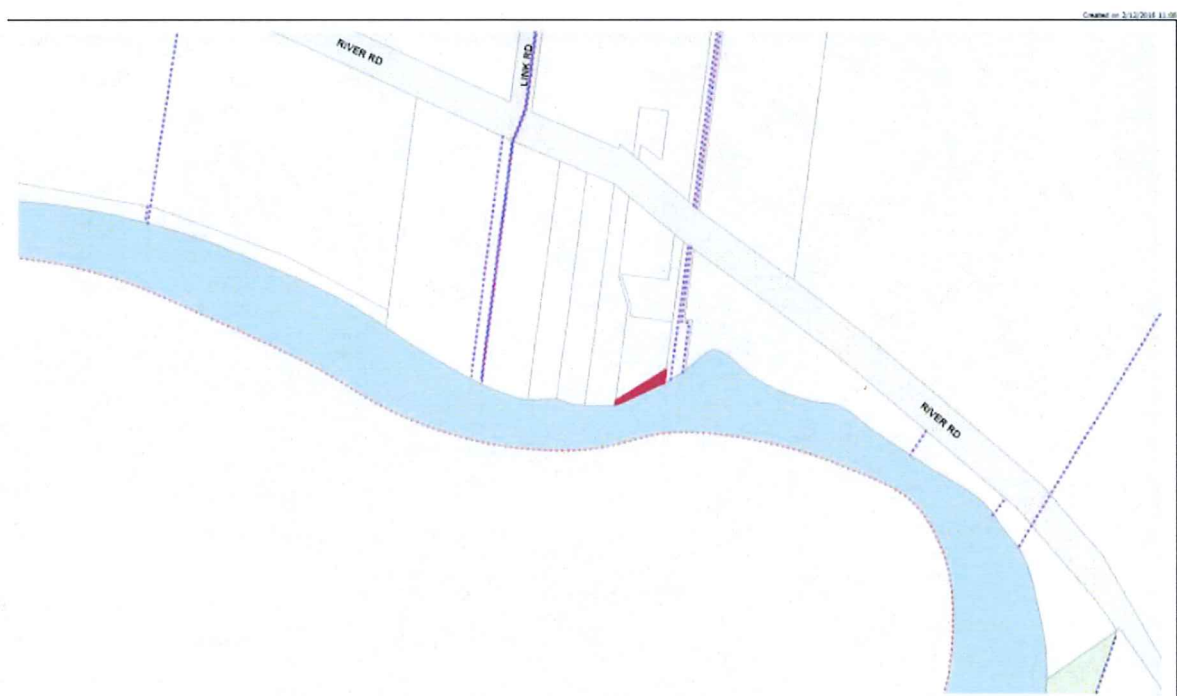
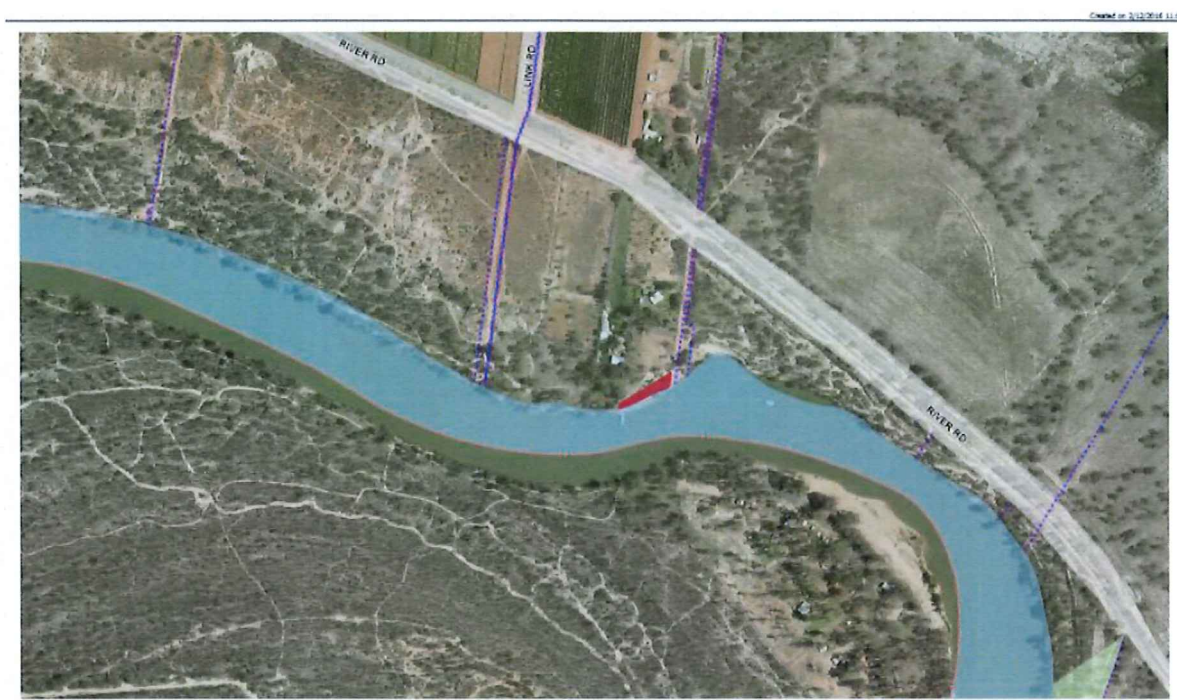
The analyses below for each of the lots recommended for reclassification are structured to reflect the "Information Checklist" which is Attachment 1 to the LEP Practice Note PN 16-001: "Classification and reclassification of public land through a local environmental plan".

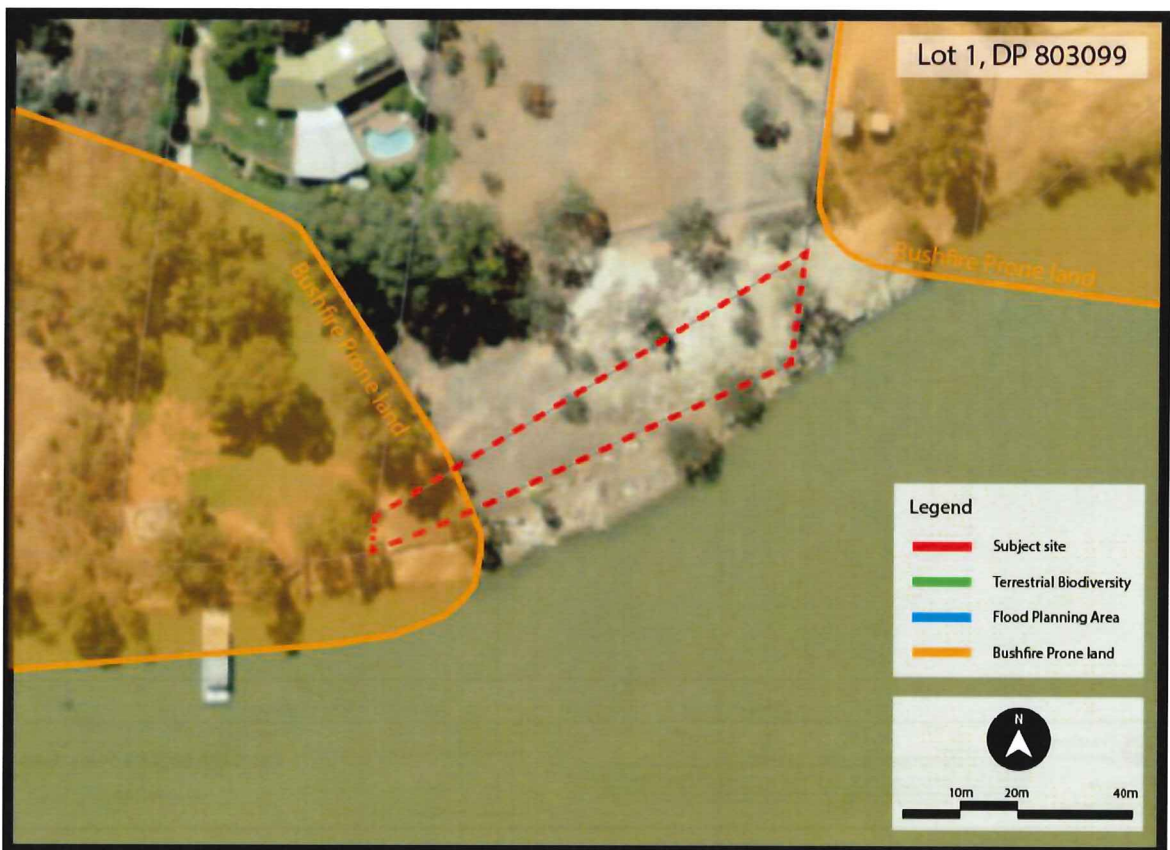
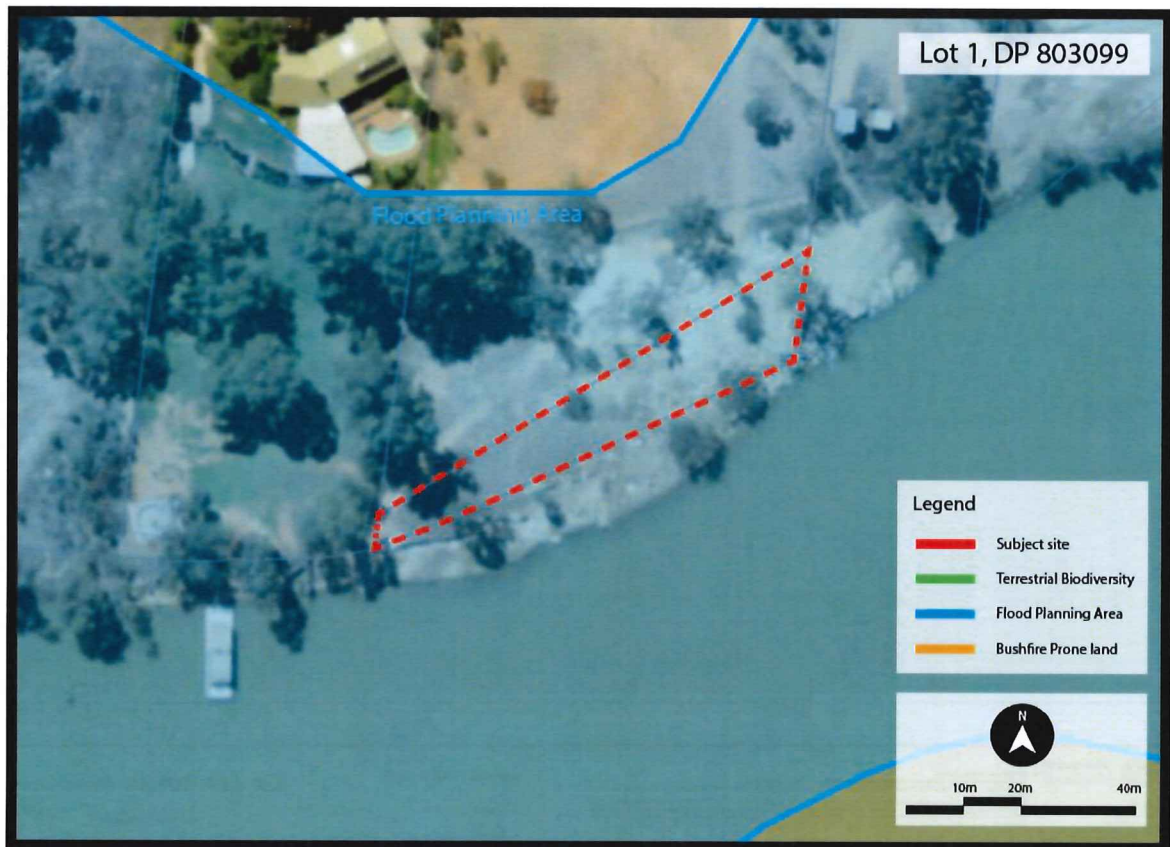
Lots recommended for reclassification are as follows:

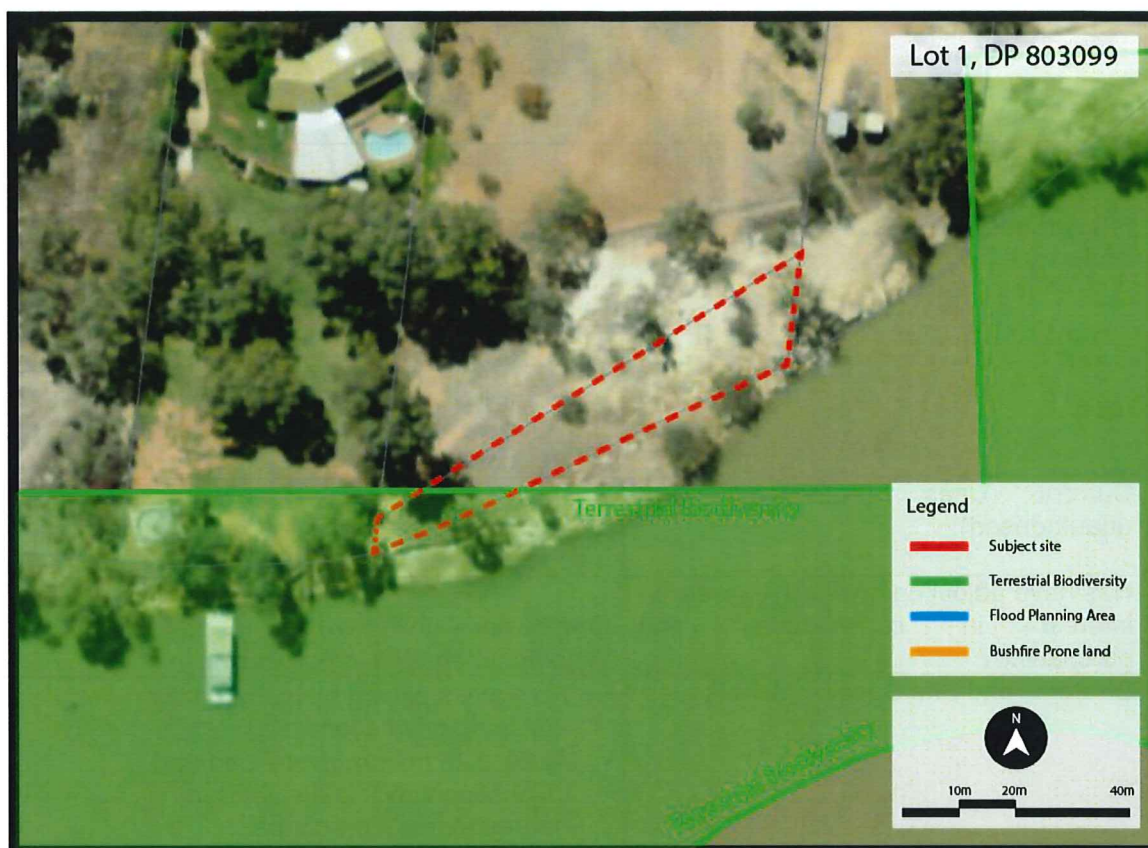
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- Lot 10, DP 740361; Cudmore Road, Wentworth;
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LOT 1, DP 803099, RIVER ROAD, MOURQUONG







LOT 1, DP 803099	
Property Owner	Wentworth Shire Council
Number of Adjoining Owners:	One;
Current classification	Community land
Proposed Classification	Operational land
Title:	Freehold
Public Reserve? –	Yes
<u>Zoning</u>	R5 – Large Lot Residential
<u>Minimum Lot size</u>	5000 m2
<u>Area</u>	1270 m2
Planning and/or Environmental Constraints	Floodplain Wetland, Flood Planning Area, Floodway and Terrestrial Biodiversity (part);
Background Information and How acquired	• Land Grant Vol 430 Fol 236; • Reservations on title; • Single Land Parcel.
Certificate of title provisions, restrictions on the land	Torrens Title: 12 June 1990: • Reservations and Conditions in the Crown Grant(s); • Easement(s) affecting the part(s) of the land created by: ➤ DP803099 – for pipeline 2 wide, 3.3 wide and variable ➤ DP803099 – for pipeline 3.3 wide and variable

	• K20000caveat by the Registrar-General forbidding unauthorised dealings with Public Reserves.
Council interests in the land (lease arrangements, business dealings) -	None
Is it proposed to discharge of the land and why?	Yes • Inaccessible to public except from river; • Inaccessible to Council for maintenance except from river or by adjacent owners' consent; • Inaccessible to emergency services except from river or by adjacent owners' consent;
Current Uses (authorised and unauthorised):	Not audited at this stage – unable to undertake inspection.
Has/have adjoining owner(s) expressed interest in consolidating and purchasing?	One owner – unknown, has not advised. Whether interested in purchasing
Strategic and Site Specific Merit Issues	• No access except by track through adjoining private land; • About 227 m from river Road and in location which is distant from nearest population centre.

RECOMMENDATION – RECLASSIFY LOT 1; DP 803099 TO OPERATIONAL LAND – TO BE POTENTIALLY CONSOLIDATED WITH LOT 2 DP 811964 AND NOT TO PT 1, DP 811964

LOT 2, DP 583614, NEVILL STREET, WENTWORTH



Wentworth Shire Council

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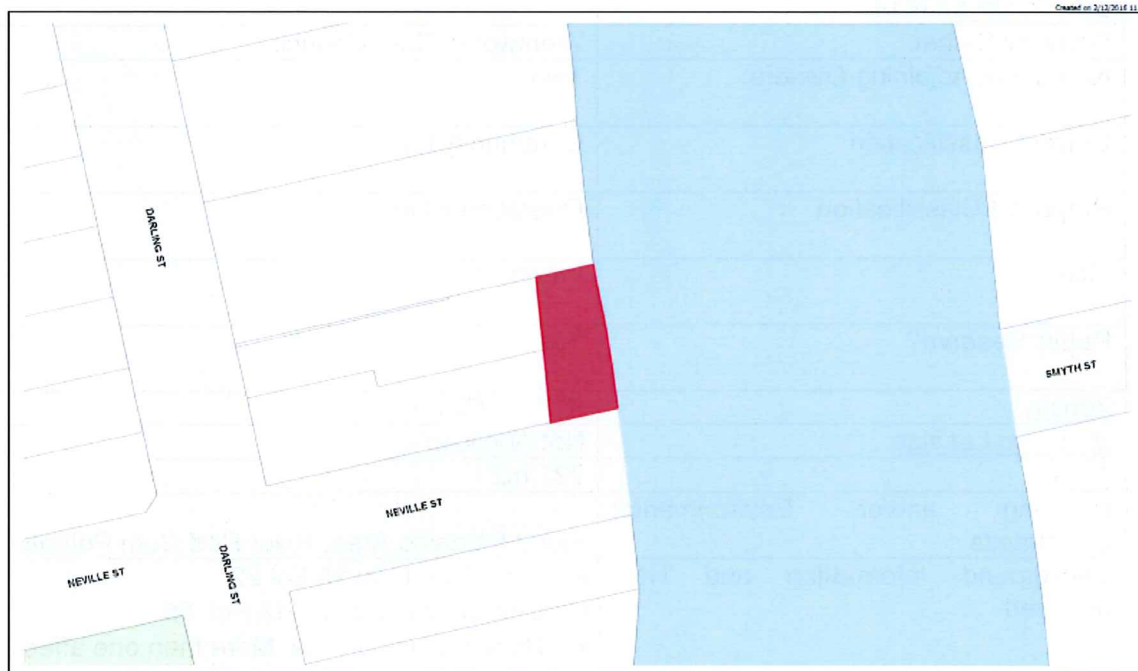
Projection: GDA94 / MGA zone 54

Date: 2/12/2016

Created By: Kathy Collinson

Lot 2 DP 583614 Aerial View

Map Scale: 1:1244 at A4



Wentworth Shire Council

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Projection: GDA94 / MGA zone 54

Date: 2/12/2016

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Lot 2 DP 583614 Plan View

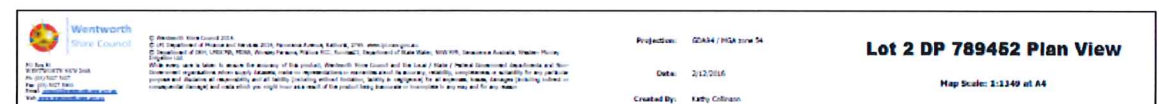
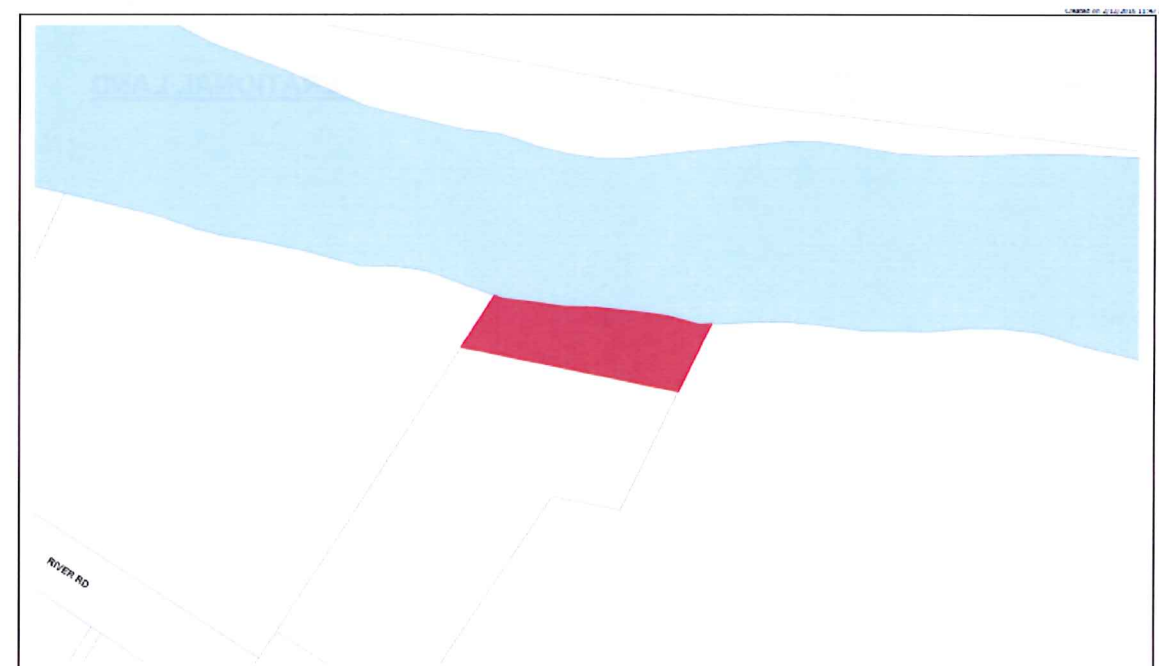
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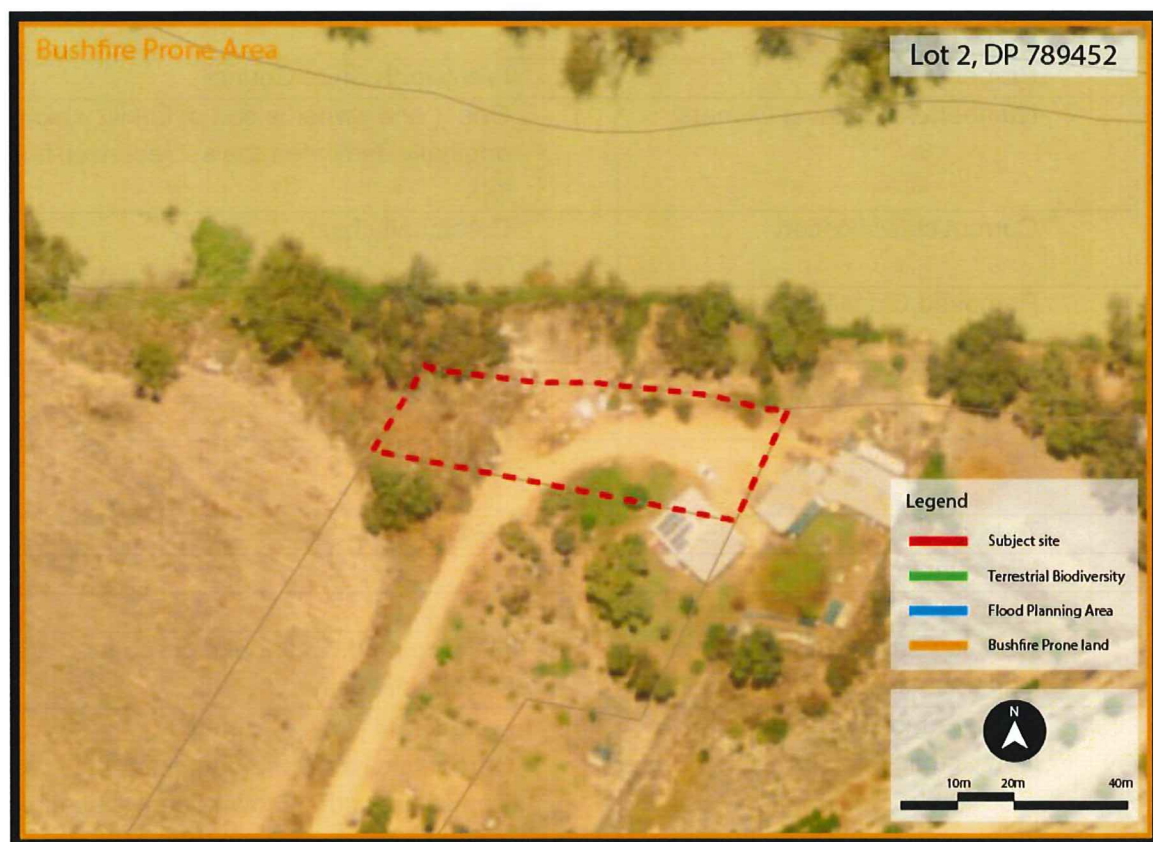


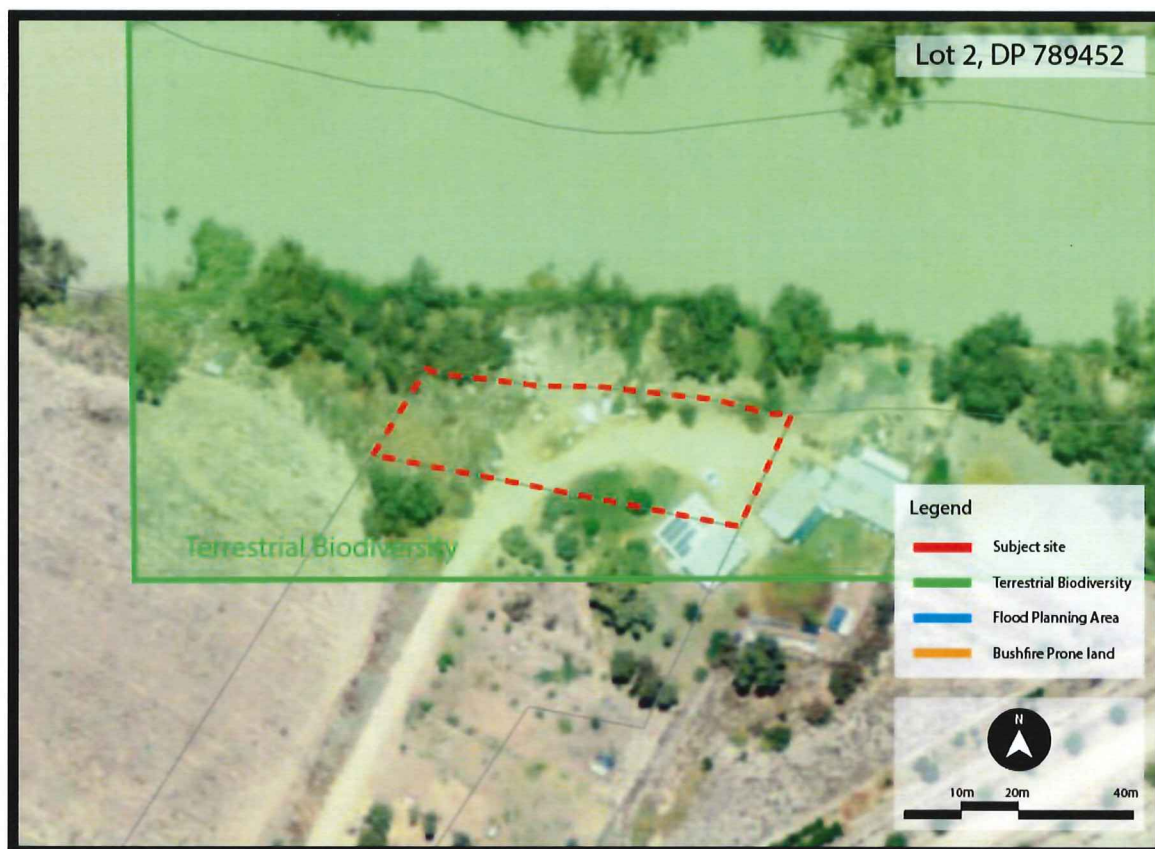
LOT 2, DP 583614	
Property Owner	Wentworth Shire Council
Number of Adjoining Owners:	Two;
Current classification	Community land
Proposed Classification	Operational land
Title:	Freehold
Public Reserve?	Yes
<u>Zoning</u>	RU5 – Village
<u>Minimum Lot size</u>	Not Applicable
<u>Area</u>	721 m2
Planning and/or Environmental Constraints	Flood Planning Area, River Red Gum Potential
Background Information and How acquired	• Land Grant Vol 15 Fol 22 • Cert of Title Vol. 13118 Fol. 55 • Reservations on title. More than one affected landholder
Certificate of title provisions, restrictions on the land	Torrens Title: 12 June 1990: • Reservations and Conditions in the Crown Grant(s); • K20000caveat by the Registrar-General forbidding unauthorised dealings with Public Reserves.

Council interests in the land (lease arrangements, business dealings) -	None
Is it proposed to discharge of the land and why?	Yes ➤ Highly under-utilised as public open space; ➤ The high level of adequacy of embellished public open space in the vicinity and in Wentworth township;
Current Uses (authorised and unauthorised):	Not audited at this stage
Has/have adjoining owner(s) expressed interest in consolidating and purchasing?	1) Yes – both of the owners of the two adjoin properties: Lot 3, DP 583614 and Lot 1, DP 583614.
Strategic and Site Specific Merit Issues	• Is accessible from public road: Nevill Street; • Highly under-utilised as public open space; • The high level of adequacy of embellished river-front public open space in the vicinity and in Wentworth township; • Costs of Council/public funding to embellish and maintain more effectively allocated to other public open space in Wentworth township. • The Sustainable Wentworth Strategy identifies that there is 36.86 hectares of urban land that is currently available for public open space. Which means that Wentworth has sufficient open space to cater for around 13,000 people (based upon the NSW DP&E benchmark for provision of 2.83 ha/1,000 population for the provision of public open space). • Refer to Appendix 3.

RECOMMENDATION – RECLASSIFY LOT 2; DP 583614 TO OPERATIONAL LAND







<u>LOT 2, DP 789452</u>	
Property Owner	Wentworth Shire Council
Number of Adjoining Owners:	One (one owner is son of family which originally dedicated the subject river-front lot).
Current classification	Community land
Proposed Classification	Operational land
Title:	Freehold
Public Reserve?	Yes
<u>Zoning</u>	RU1 – Primary Production
<u>Minimum Lot size</u>	10 ha
<u>Area</u>	1511 m2
Planning and/or Environmental Constraints	Floodplain wetland; Chenopod shrub-land and Terrestrial biodiversity;
Background Information and How acquired	- Land Grant Vol 450 Fol 249 - Cert of title has Reservations and Conditions in the Crown Grant – assume in lieu of public open space. - One affected landholder.

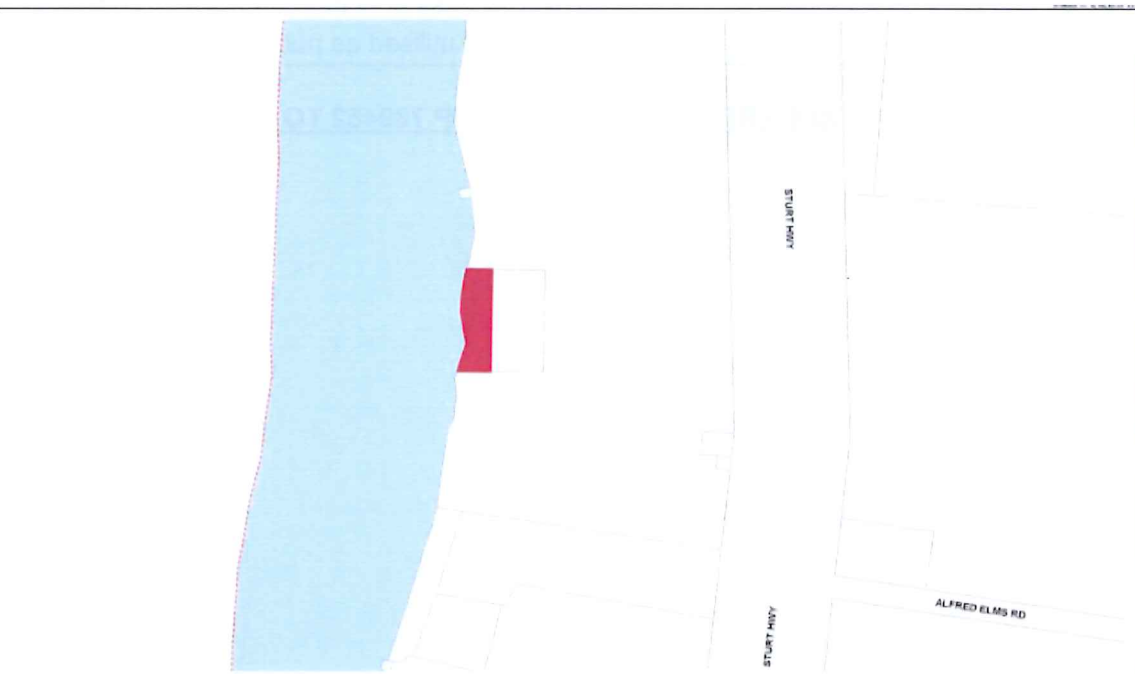
Certificate of title provisions, restrictions on the land	Torrens Title: 7 June 1989: • Land excludes minerals and is subject to Reservations and Conditions in the Crown Grant(s); • Easements appurtenant to the land; • K20000caveat by the Registrar-General forbidding unauthorised dealings with Public Reserves.
Council interests in the land (lease arrangements, business dealings) -	None
Is it proposed to discharge of the land and why?	Yes ➤ Not used as public open space; ➤ “remote” location for public open space provision; ➤ Environmental attributes easily controlled and managed.
Current Uses (authorised and unauthorised):	Recreational uses by adjoining owners
Has/have adjoining owner(s) expressed interest in consolidating and purchasing?	Yes
Strategic and Site Specific Merit Issues	• Access via River Road Pomona - 143 m approximately from River Road • Access only through private property; • Not utilised as public open space;

RECOMMENDATION – RECLASSIFY LOT 2; DP 789452 TO OPERATIONAL LAND

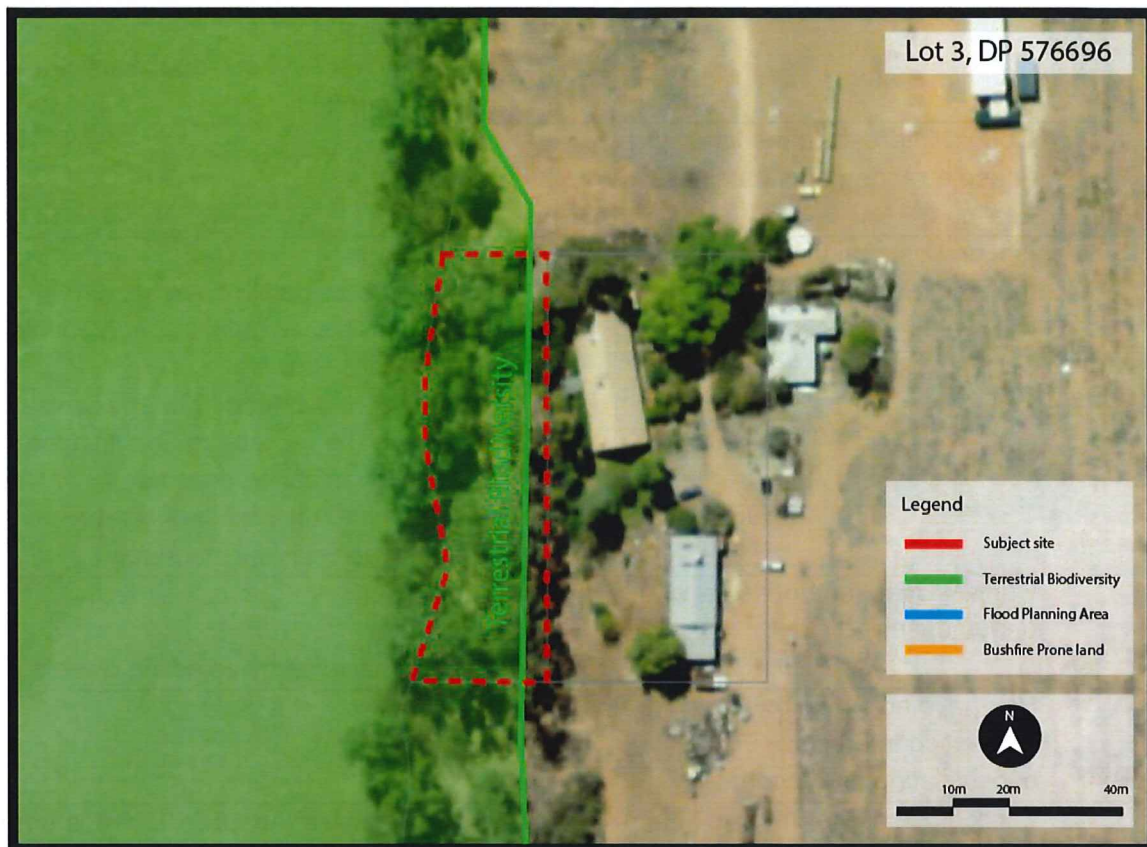
LOT 3, DP 576696, STURT HIGHWAY, TRENTHAM CLIFFS



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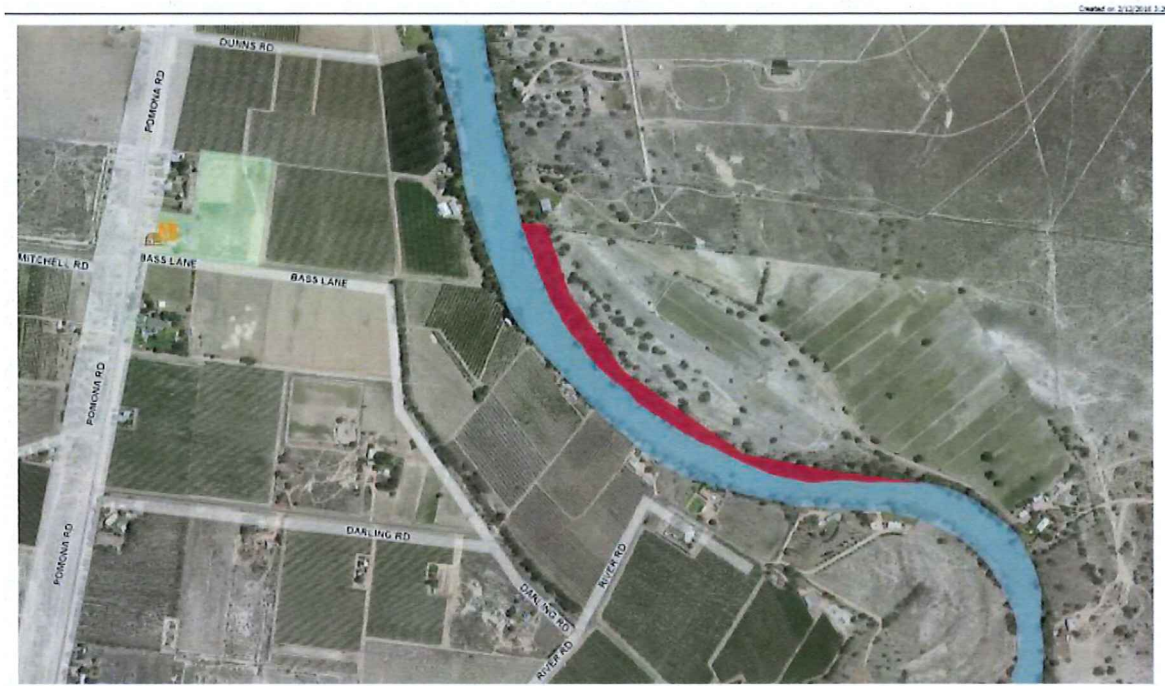


<u>LOT 3, DP 576696</u>	
Property Owner	Wentworth Shire Council
Number of Adjoining Owners:	One
Current classification	Community land
Proposed Classification	Operational land
Title:	Freehold
Public Reserve?	Yes
<u>Zoning</u>	RU1 – Primary Production
<u>Minimum Lot size</u>	10 ha
<u>Area</u>	1856 m2
Planning and/or Environmental Constraints	Floodplain wetland; Red Gum Community; Terrestrial biodiversity
Background Information and How acquired	- Land Grant Vol 10901 Fol 142. - Reservations on title.
Certificate of title provisions, restrictions on the land	Torrens Title: 7 June 1989: - Land excludes minerals and is subject to Reservations and Conditions in the Crown Grant(s); - Easements appurtenant to the land;

	• K20000caveat by the Registrar-General forbidding unauthorised dealings with Public Reserves.
Council interests in the land (lease arrangements, business dealings) -	None
Is it proposed to discharge of the land and why?	Yes ➤ Not used as public open space; ➤ Inaccessibility except through private land or via water; ➤ Significant distance from any centre of population - "remote" location for public open space provision; ➤ Environmental attributes can be controlled and well managed.
Current Uses (authorised and unauthorised):	Recreational uses by adjoining owners
Has/have adjoining owner(s) expressed interest in consolidating and purchasing?	No
Strategic and Site Specific Merit Issues	• Location and Access: About 210 metres from the Sturt Highway; access only through private property; • Not used as public open space; • Inaccessibility except through private land or via water; • Significant distance from any centre of population - "remote" location for public open space provision; • Environmental attributes can be controlled and well managed.

RECOMMENDATION – RECLASSIFY LOT 3; DP 576696 TO OPERATIONAL LAND

LOT 3, DP 631732





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Projection: GDA94 / MGA zone 56

Date: 2/12/2018

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Lot 3 DP 631732 Aerial View

Map Scale: 1:8320 at A4





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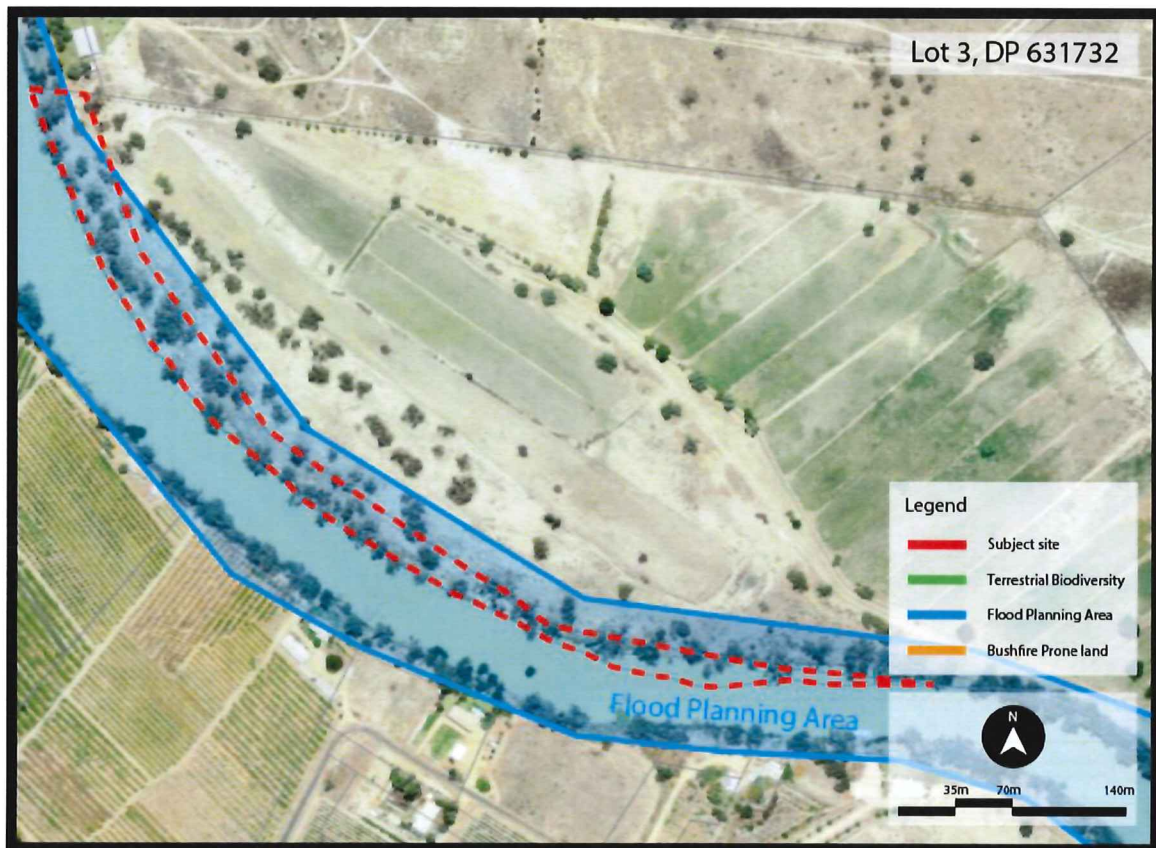
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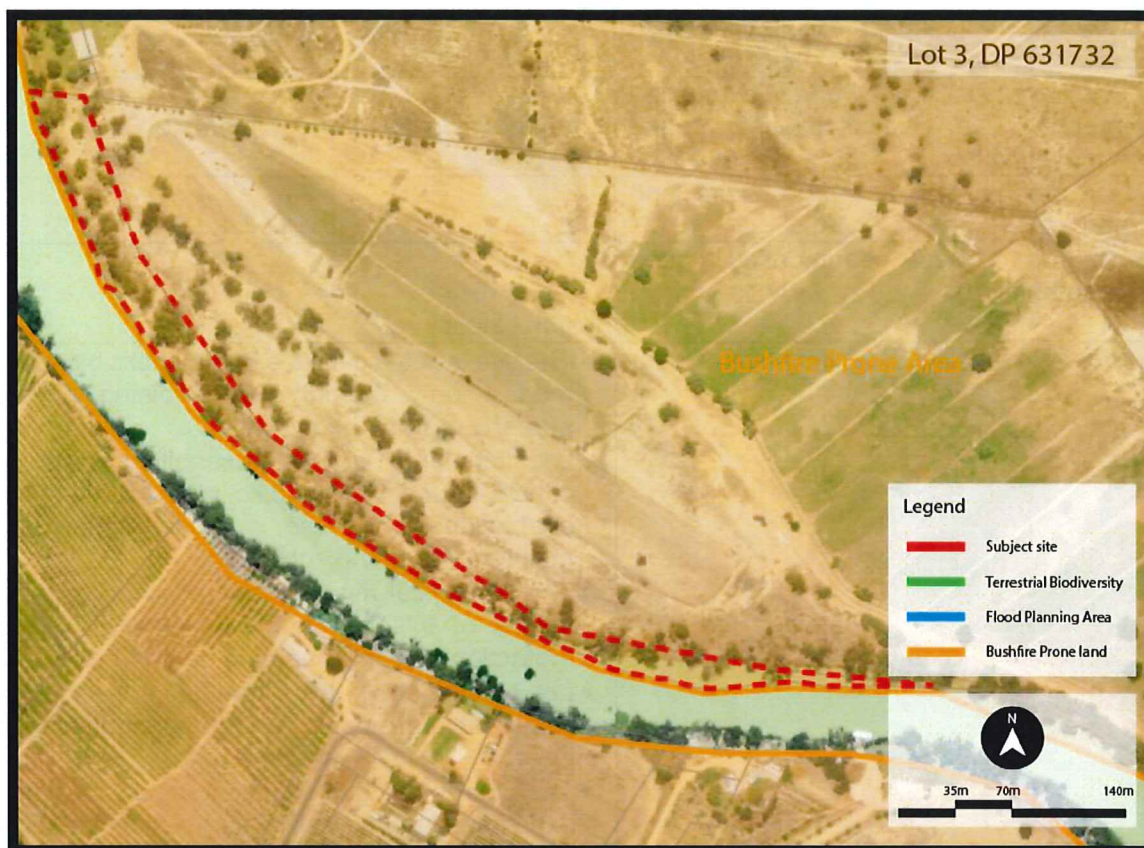
Date: 2/12/2018

Created By: Kathy Gillman

Lot 3 DP 631732 Plan View

Map Scale: 1:8320 at A4





<u>LOT 3, 631732</u>	
Property Owner	Wentworth Shire Council;
Current classification	Community land
Proposed Classification	Community land
Title:	Freehold
Public Reserve? –	Yes
<u>Zoning</u>	RU 1 – Primary Production
<u>Minimum Lot size</u>	10,000 ha
<u>Area</u>	1.53 ha
Planning and/or Environmental Constraints	Floodplain Wetland, Floodway; Flood Planning Area ; Chenopod Shrubland; Black box community; LMC Priority Vegetation Coverage 91%; Terrestrial Biodiversity (part)
Background Information and How acquired	Land Grant Vol. 2933 Fol. 150 Reservations on title. Single Land Parcel.
Certificate of title provisions, restrictions on the land	1) Land excludes minerals and is subject to reservations and conditions, in favour of the Crown - See Crown Grant. 2) K200000P Caveat by the Registrar General forbidding unauthorised dealings with public reserves.

Council interests in the land (lease arrangements, business dealings) -	None
Has/have adjoining owner(s) expressed interest in consolidating and purchasing?	One adjoining owner – not interested in purchasing
Is it proposed to discharge of the land and why?	No
Current Uses (authorised and unauthorised):	Natural state
Strategic and Site Specific Merit Issues:	• The site is not accessible to the public by public road – only through the adjoining private property or from the river; • Location and lack of useability leads to conclusion that the public reserve does not enable the best use, management and maintenance of the subject lot; • The ecological assets, vegetation and scenic values of this site are very significant and protection certainly needs to be ensured; • Lot 3 is one of two river front lots adjoining the single private property and is contiguous with Lot 4, DP 631732 analysed below. • The current single adjoining landowner has expressed no interest in purchasing the river front lot; • Reclassification to operational will enable potential subdivision and offer for sale to a successive owner with all appropriate controls and agreement to ensure maintenance and protection/enhancement of the highly significant environmental values of this lot.

RECOMMENDATION – RECLASSIFY LOT 3; DP 631732 TO OPERATIONAL LAND

Lot 4, DP 631732

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Projection: GDA94 / MGA zone 54

Lot 4 DP 631732 Aerial View

Date: 5/13/2016

Map Scale: 1:6816 at A4

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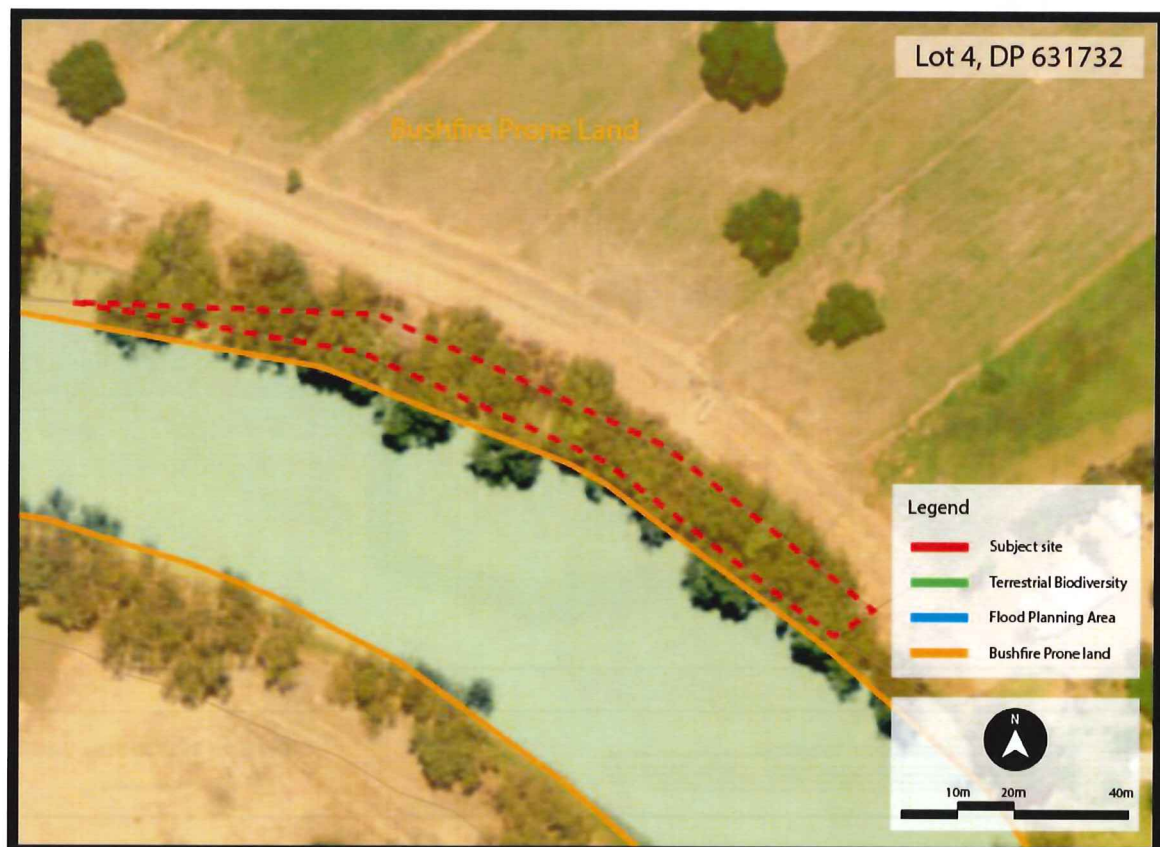
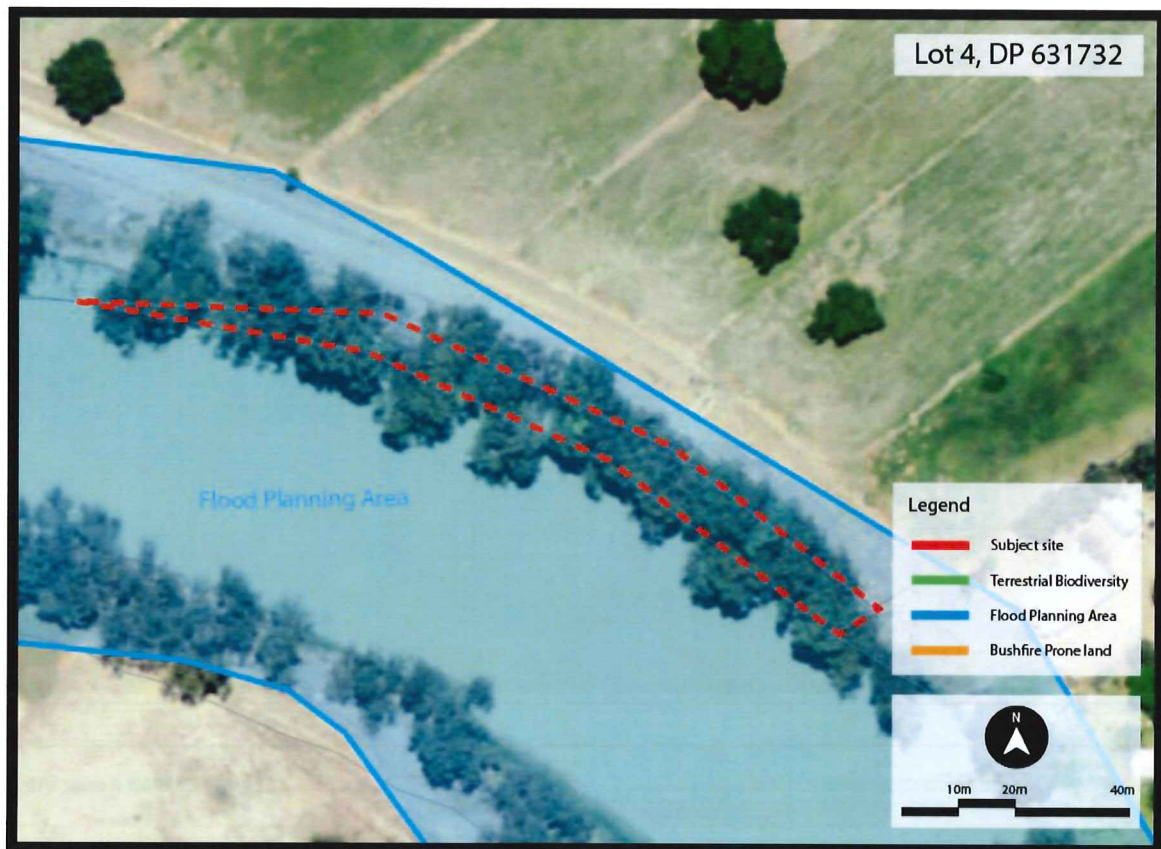
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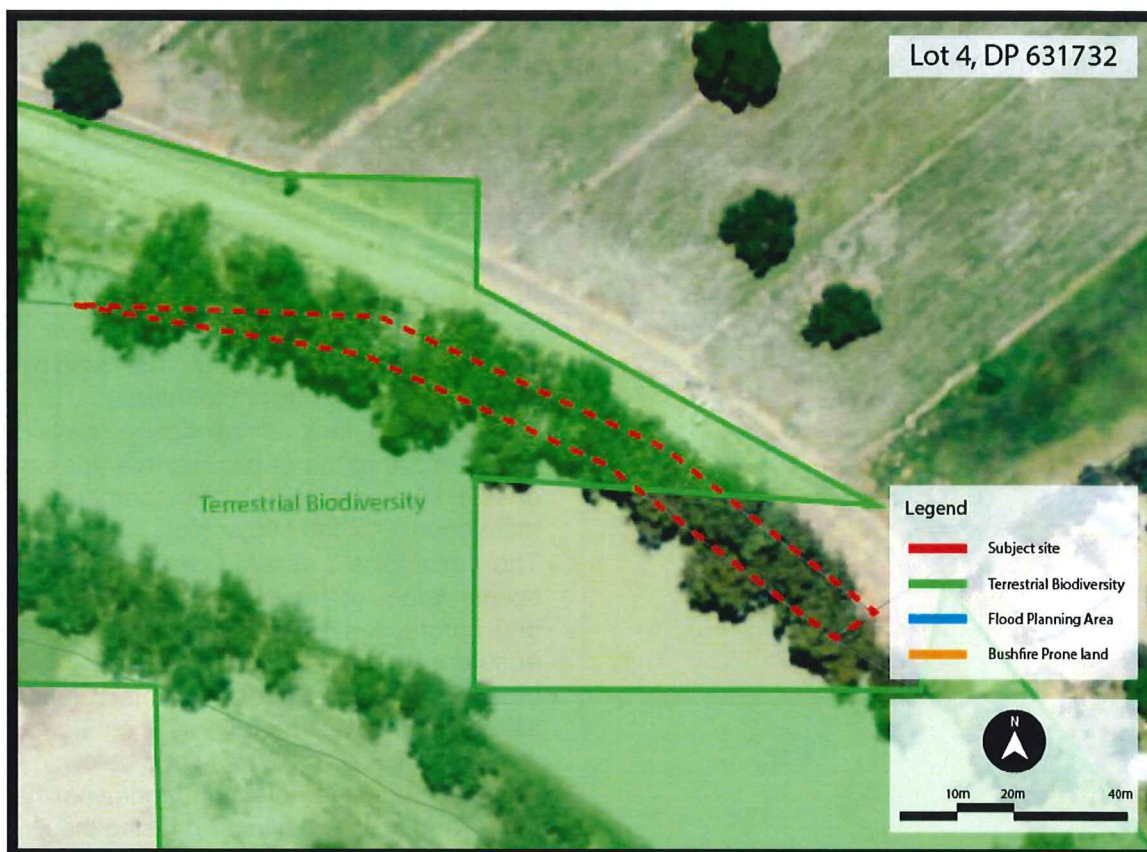
Lot 4 DP 631732 Plan View

Date: 5/13/2016

Map Scale: 1:6816 at A4

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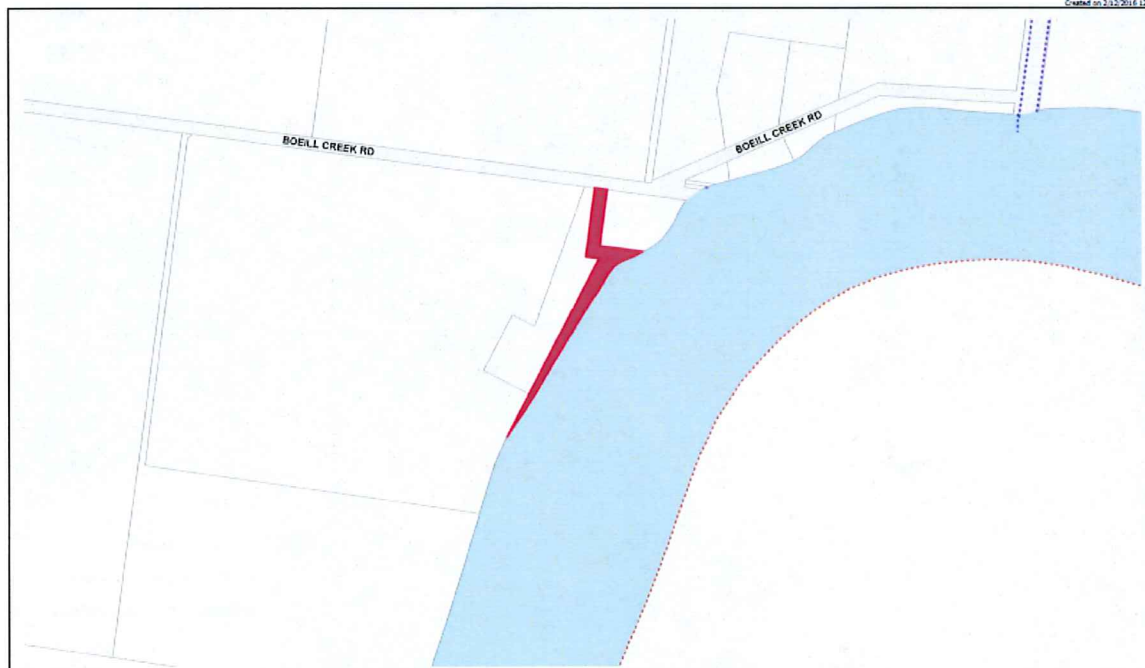


<u>LOT 4, DP 631732</u>	
Property Owner	Wentworth Shire Council;
Current classification	Community land
Proposed Classification	Community land
Title:	Freehold
Public Reserve? –	Yes
<u>Zoning</u>	RU 1 – Primary Production
<u>Minimum Lot size</u>	10,000 ha
<u>Area</u>	1294 m2
Planning and/or Environmental Constraints	Floodplain Wetland, Floodway; Flood Planning Area ; Chenopod Shrubland; Black box community; LMC Priority Vegetation Coverage 91%; Terrestrial Biodiversity (part)
Background Information and How acquired	Land Grant Vol. 2933 Fol. 150 Reservations on title. Single Land Parcel.
Certificate of title provisions, restrictions on the land	3) Land excludes minerals and is subject to reservations and conditions, in favour of the Crown - See Crown Grant. 4) K200000P Caveat by the Registrar General forbidding unauthorised dealings with public reserves.

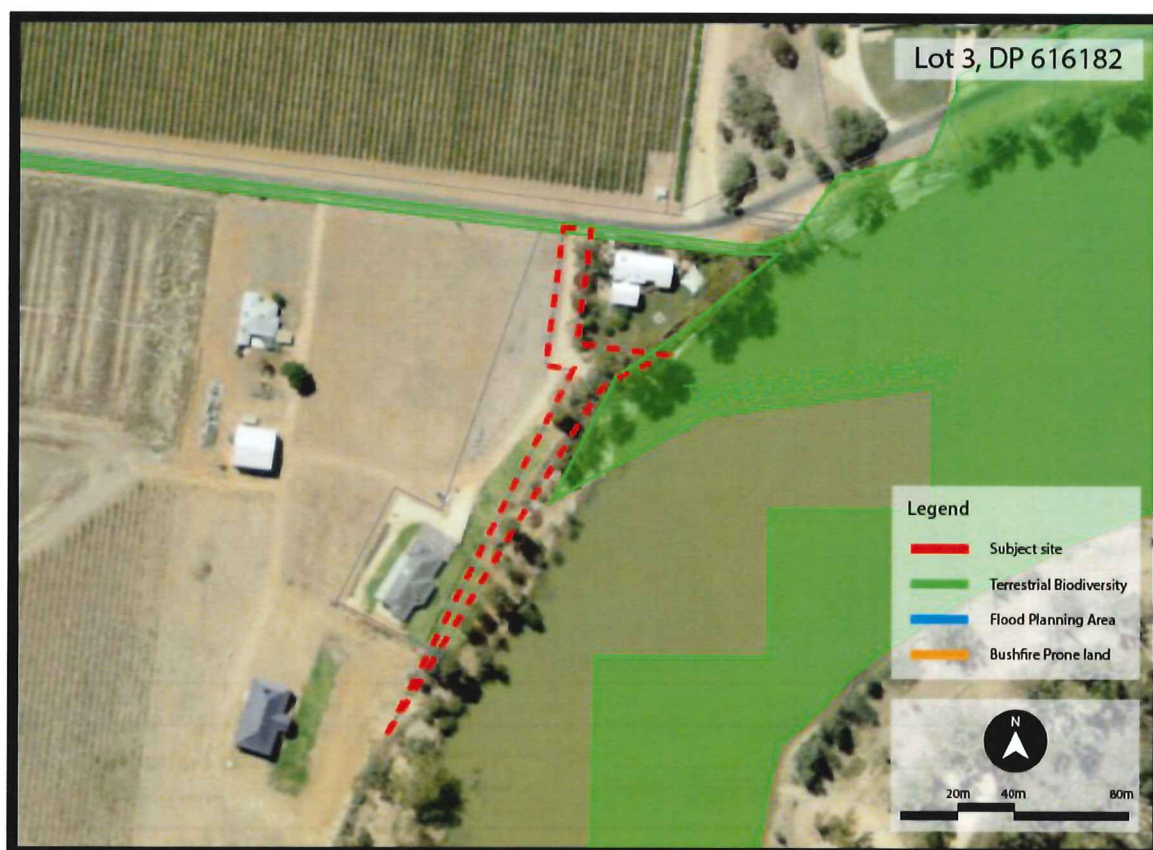
Council interests in the land (lease arrangements, business dealings) -	None
Has/have adjoining owner(s) expressed interest in consolidating and purchasing?	One owner – not interested in purchasing
Is it proposed to discharge of the land and why?	No
Current Uses (authorised and unauthorised):	Natural state
Strategic and Site Specific Merit Issues:	• The site is not accessible to the public by public road – only through the adjoining private property or from the river; • Location and lack of useability leads to conclusion that the public reserve does not enable the best use, management and maintenance of the subject lot; • The ecological assets, vegetation and scenic values of this site are very significant and protection certainly needs to be ensured; • Lot 3 is one of two river front lots adjoining the single private property and is contiguous with Lot 4, DP 631732 analysed below. • The current single adjoining landowner has expressed no interest in purchasing the river front lot; • Reclassification to operational will enable potential subdivision and offer for sale to a successive owner with all appropriate controls and agreement to ensure maintenance and protection/enhancement of the highly significant environmental values of this lot.

RECOMMENDATION: RECLASSIFY TO OPERATIONAL LAND

Map Scale: 1:3299 at A4



Map Scale: 1:1199 at A4



<u>LOT 3, DP 616182</u>	
Property Owner	Wentworth Shire Council
Number of Adjoining Owners:	Three
Current classification	Community land
Proposed Classification	Operational land
Title:	Freehold
Public Reserve?	Yes
<u>Zoning</u>	RU1 – Primary Production
<u>Minimum Lot size</u>	10, 000 ha
<u>Area</u>	1913 m2
Planning and/or Environmental Constraints	Flood Planning Area
Background Information and How acquired	- Land Grant Vol.450 Fol.247 - Lot 3 DP 616182 was created during a subdivision and is needed for access to Lot 1 DP 1049590. - Adjacent Lot 1 DP 605072 apparently has occupied part of Lot 3 DP 616182 and wishes to retain the occupied area when Council considers sale of Lot 3 DP 616182
Certificate of title provisions, restrictions on the land	Torrens Title: 5 August 1981: - Reservations and Conditions if any contained in the Crown Grant(s); - Easements for water pipe line burdens the land; - K20000caveat by the Registrar-General forbidding unauthorised dealings with Public Reserves.
Council interests in the land (lease arrangements, business dealings) -	None
Is it proposed to discharge of the land and why?	Yes - by enabling subdivision and offer of sale to the adjoining landowners in accordance with Council Policy. - Not used as public open space; - Location inappropriate for public open space provision; - Environmental attributes easily controlled and managed.
Current Uses (authorised and unauthorised):	Pumps, boat ramps, terracing and pathways.

Has/have adjoining owner(s) expressed interest in consolidating and purchasing?	Yes - all three adjoining owners but one owner not 'directly affected'
Strategic and Site Specific Merit Issues	a) Well formed road access from Boeill Creek Road to foreshore and parking area servicing private owners is within the reserve; b) Not utilised as public open space; c) Adjacent to and accessible via Boeill Creek Road, Boeill Creek; d) Public Reserve includes public road access to the reserve; e) Substantial proportion of the river bank is destabilised and undermined by water in-flows – and sinkholes are apparent on adjoin private properties. This creates risks for the adjoining private owners and for the general public plus significant liability and risk for Council. The adjoining private landowners have expressed intentions to stabilise the banks and significantly improve the physical condition of the subject lot if reclassification and subdivision enabled their acquisition. f) While the site is accessible to public by public road and from the river, location and lack of useability leads to conclusion that the public reserve does not enable the best use, management and maintenance of the subject lot and that it is not in the public interest to retain the subject lot as a public reserve.

RECOMMENDATION: RECLASSIFY TO OPERATIONAL LAND AND AMEND THE LOT SIZE MAP IN WENTWORTH LEP 2011 TO NO MINIMUM LOT SIZE REQUIREMENT FOR SUBDIVISION

LOT 3, DP 776526



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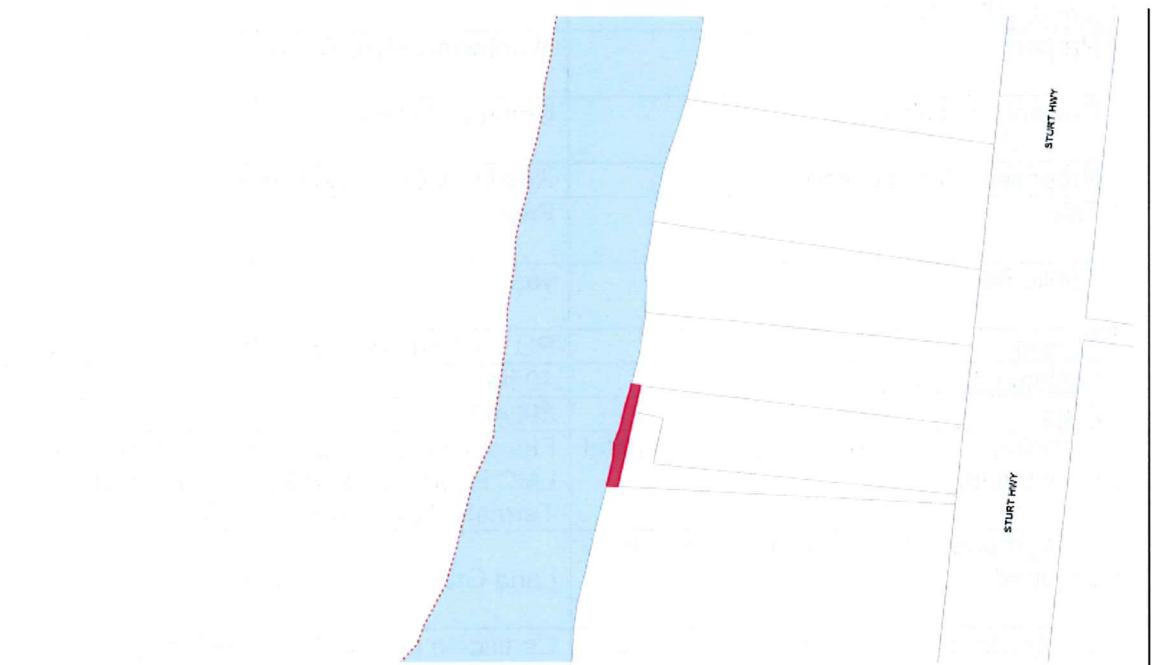
Projection: GDA94 / MGA zone 54

Date: 2/12/2016

Created By: Kathy Colman

Lot 3 DP 776526 Aerial View

Map Scale: 1:3799 at A4



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Lot 3 DP 776526 Plan View

Map Scale: 1:3799 at A4

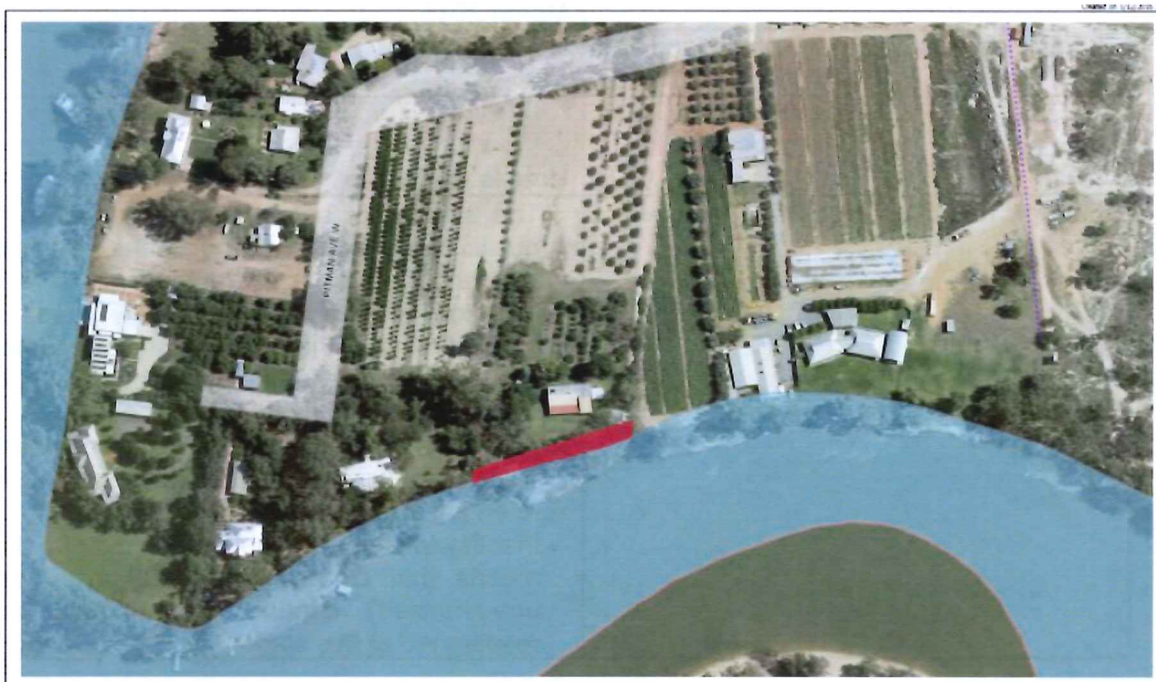


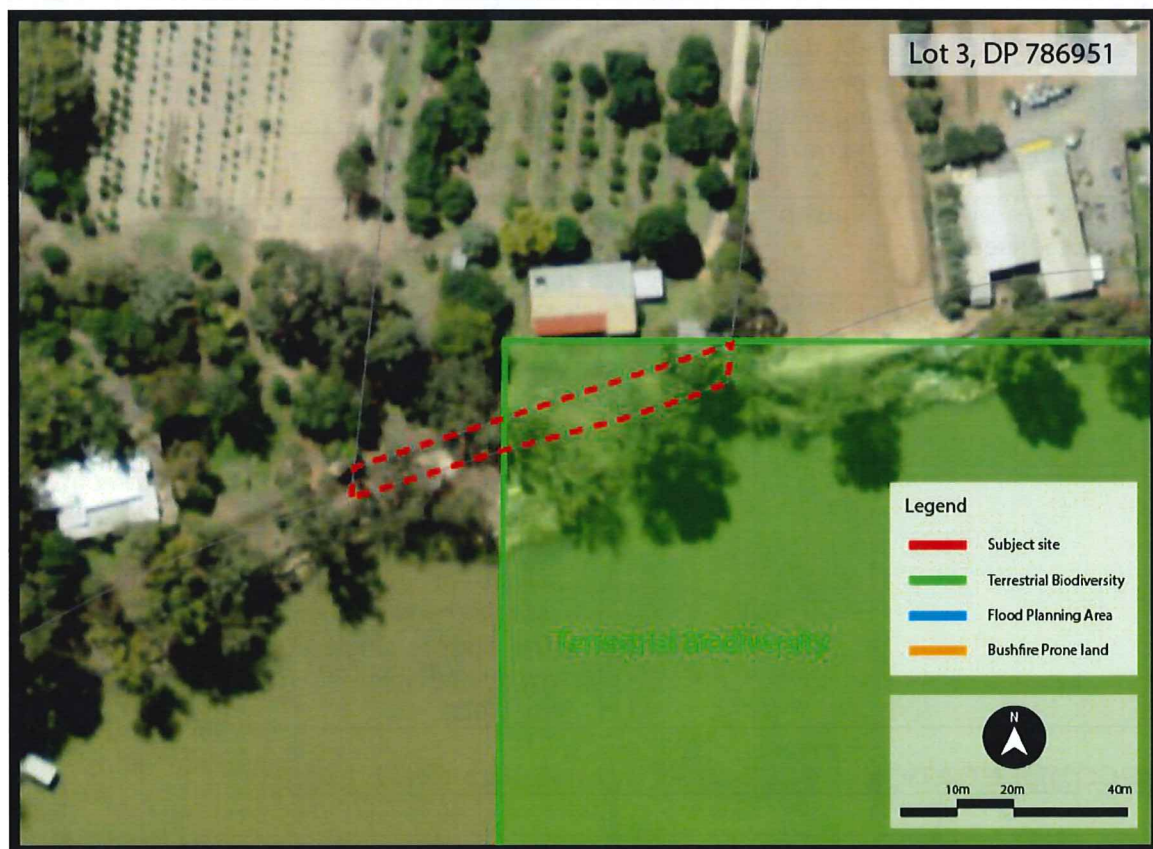
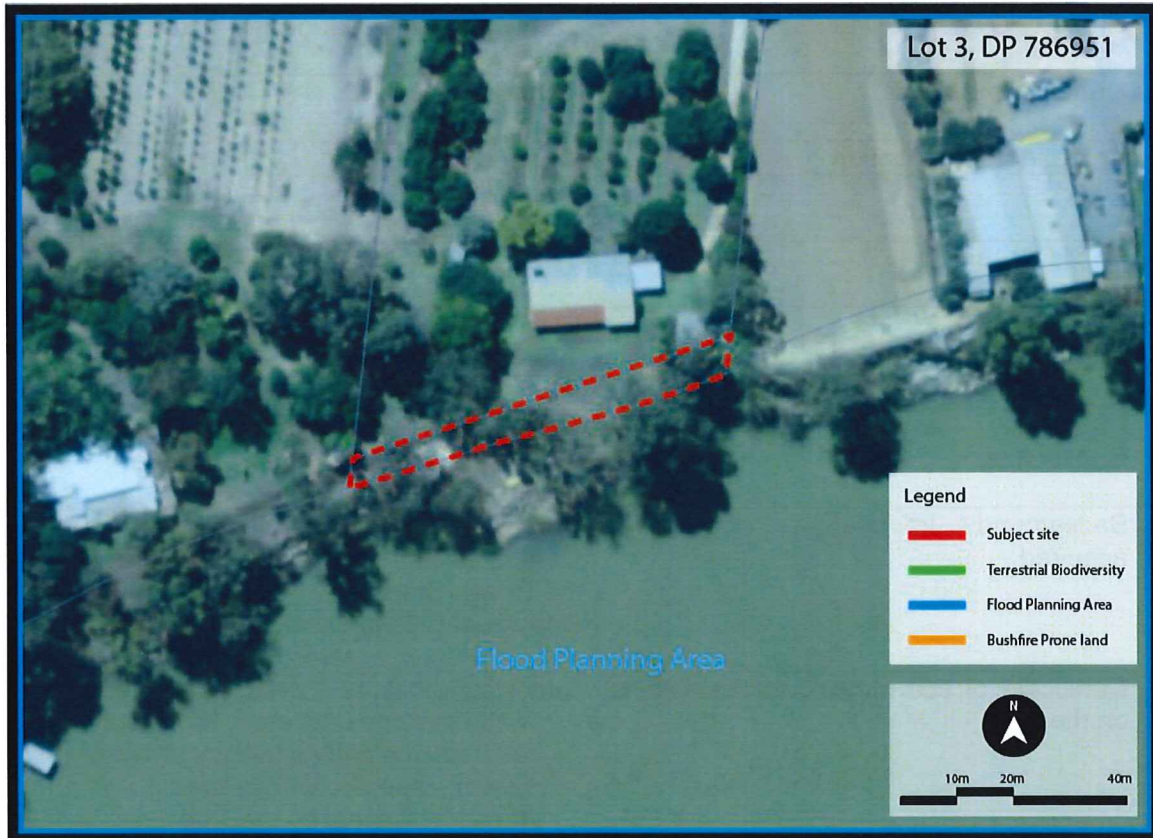
Lot 3, DP 776526	
Property Owner	Wentworth Shire Council;
Current classification	Community land
Proposed Classification	Retain as Community land
Title:	Freehold
Public Reserve? –	yes
<u>Zoning</u>	RU 1 – Primary Production
<u>Minimum Lot size</u>	10 ha
<u>Area</u>	896m2
Planning and/or Environmental Constraints	Floodplain Wetland, Red Gum community; LMC Priority Vegetation Coverage 97%; Terrestrial Biodiversity (part)
Background Information and How acquired	Land Grant Vol. 13169 Fol.182
Certificate of title provisions, restrictions on the land	Certificate of Title (23/8/1988) has reservations, restrictions and conditions in favour of the Crown. K20000 Caveat by the RG forbidding unauthorised dealings with Public Reserves
Council interests in the land (lease arrangements, business dealings) -	None

Has/have adjoining owner(s) expressed interest in consolidating and purchasing?	Two owners– conditionally interested in purchasing in response to Council letters of March 2015.
Is it proposed to discharge of the land and why?	NO
Current Uses (authorised and unauthorised):	Unable to physically inspect
Strategic and Site Specific Merit Issues:	• The site is not accessible to the public by public road – only through the adjoining private properties and from the river; • Location and lack of useability leads to conclusion that the best use, management and maintenance of the subject lot would be by the adjoining private landowners;; • The ecological assets, vegetation and scenic values of this site need to be ensured for retention and protection; • Inability to physically inspect the river front lot means that current uses (authorised and unauthorised) cannot be validated and researched at this stage.

RECOMMENDATION: RECLASSIFY TO OPERATIONAL LAND AND AMEND THE LOT SIZE MAP IN WENTWORTH LEP 2011 TO NO MINIMUM LOT SIZE REQUIREMENT FOR SUBDIVISION

LOT 3, DP 786951, PITMAN ROAD WEST, BURONGA,

[illegible][illegible]



LOT 3, DP 786951	
Property Owner	Wentworth Shire Council;
Current classification	Community land
Proposed Classification	Operational
Title:	Freehold
Public Reserve? –	YES
<u>Zoning</u>	RU 1 – Primary Production
<u>Minimum Lot size</u>	10,000 ha
<u>Area</u>	
Planning and/or Environmental Constraints	Floodplain Wetland, Floodway; Flood Planning Area (94%) River Red gum Potential; Terrestrial Biodiversity (part)
Background Information and How acquired	Land Grant Vol. 13188 Fol. 49 Cert of title has Reservations and Conditions in the Crown Grant. One affected landholder.
Certificate of title provisions, restrictions on the land	Certificate of title (23/3/1989) states: <i>"Land excludes minerals and is subject to reservations and conditions in favour of the Crown – see Crown Grant(s): K20000P Caveat by the Registrar General forbidding unauthorised dealings with Public Reserves.</i>
Council interests in the land (lease arrangements, business dealings) -	None
Has/have adjoining owner(s) expressed interest in consolidating and purchasing?	One owner – conditionally interested in purchasing
Is it proposed to discharge of the land and why?	Yes
Current Uses (authorised and unauthorised):	Pump infrastructure
Strategic and Site Specific Merit Issues:	• The site is not accessible to the public by public road – only through the adjoining private property and from the river; • Location and lack of useability leads to conclusion that the public reserve does not enable the best use, management and maintenance of the subject lot; • The ecological assets, vegetation and scenic values of this site can be managed for retention and protection; • The current single adjoining landowner has expressed interest in purchasing the river front lot.

RECOMMENDATION: RECLASSIFY TO OPERATIONAL LAND

LOT 3, DP 788830



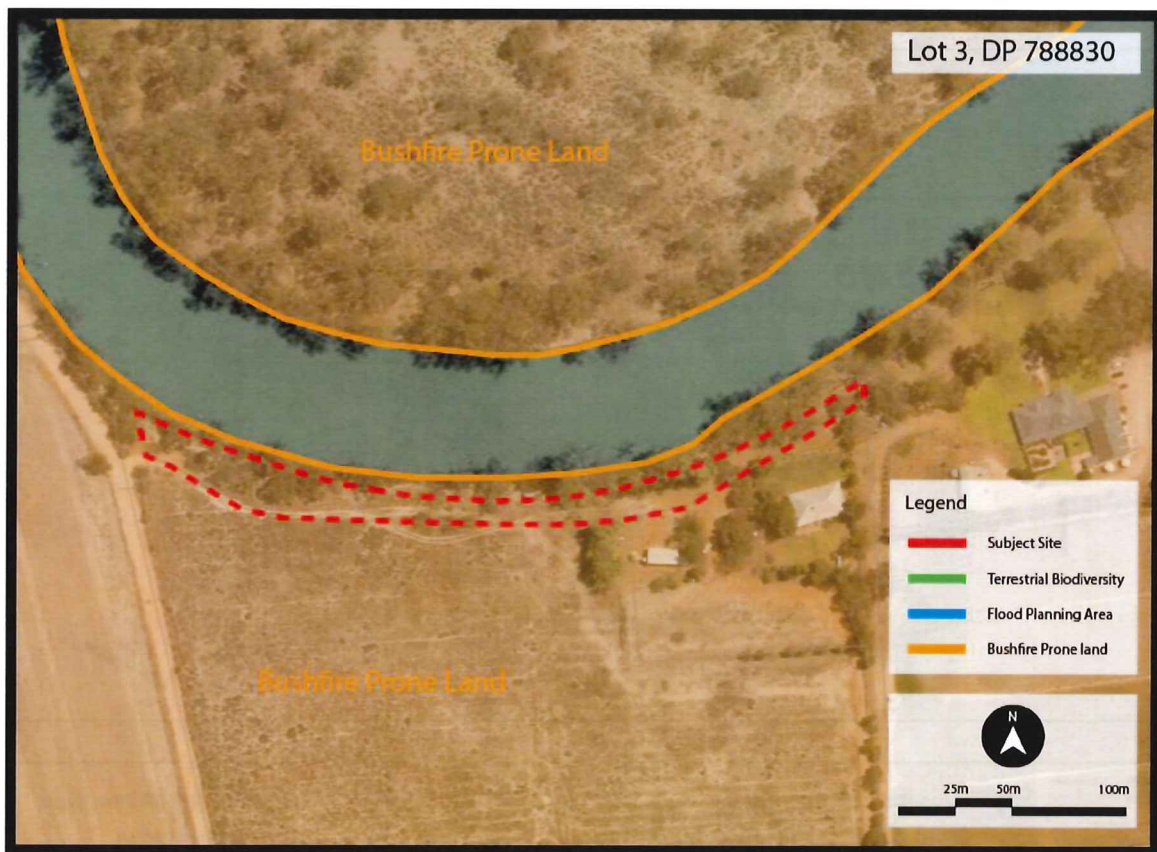
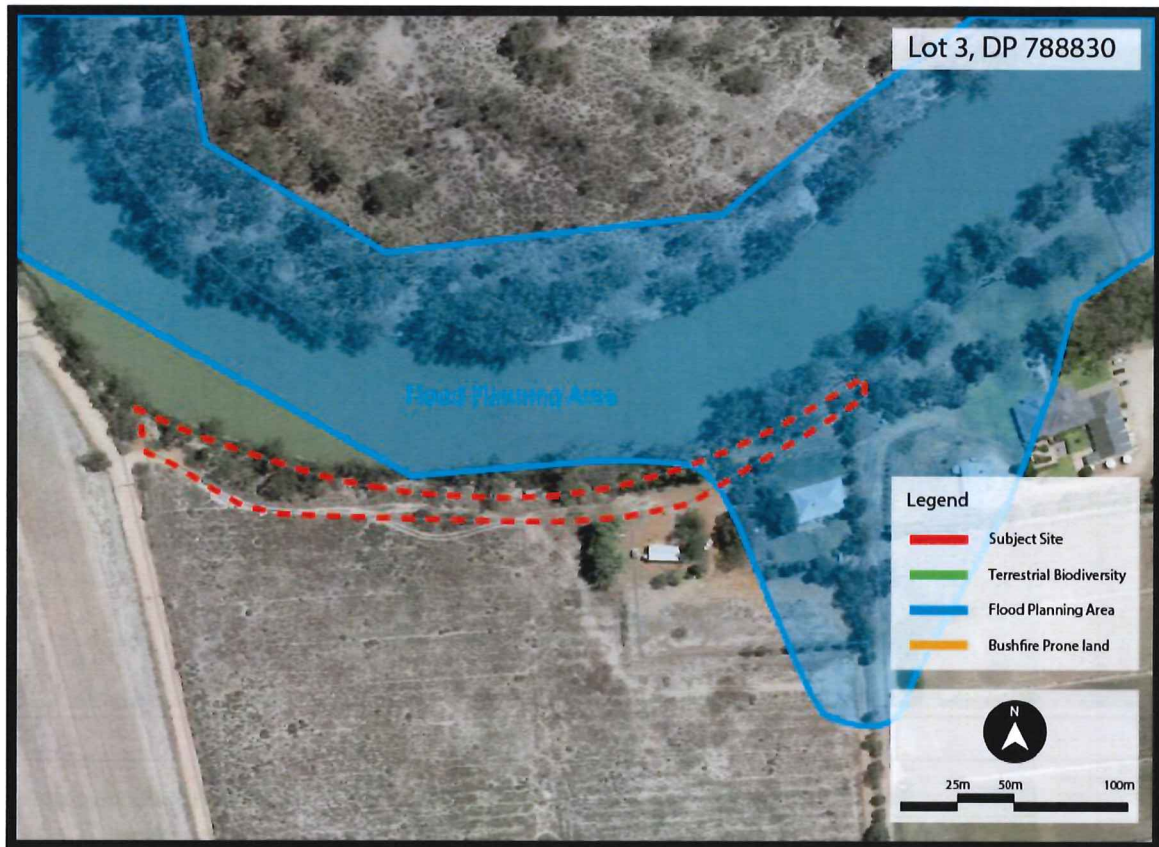
 Wentworth Shire Council Wentworth Shire Council 2018 111 Department of Planning and Infrastructure, 2018, Newcastle Federal National, 2018, www.wentworth.nsw.gov.au 111 Department of Planning and Infrastructure, 2018, Newcastle Federal National, 2018, www.wentworth.nsw.gov.au 111 Department of Planning and Infrastructure, 2018, Newcastle Federal National, 2018, www.wentworth.nsw.gov.au 111 Department of Planning and Infrastructure, 2018, Newcastle Federal National, 2018, www.wentworth.nsw.gov.au	Lot 3 DP 788830 Aerial View
	Projection: GDA94 / MGA zone 56
	Date: 2/12/2018
	Created By: Kathy Colman

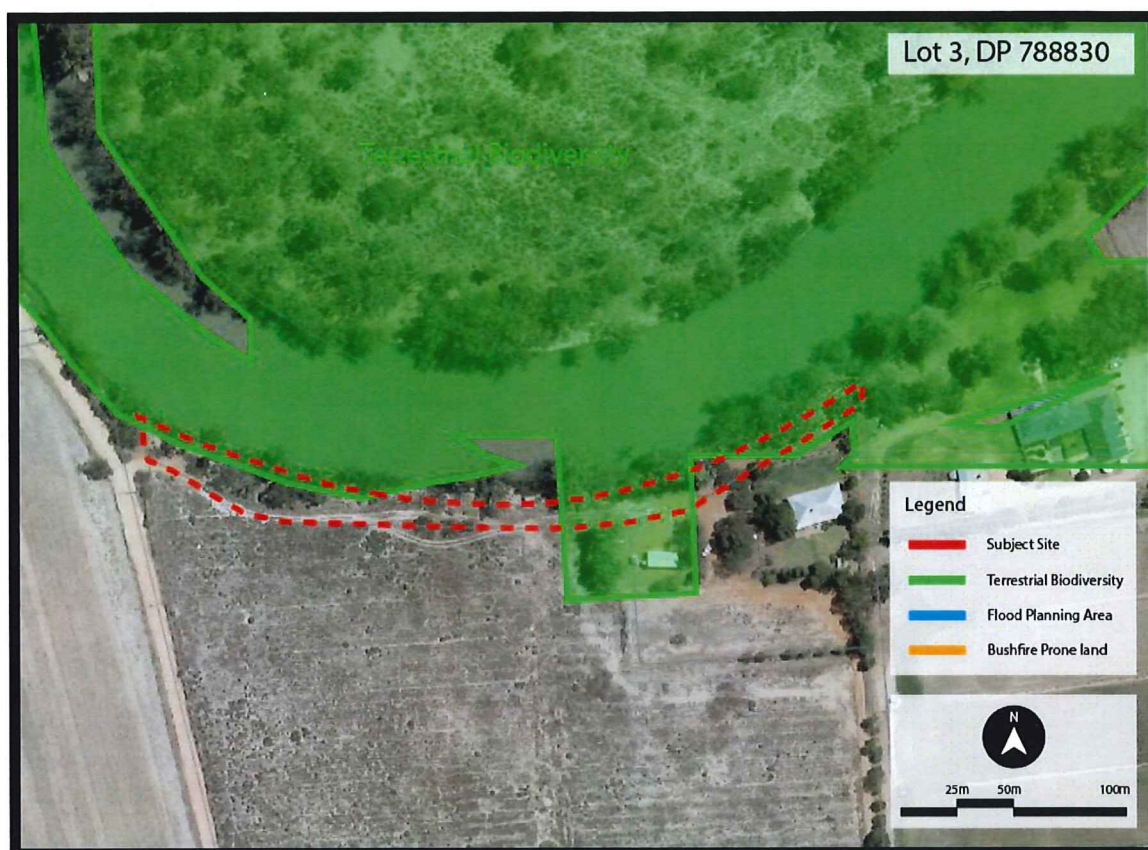
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	Projection: GDA94 / MGA zone 56
	Date: 2/12/2018
	Created By: Kathy Colman

Map Scale: 1:7689 at A4





LOT 3, DP 788830	
Property Owner	Wentworth Shire Council;
Current classification	Community land
Proposed Classification	Operational
Title:	Freehold
Public Reserve? –	Yes
<u>Zoning</u>	W1 – Natural Waterways
<u>Minimum Lot size</u>	Not Applicable
<u>Area</u>	4395 m2
Planning and/or Environmental Constraints	Floodplain Wetland, Floodway; Black Box community; LMC Vegetation coverage (27%)
Background Information and How acquired	Land Grant Vol. 566 Fol. 166 Land Grant Vol. 723. Fol.8 Cert of title has Reservations and Conditions in the Crown Grant.
Certificate of title provisions, restrictions on the land	Certificate of title (28/4/1989) states: “Subject to reservations and conditions in favour of the Crown – see Crown Grant(s): K20000P Caveat by the Registrar General forbidding unauthorised dealings with Public Reserves.
Council interests in the land (lease arrangements, business dealings) -	None

Has/have adjoining owner(s) expressed interest in consolidating and purchasing?	One of the two owners
Is it proposed to discharge of the land and why?	Yes
Current Uses (authorised and unauthorised):	
Strategic and Site Specific Merit Issues:	• The site is to the public by public road – Florence Road; • Distance from population and tourist visitation locations plus feedback indicate very low public utilisation; • Location and lack of useability leads to conclusion that the public reserve does not enable the best use, management and maintenance of the subject lot; • The ecological assets, vegetation and scenic values of this site can be managed for retention and protection; • Enhanced management of the riverfront lot will occur if purchased by adjoining landowners under agreement and controls applicable and Council's resources are better allocated to more utilised, better located and valued public open spaces

RECOMMENDATION: RECLASSIFY TO OPERATIONAL LAND AND AMEND THE LOT SIZE MAP IN WENTWORTH LEP 2011 TO NO MINIMUM LOT SIZE REQUIREMENT FOR SUBDIVISION

LOT 4, DP 733472

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Lot 4 DP 733472 Aerial View

Date: 5/11/2016

Map Scale: 1:2238 at A4

Created By: Kathy Gillman



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Projection: GDA94 / MGA zone 56

Lot 4 DP 733472

Date: 5/11/2016

Map Scale: 1:2238 at A4

Created By: Kathy Gillman



LOT 4, DP 733472	
Property Owner	Wentworth Shire Council;
Number of adjoining owners	Two (of three adjoining lots).
Current classification	Community land
Proposed Classification	Operational
Title:	Freehold
Public Reserve? –	YES
<u>Zoning</u>	RU 1 – Primary Production
<u>Minimum Lot size</u>	10 ha
<u>Area</u>	994 m2
Planning and/or Environmental Constraints	Floodplain Wetland; River Red gum community; Terrestrial Biodiversity
Background Information and How acquired	Land Grant Vol.11870 Fol.172 Check cert of title has reservations. Odd shaped subdivision of DP 733472
Certificate of title provisions, restrictions on the land	Certificate of title (29/5/1986) states: <i>“Land excludes minerals and is subject to reservations and conditions in favour of the Crown – see Crown Grant(s): K20000P Caveat by the Registrar General forbidding unauthorised dealings with Public Reserves.</i>
Council interests in the land (lease arrangements, business dealings) -	None

Has/have adjoining owner(s) expressed interest in consolidating and purchasing?	One owner – conditionally interested in purchasing
Is it proposed to discharge of the land and why?	Yes
Current Uses (authorised and unauthorised):	
Strategic and Site Specific Merit Issues:	• The site is not accessible to the public by public road – only through the adjoining private property and from the river; • Location and lack of useability leads to conclusion that the public reserve does not enable the best use, management and maintenance of the subject lot; • The ecological assets, vegetation and scenic values of this site can be managed for retention and protection; • The current single adjoining landowner has expressed interest in purchasing the river front lot.

RECOMMENDATION: RECLASSIFY TO OPERATIONAL LAND AND AMEND THE LOT SIZE MAP IN WENTWORTH LEP 2011 TO NO MINIMUM LOT SIZE REQUIREMENT FOR SUBDIVISION

Wentworth Shire Council

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Projection: GDA94 / MGA zone 56

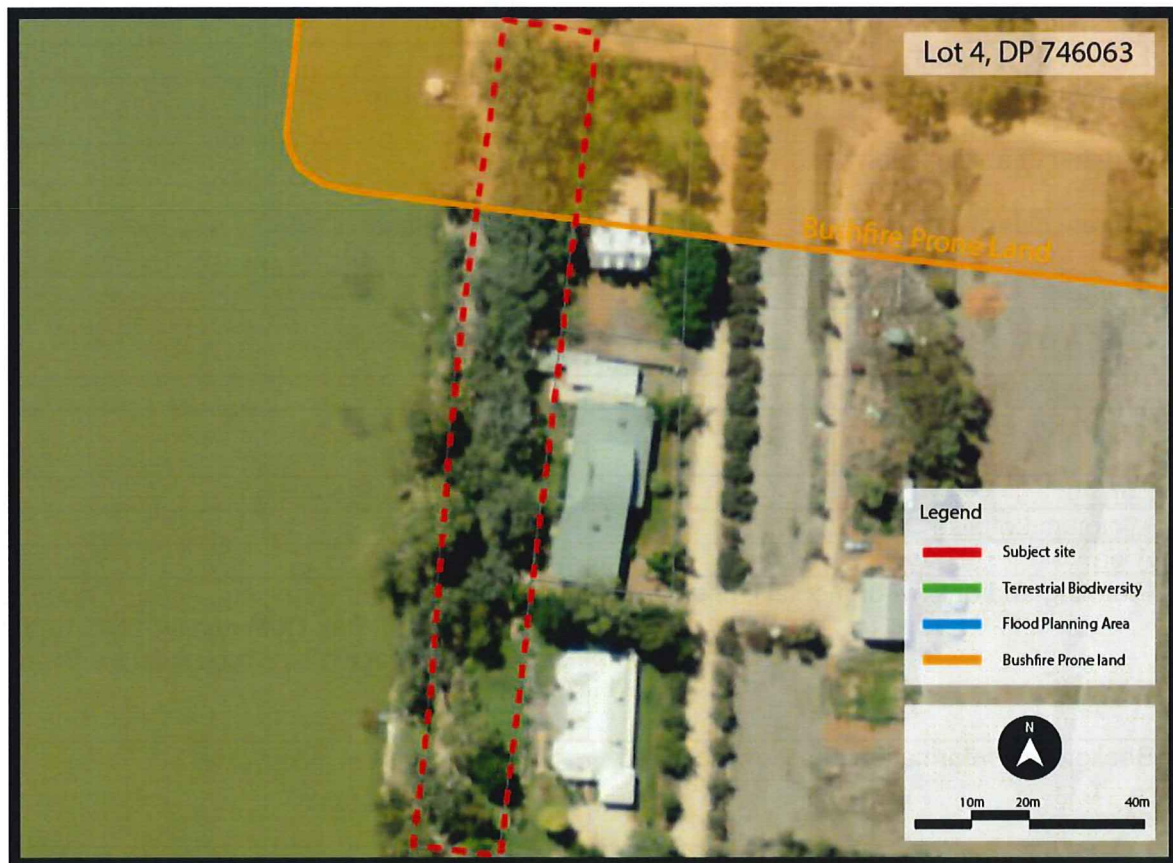
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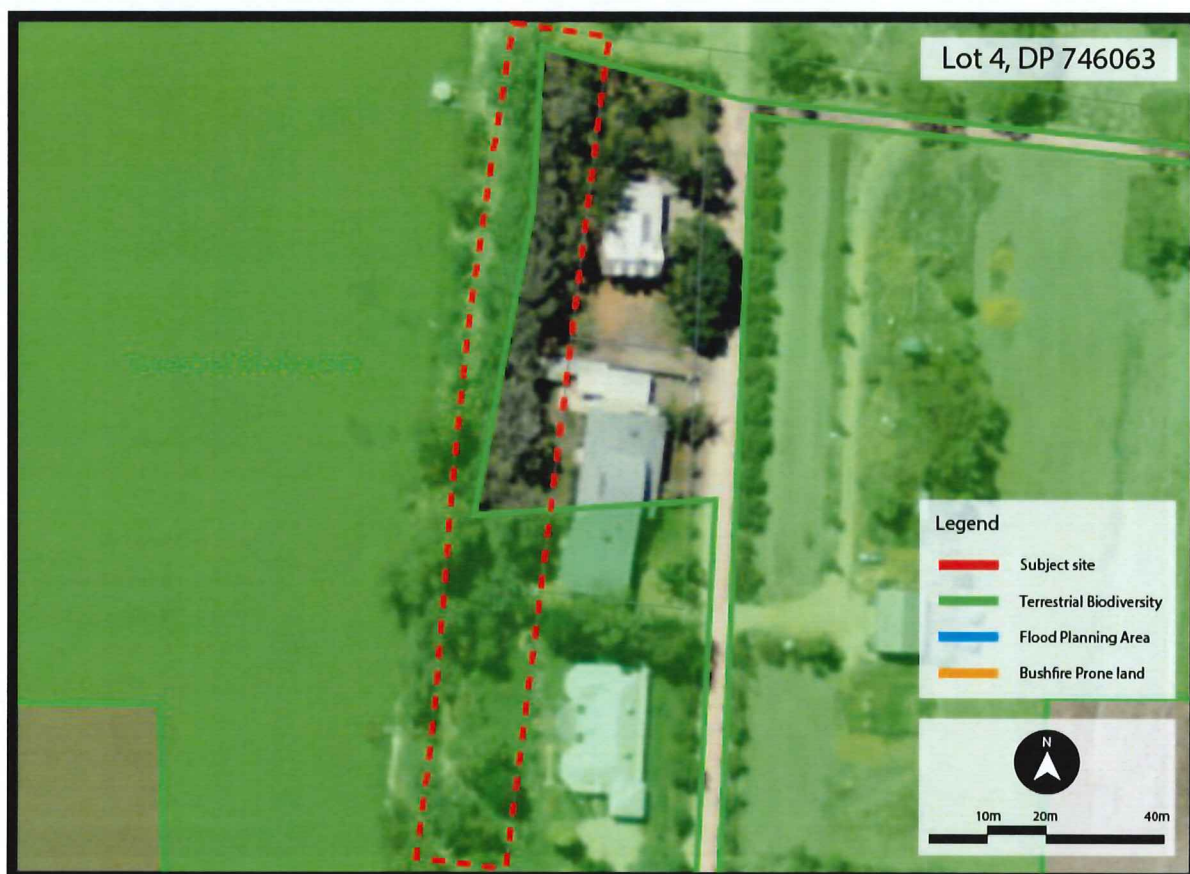
Created By: Kathy Callaghan

Lot 4 DP 746063 Aerial View

Map Scale: 1:4971 at A4





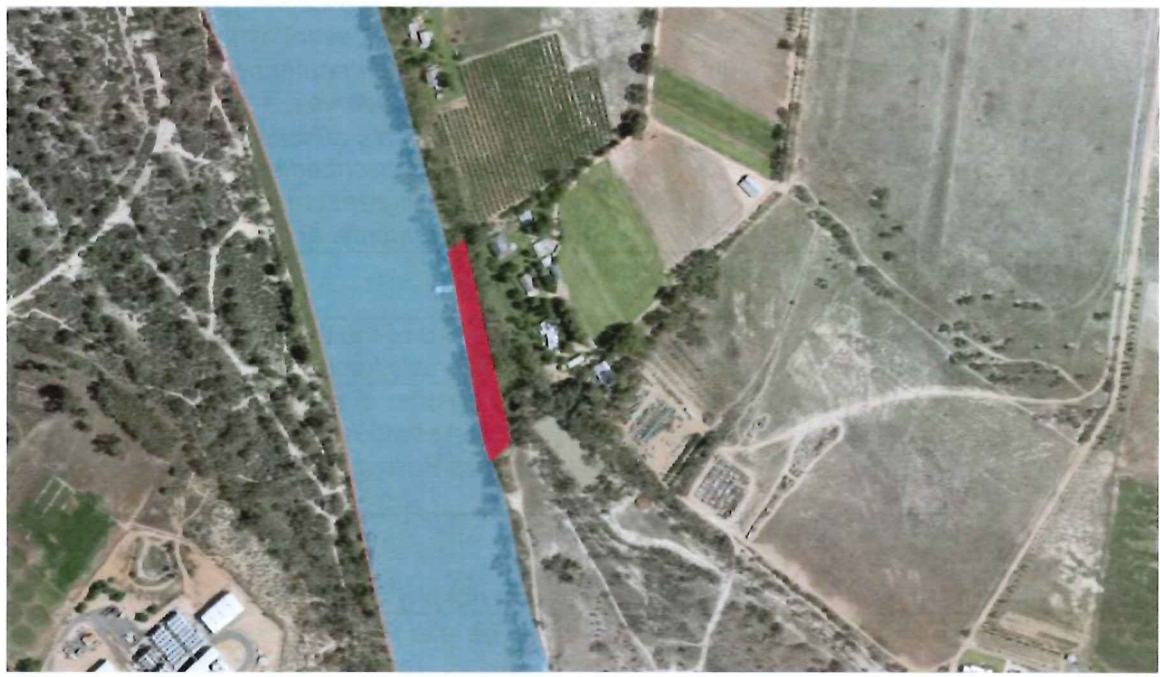


LOT 4, DP 746063	
Property Owner	Wentworth Shire Council;
Number of adjoining owners: Three	Three
Current classification	Community land
Proposed Classification	Operational
Title:	Freehold
Location and Access	
Public Reserve? –	Yes
<u>Zoning</u>	RU 1 – Primary Production
<u>Minimum Lot size</u>	10,000 ha
<u>Area</u>	3418 m2
Planning and/or Environmental Constraints	Floodway; Flood Planning Area; Floodplain wetland; Black Box Community; LMC Priority Vegetation cover (61%); Terrestrial biodiversity (part);
Background Information and How acquired	- Land Grant Vol. 501 Fol.162 - Reservations on title
Certificate of title provisions, restrictions on the land	Certificate of title (23/3/1989) states:

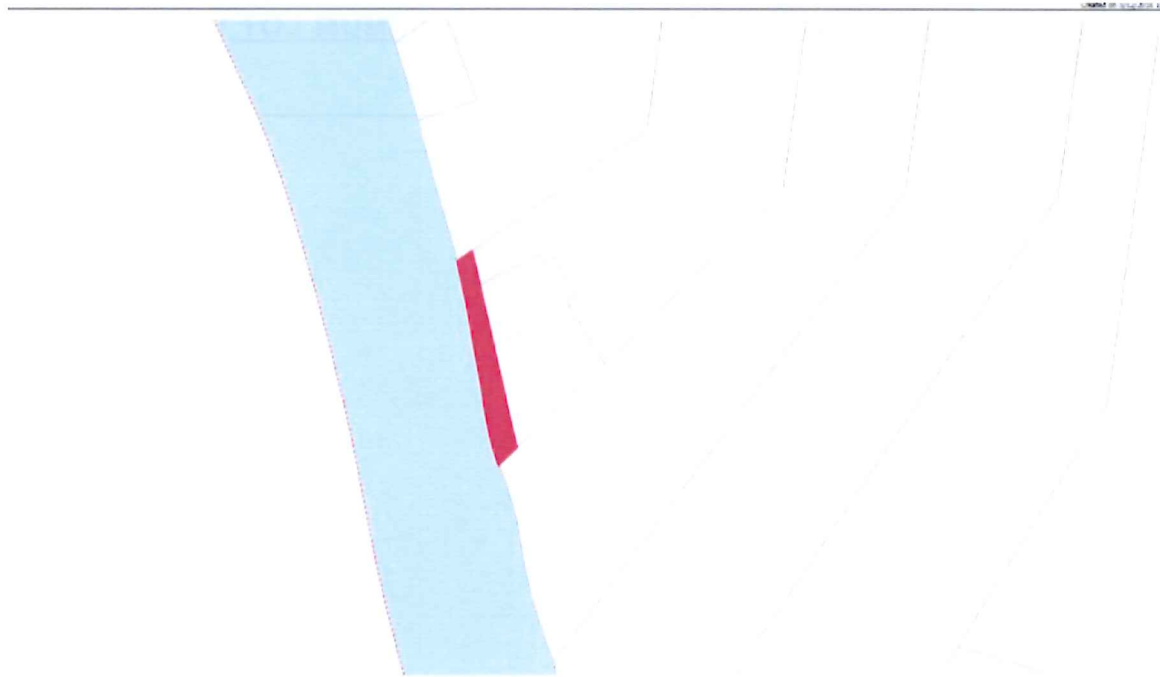
	• <i>"Land excludes minerals and is subject to reservations and conditions in favour of the Crown – see Crown Grant(s):</i> • <i>K20000P Caveat by the Registrar General forbidding unauthorised dealings with Public Reserves;</i> • <i>Easements affecting the part(s) of the land above described shown so burdened in the Title diagram created for water supply, access, and pump site.</i>
Council interests in the land (lease arrangements, business dealings) -	None
Has/have adjoining owner(s) expressed interest in consolidating and purchasing?	Yes – two of the three adjoining owners– conditionally interested in purchasing
Is it proposed to discharge of the land and why?	Yes, by offer of sale to the adjoining landowner in accordance with Council Policy:
Current Uses (authorised and unauthorised):	Site not physically inspected at this stage.
Strategic and Site Specific Merit Issues:	• The site is not accessible to the public by public road – only through the adjoining private properties and from the river; • Location and lack of useability leads to conclusion that the public reserve does not enable the best use, management and maintenance of the subject lot;

RECOMMENDATION: RECLASSIFY TO OPERATIONAL LAND AND AMEND THE LOT SIZE MAP IN WENTWORTH LEP 2011 TO NO MINIMUM LOT SIZE REQUIREMENT FOR SUBDIVISION

LOT 4, DP 777861, BOEILL CREEK ROAD, BOEILL CREEK



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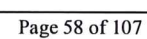
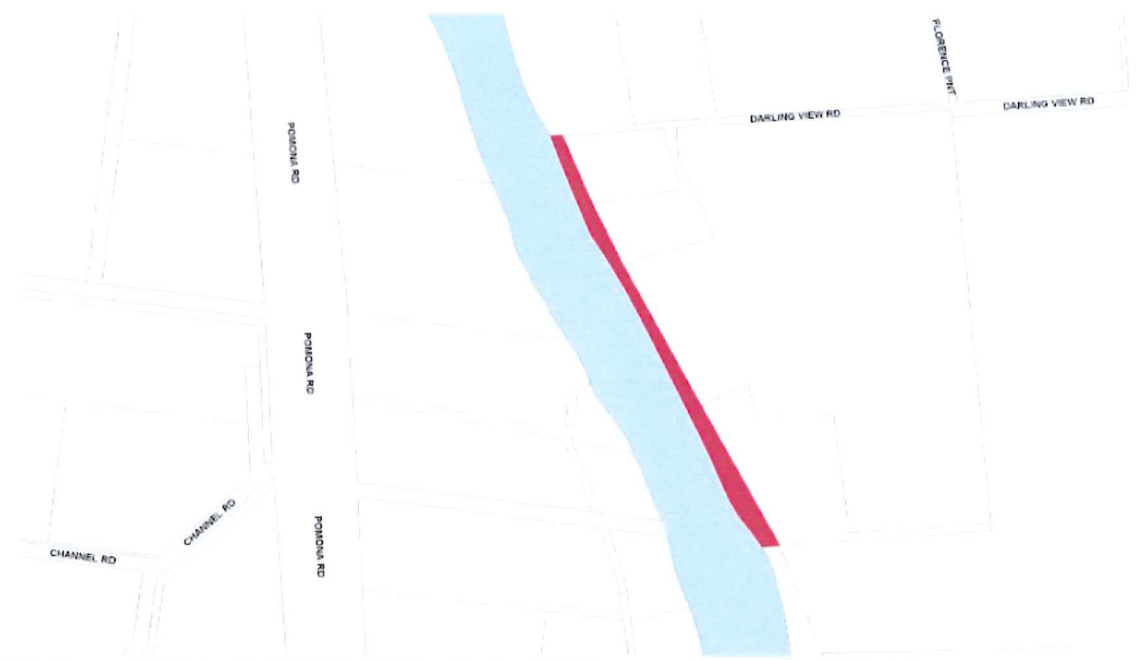


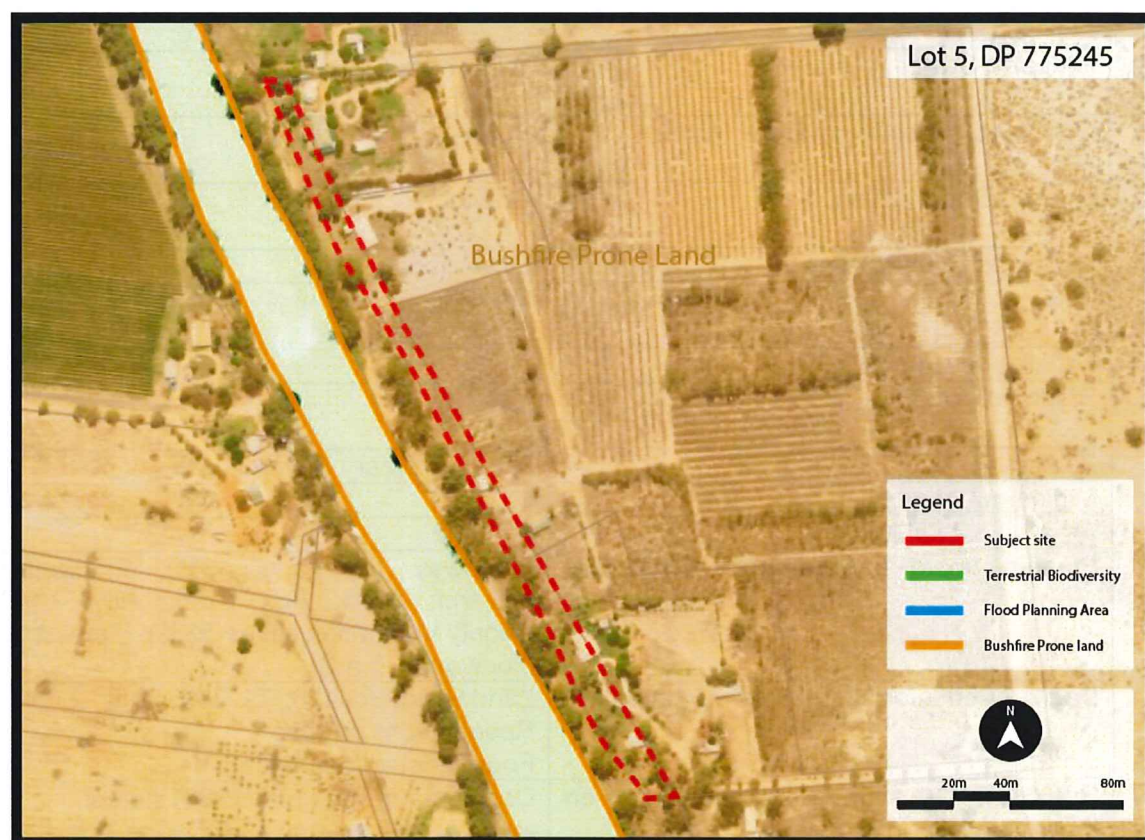
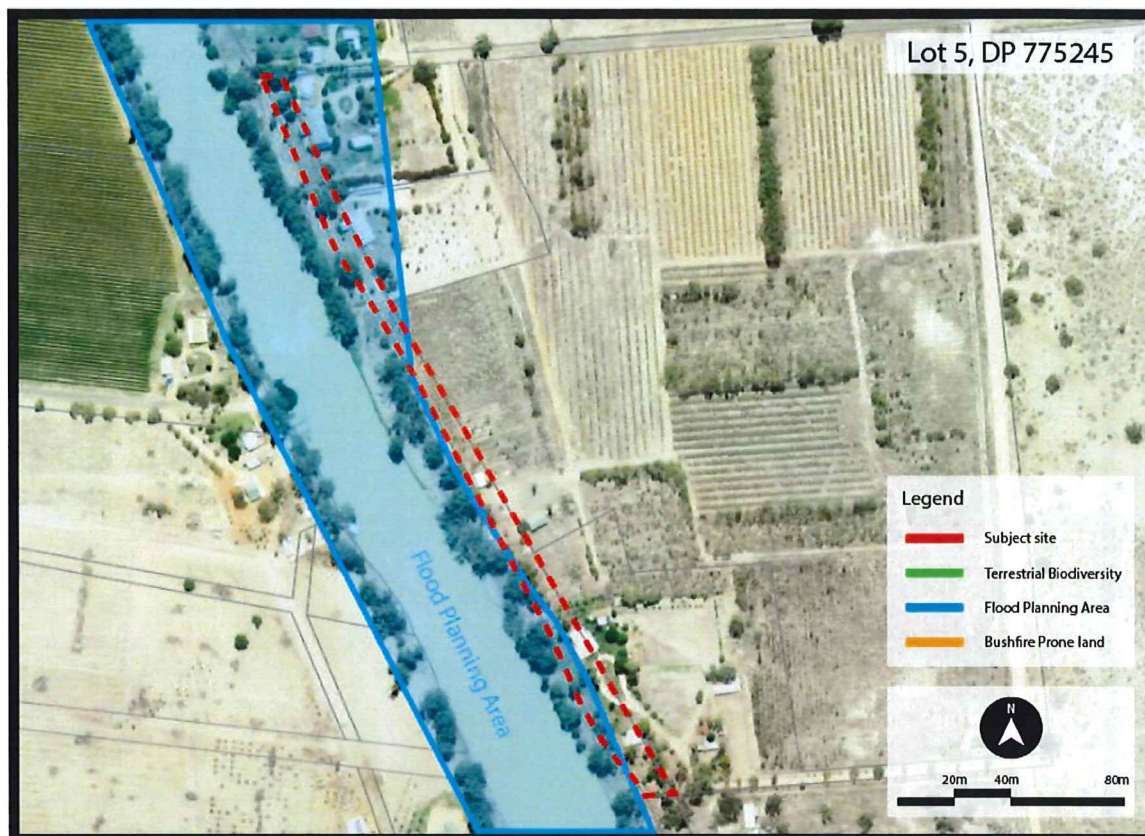


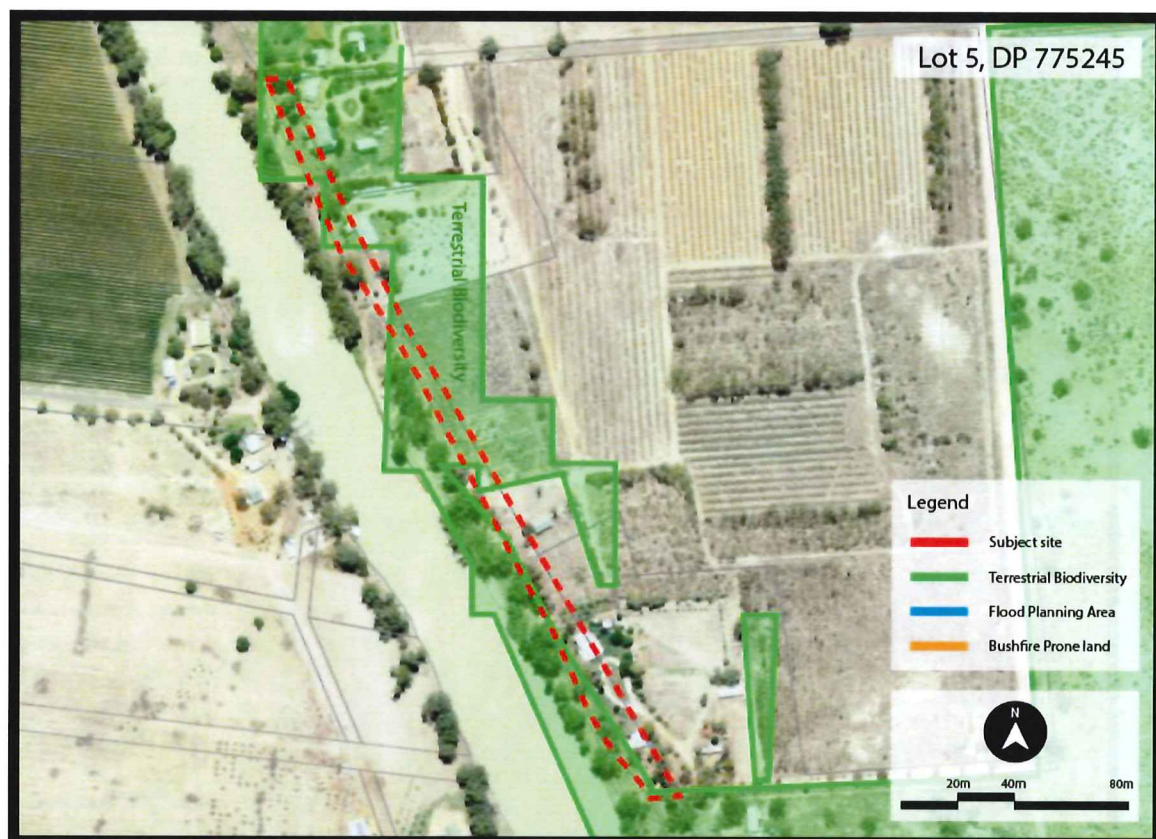
LOT 4, DP 777861	
Property Owner	Wentworth Shire Council;
Number of adjoining owners: Three	Three
Current classification	Community land
Proposed Classification	Operational
Title:	Freehold
Location and Access	
Public Reserve? –	Yes
<u>Zoning</u>	RU 1 – Primary Production
<u>Minimum Lot size</u>	10,000 ha
<u>Area</u>	4335m2
Planning and/or Environmental Constraints	Floodway; Flood Planning Area; Red Gum Community; LMC Priority Vegetation cover (68%); Terrestrial biodiversity;
Background Information and How acquired	Land Grant Vol. 651 Fol. 215 Reservations on title. Multiple affected landholders
Certificate of title provisions, restrictions on the land	Certificate of title (23/3/1989) states: “Land excludes minerals and is subject to reservations and conditions in favour of the Crown – see Crown Grant(s):

	• <i>K20000P Caveat by the Registrar General forbidding unauthorised dealings with Public Reserves;</i>
Council interests in the land (lease arrangements, business dealings) -	None
Has/have adjoining owner(s) expressed interest in consolidating and purchasing?	Yes – two of the three adjoining owners– conditionally interested in purchasing
Is it proposed to discharge of the land and why?	Yes, by offer of sale to the adjoining landowners in accordance with Council Policy:
Current Uses (authorised and unauthorised):	
Strategic and Site Specific Merit Issues:	• The site is not accessible to the public by public road – only through the adjoining private properties and from the river; • Location and lack of useability leads to conclusion that the public reserve does not enable the best use, management and maintenance of the subject lot;

RECOMMENDATION: RECLASSIFY TO OPERATIONAL LAND AND AMEND THE LOT SIZE MAP IN WENTWORTH LEP 2011 TO NO MINIMUM LOT SIZE REQUIREMENT FOR SUBDIVISION







LOT 5, DP 775245	
Property Owner	Wentworth Shire Council;
Number of adjoining owners: Three	FOUR
Current classification	Community land
Proposed Classification	Operational
Title:	Freehold
Location and Access	
Public Reserve? –	Yes
<u>Zoning</u>	RU 1 – Primary Production
<u>Minimum Lot size</u>	10 ha
<u>Area</u>	6620m2
Planning and/or Environmental Constraints	Floodway (coverage 43%); Floodplain wetland; Black Box Community; LMC Priority Vegetation cover (53%); Terrestrial biodiversity (part);
Background Information and How acquired	Land Grant Vol.450 Fol. 249 Reservations on title. Four affected landholders
Certificate of title provisions, restrictions on the land	Certificate of title (10/6/1988) states: “Reservations and conditions in the Crown Grant: - K20000P Caveat by the Registrar General

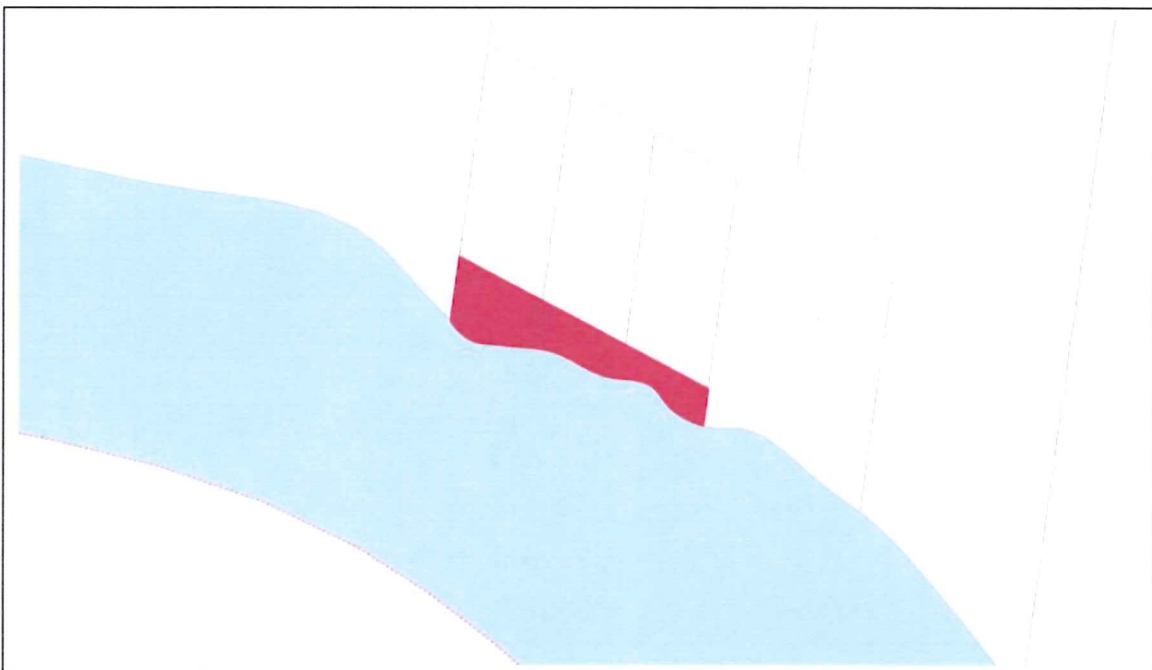
Council interests in the land (lease arrangements, business dealings) -	None
Has/have adjoining owner(s) expressed interest in consolidating and purchasing?	Yes – two of the four adjoining owners– conditionally interested in purchasing
Is it proposed to discharge of the land and why?	Yes, by offer of sale to the adjoining landowners in accordance with Council Policy
Current Uses (authorised and unauthorised):	
Strategic and Site Specific Merit Issues:	• The site is not accessible to the public by public road – only through the adjoining private properties and from the river; • Location and lack of useability leads to conclusion that the public reserve does not enable the best use, management and maintenance of the subject lot;
RECOMMENDATION	• RECLASSIFY TO OPERATIONAL; • AMEND THE MINIMUM LOT SIZE MAP IN WENTWORTH LEP 2011 TO NO MINIMUM LOT SIZE REQUIREMENT

RECOMMENDATION: RECLASSIFY TO OPERATIONAL LAND AND AMEND THE LOT SIZE MAP IN WENTWORTH LEP 2011 TO NO MINIMUM LOT SIZE REQUIREMENT FOR SUBDIVISION

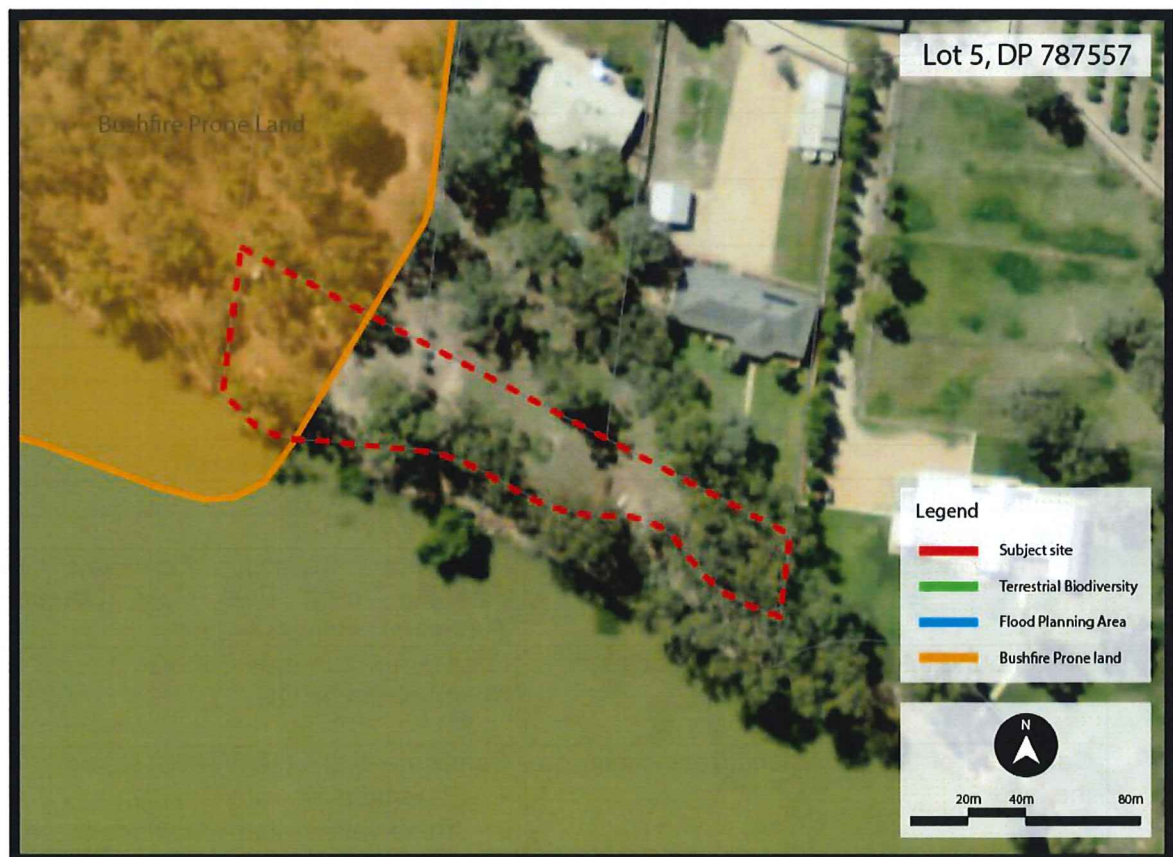
LOT 5, DP 787557 BOEILL CREEK ROAD, BOEILL CREEK

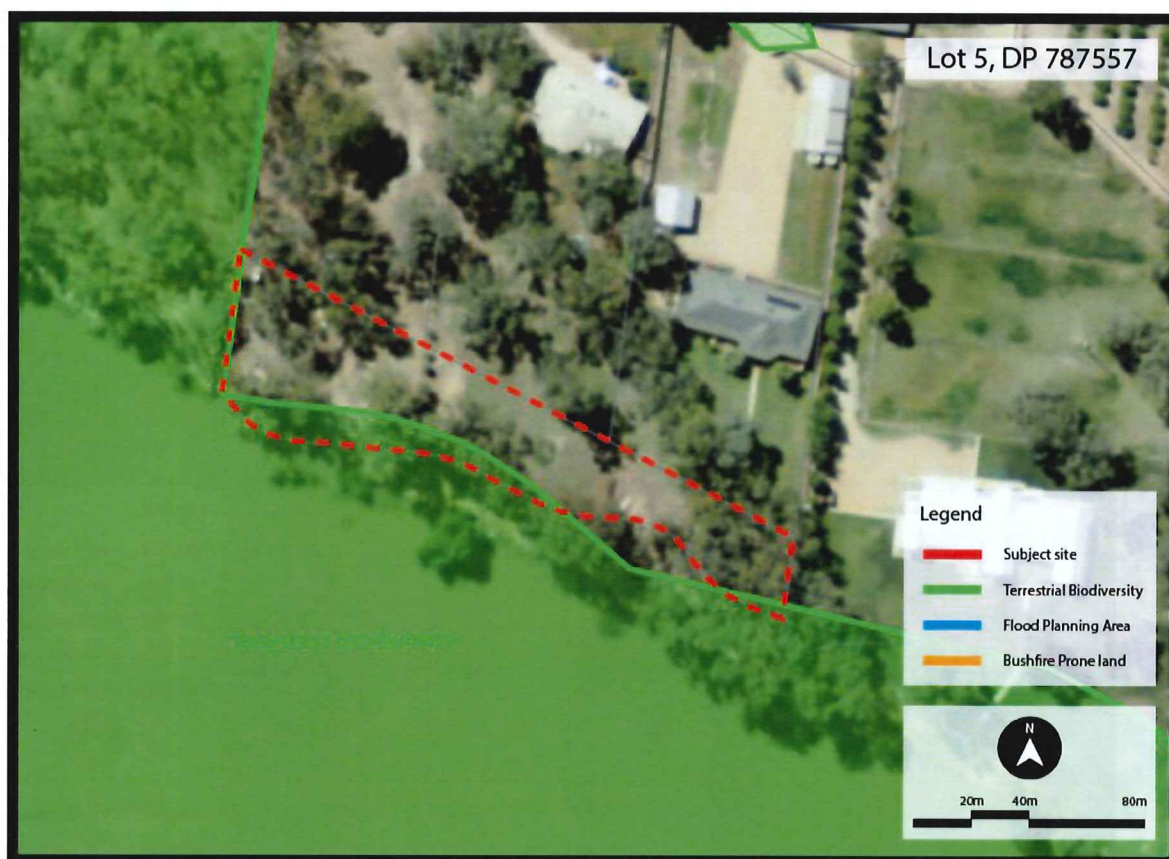


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LOT 5, DP 787557	
Property Owner	Wentworth Shire Council;
Number of adjoining lots:	Three
Current classification	Community land
Proposed Classification	Operational
Title:	Freehold
Location and Access	
Public Reserve? –	Yes
<u>Zoning</u>	RU 1 – Primary Production
<u>Minimum Lot size</u>	10,000 ha
<u>Area</u>	2317m2
Planning and/or Environmental Constraints	Floodplain wetland; Floodway; Flood Planning Area; Red Gum Community; Terrestrial biodiversity (part);
Background Information and How acquired	Land Grant Vol. 1406 Fol. 13 Reservations on title.
Certificate of title provisions, restrictions on the land	Certificate of title (10/6/1988) states: • <i>Easement for water supply;</i> • <i>“Reservations and conditions in the Crown Grant:</i>

	• <i>K20000P Caveat by the Registrar General forbidding unauthorised dealings with public reserves.</i>
Council interests in the land (lease arrangements, business dealings) -	None
Has/have adjoining owner(s) expressed interest in consolidating and purchasing?	Yes – two of the four adjoining owners– conditionally interested in purchasing
Is it proposed to discharge of the land and why?	Yes, by offer of sale to the adjoining landowners in accordance with Council Policy
Current Uses (authorised and unauthorised):	
Strategic and Site Specific Merit Issues:	• The site is not accessible to the public by public road – only through the adjoining private properties and from the river; • Location and lack of useability leads to conclusion that the public reserve does not enable the best use, management and maintenance of the subject lot;

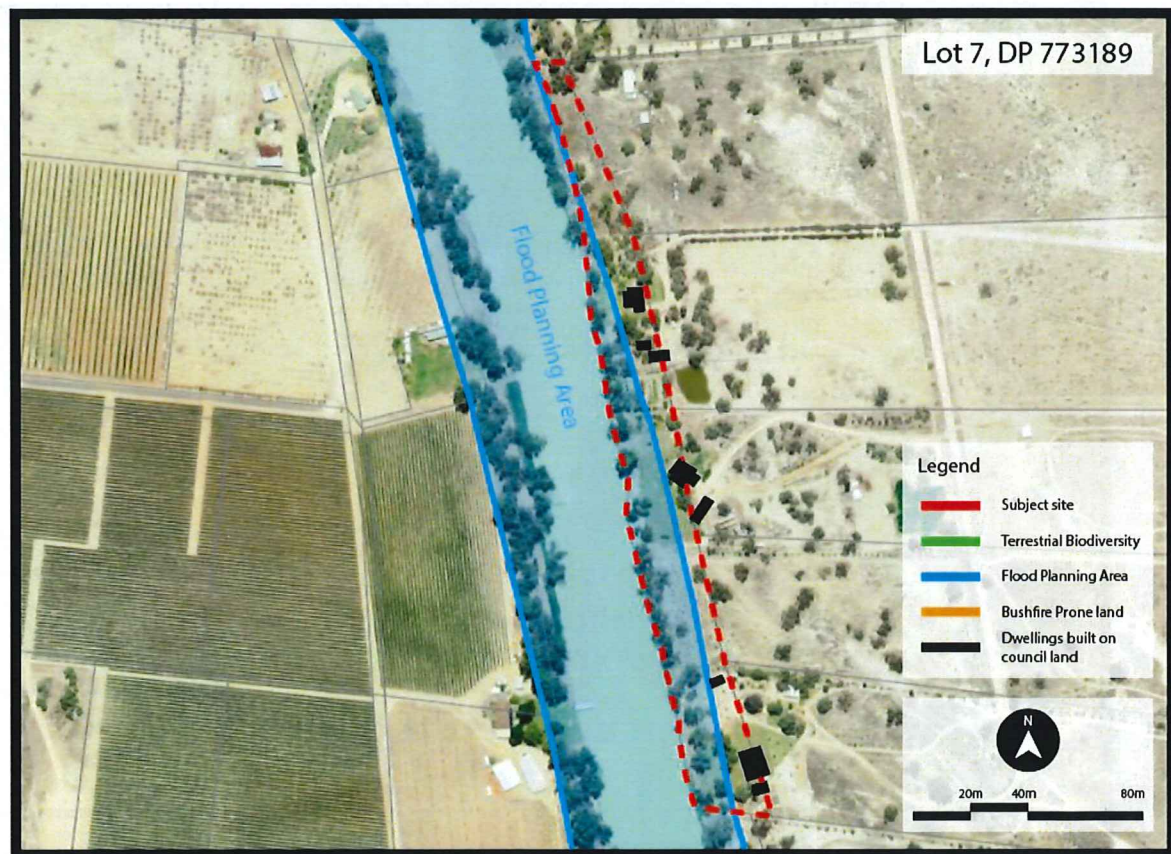
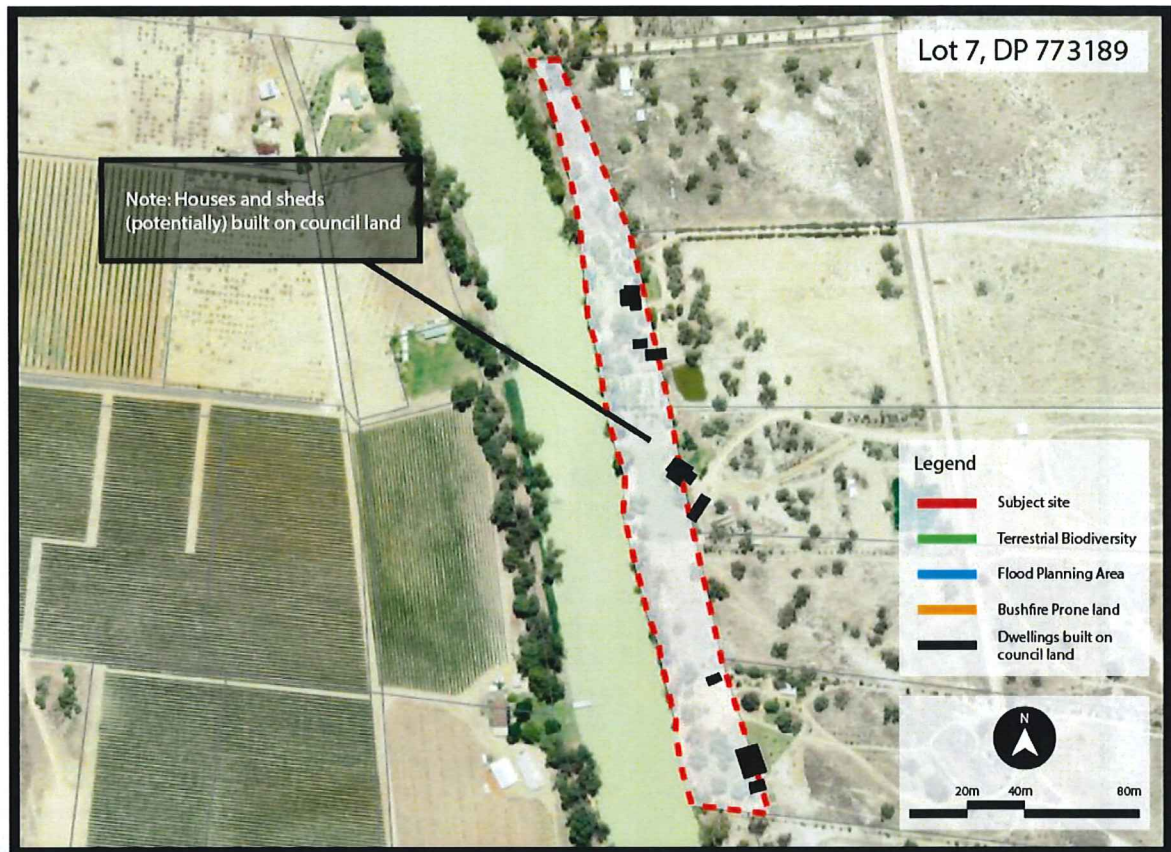
RECOMMENDATION: RECLASSIFY TO OPERATIONAL LAND AND AMEND THE LOT SIZE MAP IN WENTWORTH LEP 2011 TO NO MINIMUM LOT SIZE REQUIREMENT FOR SUBDIVISION

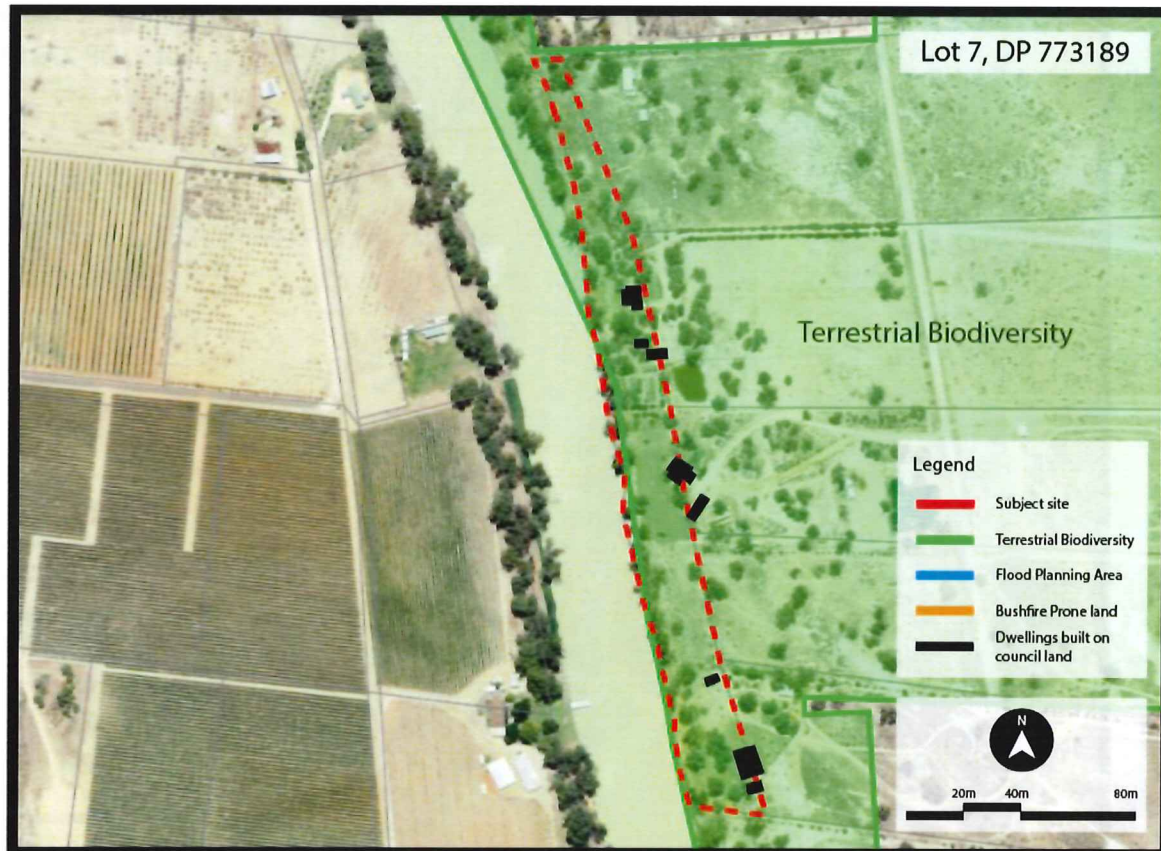
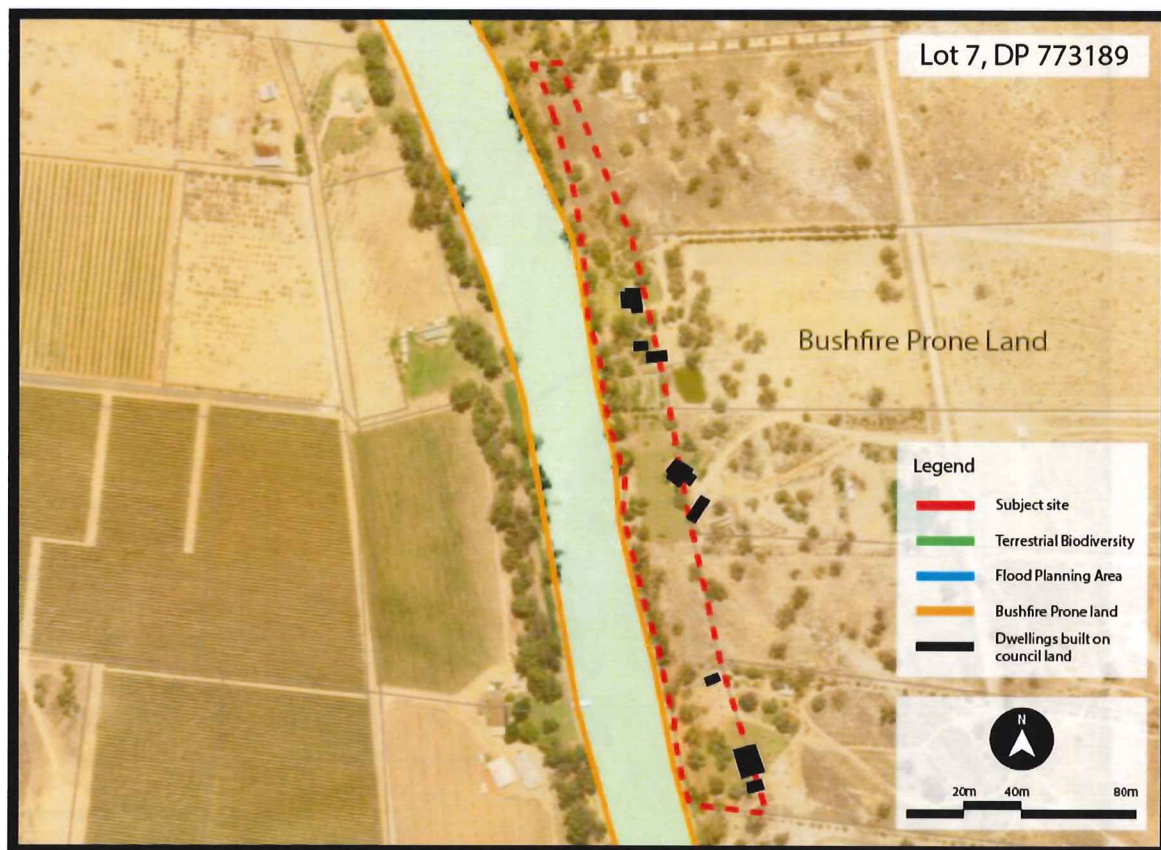


Created By: Kathy Collins



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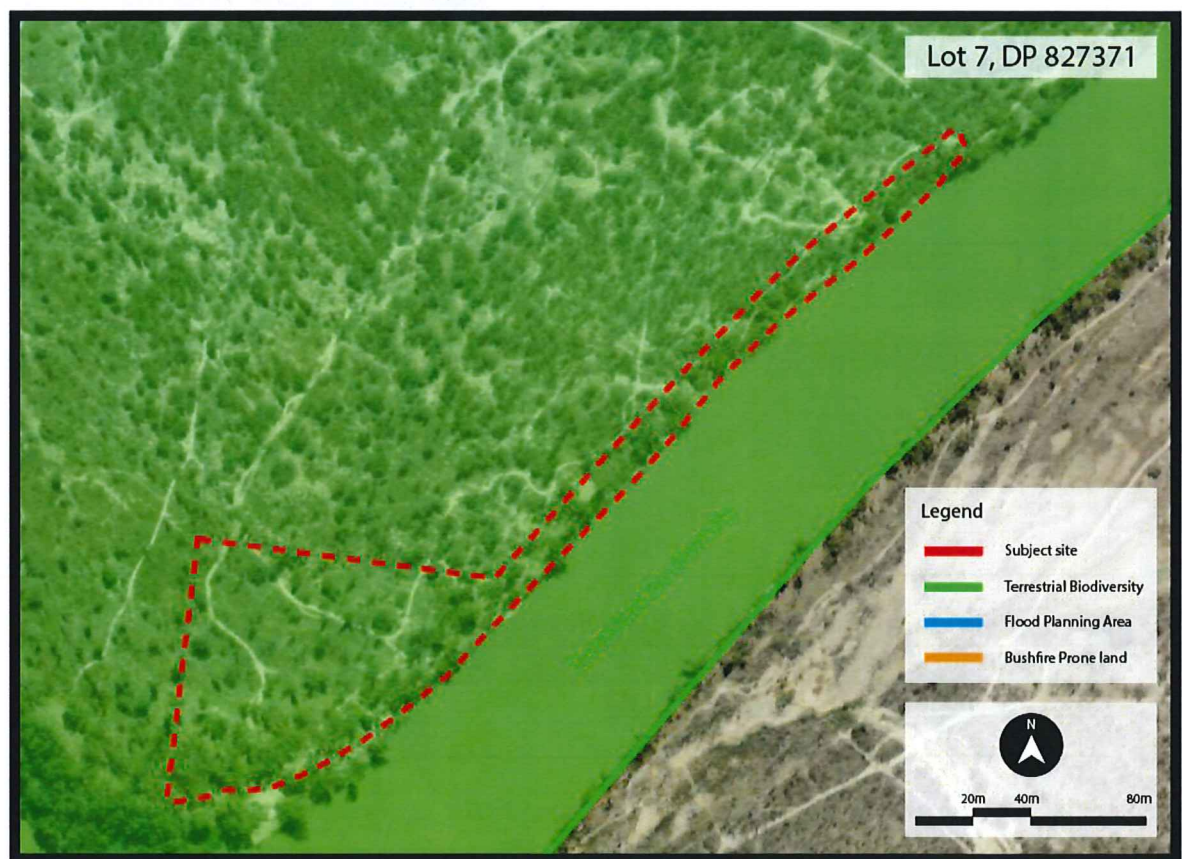
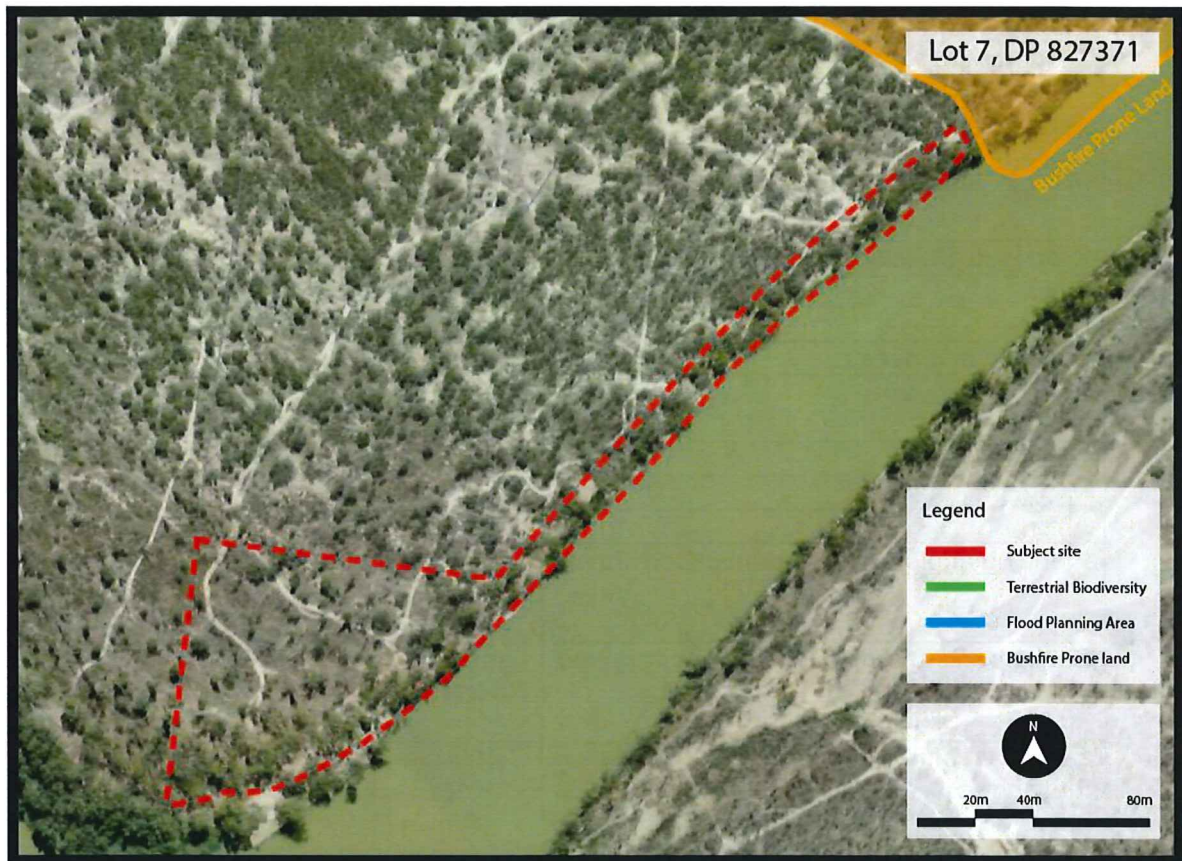


LOT 7, DP 773189	
Property Owner	Wentworth Shire Council;
Number of adjoining lots:	Five
Current classification	Community land
Proposed Classification	Operational
Title:	Freehold
Location and Access	
Public Reserve? –	Yes
<u>Zoning</u>	RU 1 – Primary Production
<u>Minimum Lot size</u>	10,000 ha
<u>Area</u>	1.39 ha
Planning and/or Environmental Constraints	Floodplain wetland; Flood Planning Area; Black Box Community; LMC Priority Vegetation Coverage (80.42%); Terrestrial biodiversity
Background Information and How acquired	Land Grant Vol.450 Fol.249 and Land Grant Vol. 2933 Fol.150 Reservations on title.
Certificate of title provisions, restrictions on the land	Certificate of title (3/5/1988) states: • <i>Easement for water supply;</i> • <i>“Reservations and conditions in the Crown Grant:</i> • <i>K20000P Caveat by the Registrar General forbidding unauthorised dealings with public reserves.</i>
Council interests in the land (lease arrangements, business dealings) -	None
Has/have adjoining owner(s) expressed interest in consolidating and purchasing?	Yes – one of the five adjoining owners – conditionally interested in purchasing; the other four are unknown at this stage.
Is it proposed to discharge of the land and why?	Yes, by offer of sale to the adjoining landowners in accordance with Council Policy
Current Uses (authorised and unauthorised):	
Strategic and Site Specific Merit Issues:	• The site is not accessible to the public by public road – only through the adjoining private properties and from the river; • Location and lack of useability leads to conclusion that the public reserve does not enable the best use, management and maintenance of the subject lot;

RECOMMENDATION: RECLASSIFY TO OPERATIONAL LAND AND AMEND THE LOT SIZE MAP IN WENTWORTH LEP 2011 TO NO MINIMUM LOT SIZE REQUIREMENT FOR SUBDIVISION

LOT 7, DP 827371

[illegible][illegible]



LOT 7, DP 827371	
Property Owner	Wentworth Shire Council;
Number of adjoining lots:	Three
Current classification	Community land
Proposed Classification	Operational
Title:	Freehold
Location and Access	
Public Reserve? –	Yes
<u>Zoning</u>	RU 1 – Primary Production
<u>Minimum Lot size</u>	10,000 ha
<u>Area</u>	5.2 ha
Planning and/or Environmental Constraints	Floodplain wetland; Red Gum Community; LMC Priority Vegetation Coverage (99%); Terrestrial biodiversity
Background Information and How acquired	Land Grant Vol. 84 Fol.21 Reservations on title.
Certificate of title provisions, restrictions on the land	Certificate of title (13/5/1993) states: • <i>“Reservations and conditions in the Crown Grant:</i> • <i>K20000P Caveat by the Registrar General forbidding unauthorised dealings with public reserves.</i>
Council interests in the land (lease arrangements, business dealings) -	None
Has/have adjoining owner(s) expressed interest in consolidating and purchasing?	Yes – all of the three adjoining owners conditionally interested in purchasing;
Is it proposed to discharge of the land and why?	Yes, by offer of sale to the adjoining landowners in accordance with Council Policy
Current Uses (authorised and unauthorised):	
Strategic and Site Specific Merit Issues:	• The site is not accessible to the public by public road – only through the adjoining private properties and from the river; • Location and lack of useability leads to conclusion that the public reserve does not enable the best use, management and maintenance of the subject lot;

RECOMMENDATION: RECLASSIFY TO OPERATIONAL LAND AND AMEND THE LOT SIZE MAP IN WENTWORTH LEP 2011 TO NO MINIMUM LOT SIZE REQUIREMENT FOR SUBDIVISION

LOT 10, DP 735148

Created on 5/12/2016 11:32 AM



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Created By: Kathy Colston

Projection: GDA94 / MGA zone 56

Date: 5/12/2016 11:32 AM

Lot 10 DP 735148 Aerial View

Map Scale: 1:16834 at A4



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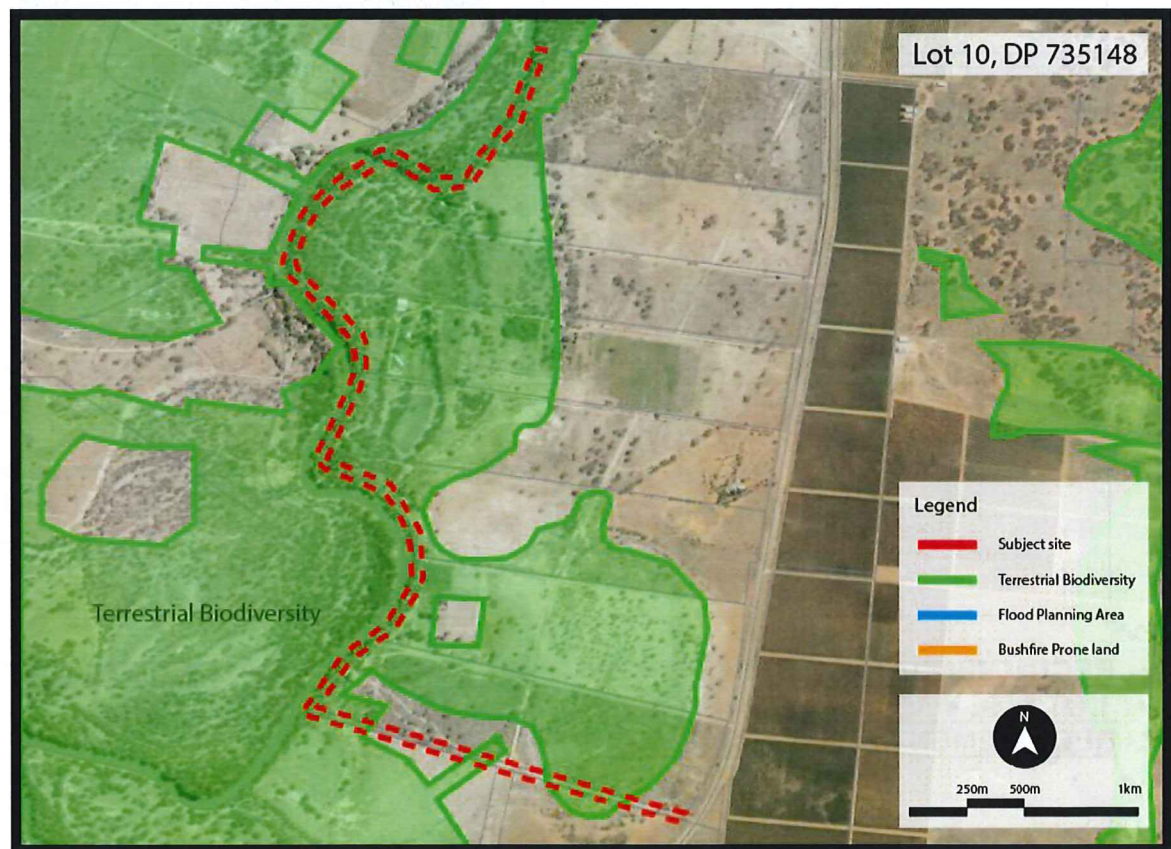
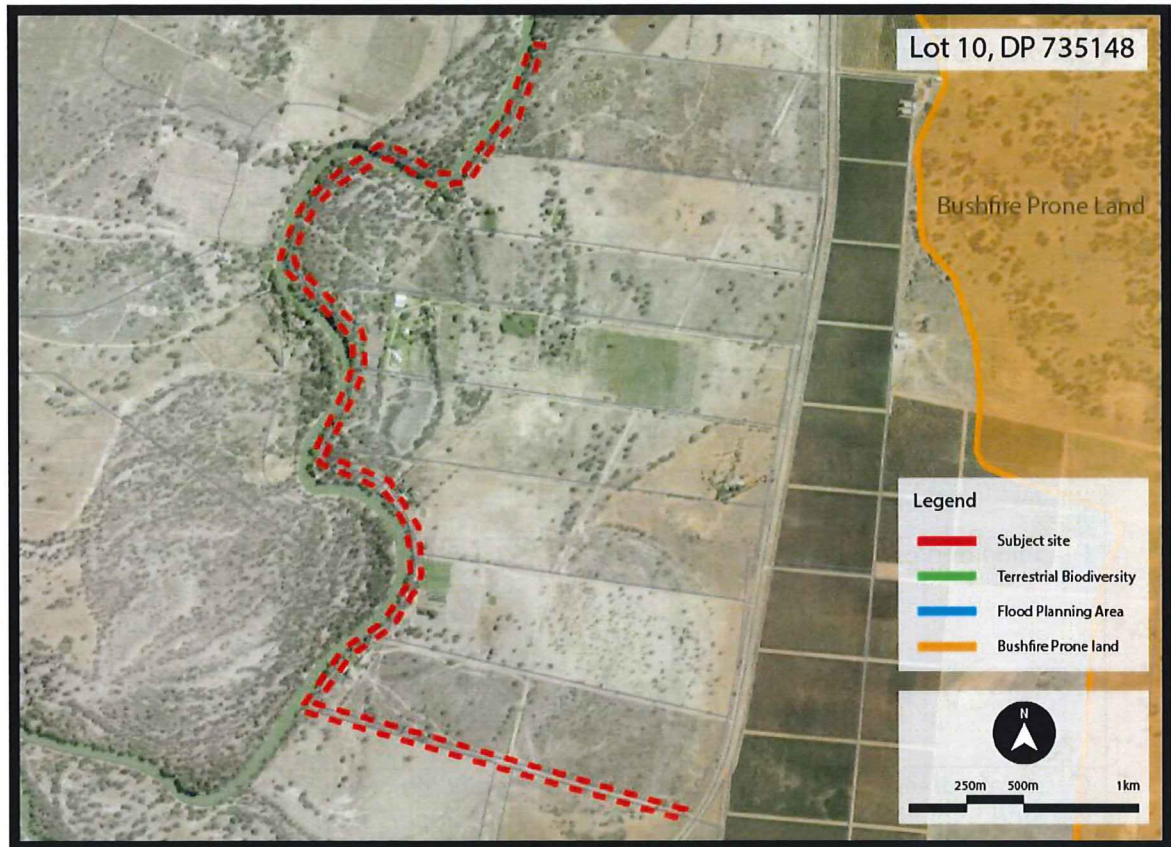
Created By: Kathy Colverson

Projection: CGA24 / MGA zone 54

Date: 5/12/2016 11:31 AM

Lot 10 DP 735148 Plan View

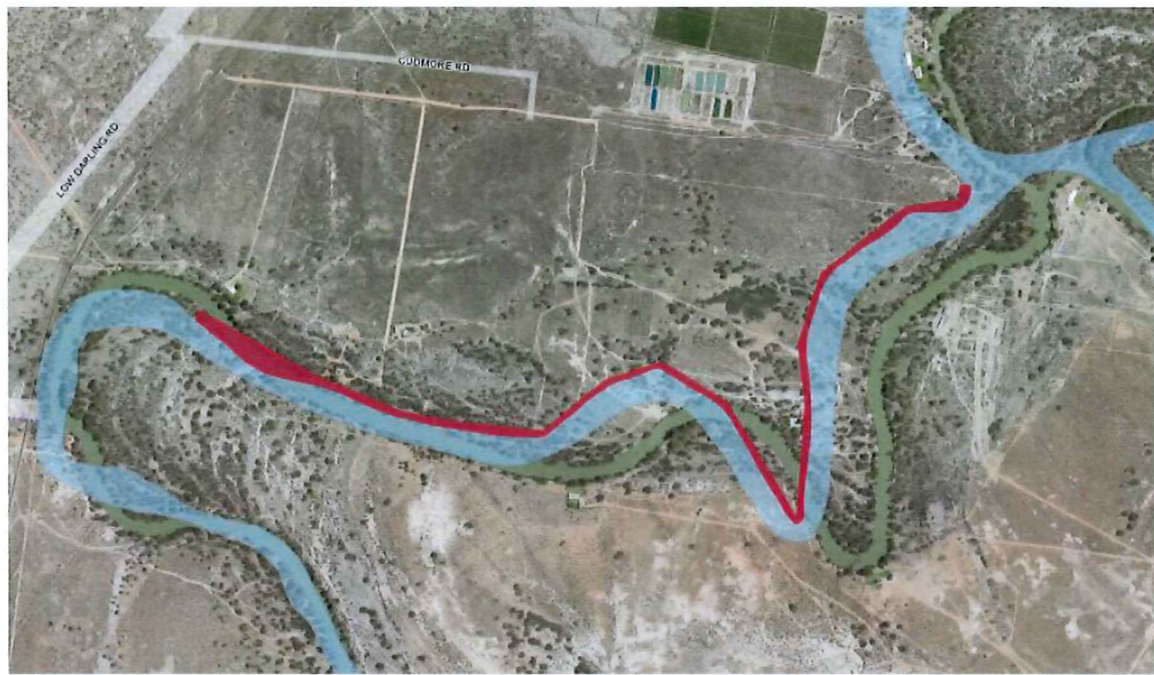
Map Scale: 1:16834 at A4



LOT 10, DP 735148	
Property Owner	Wentworth Shire Council;
Number of adjoining lots:	Eight
Current classification	Community land
Proposed Classification	Operational
Title:	Freehold
Location and Access	
Public Reserve? –	Yes
<u>Zoning</u>	RU 1 – Primary Production
<u>Minimum Lot size</u>	10,000 ha
<u>Area</u>	9.23 ha
Planning and/or Environmental Constraints	Floodplain wetland; Red Gum Community; Black Box Community; Chenopod Shrub-land; Lagoon Darling River; Terrestrial Biodiversity – Andruco;
Background Information and How acquired	Land Grant Vol. 515 Fol's 140, 141, 142 Reservations on title
Certificate of title provisions, restrictions on the land	Certificate of title (30/12/1986) states: • <i>“Reservations and conditions in the Crown Grant:</i> • <i>K20000P Caveat by the Registrar General forbidding unauthorised dealings with public reserves.</i>
Council interests in the land (lease arrangements, business dealings) -	None
Has/have adjoining owner(s) expressed interest in consolidating and purchasing?	Yes – all of the eight adjoining owners are conditionally interested in purchasing;
Is it proposed to discharge of the land and why?	Yes, by offer of sale to the adjoining landowners in accordance with Council Policy
Current Uses (authorised and unauthorised):	Current uses are diverse and varied as initiated by the multiple adjoining landowners
Strategic and Site Specific Merit Issues:	• The site is “legally accessible” to the public by public road at the southern boundary – but this is physically and financially not feasible; • Location and lack of useability leads to conclusion that the public reserve does not enable the best use, management and maintenance of the subject lot;

RECOMMENDATION: RECLASSIFY TO OPERATIONAL LAND AND AMEND THE LOT SIZE MAP IN WENTWORTH LEP 2011 TO NO MINIMUM LOT SIZE REQUIREMENT FOR SUBDIVISION

LOT 10, 740361




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 Website: www.wentworth.nsw.gov.au

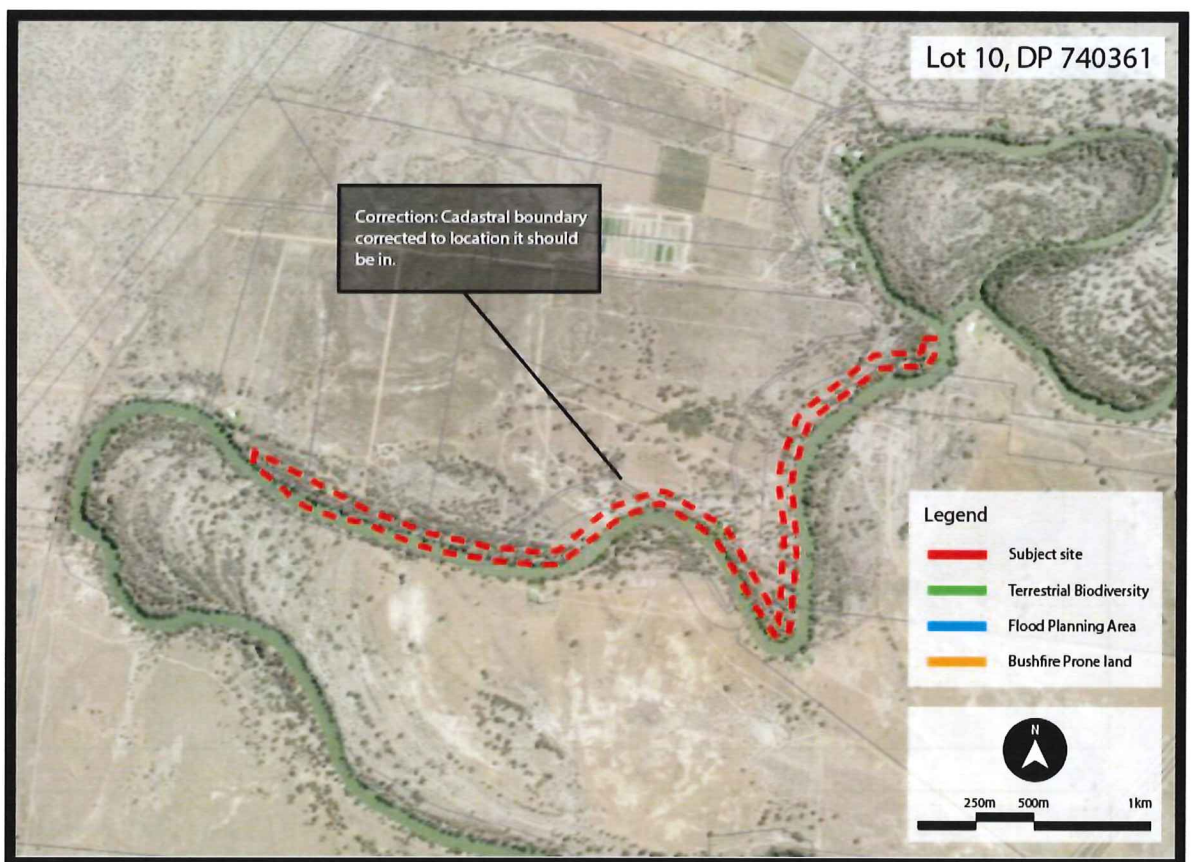
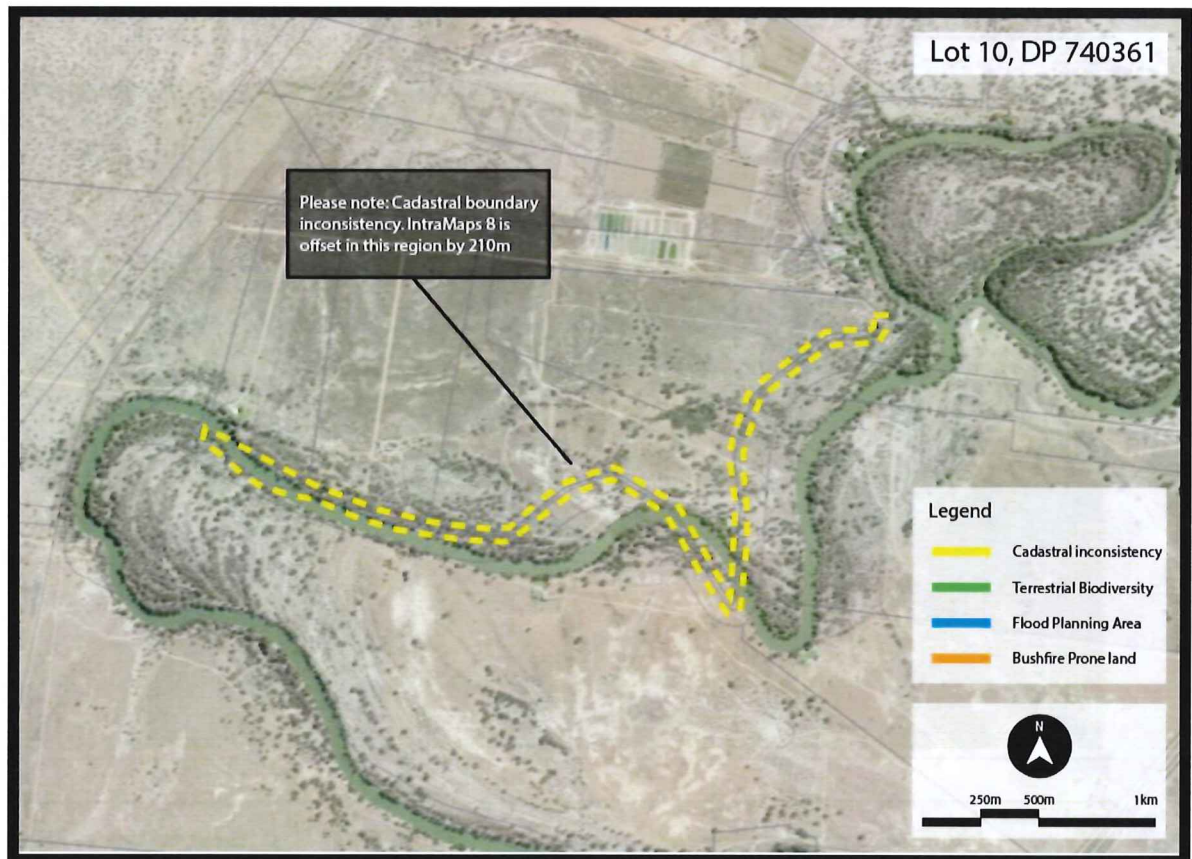
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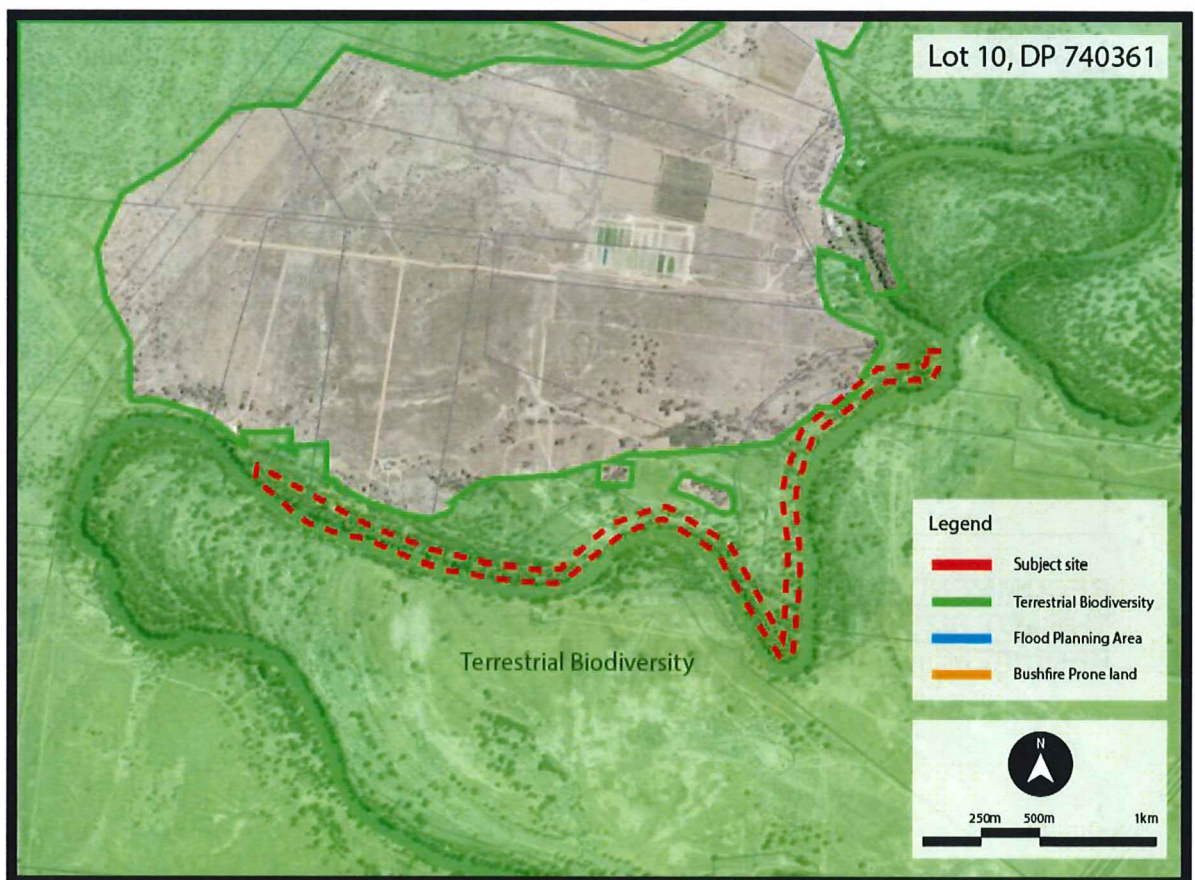
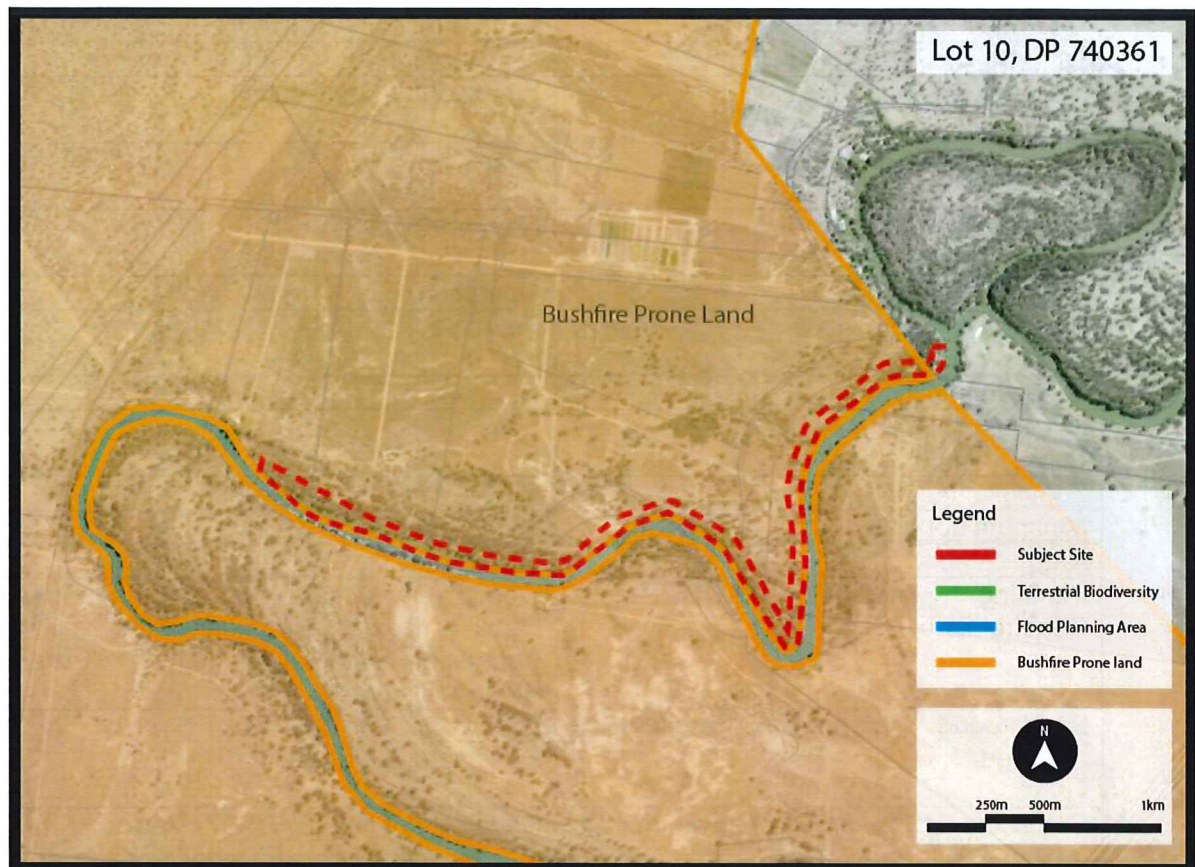
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Project: 0004 / HSA zone 54
 Date: 1/1/2016
 Created By: Kelly Gibson
 Map Scale: 1:12389 at A4

Lot 10 DP 740361 Aerial View

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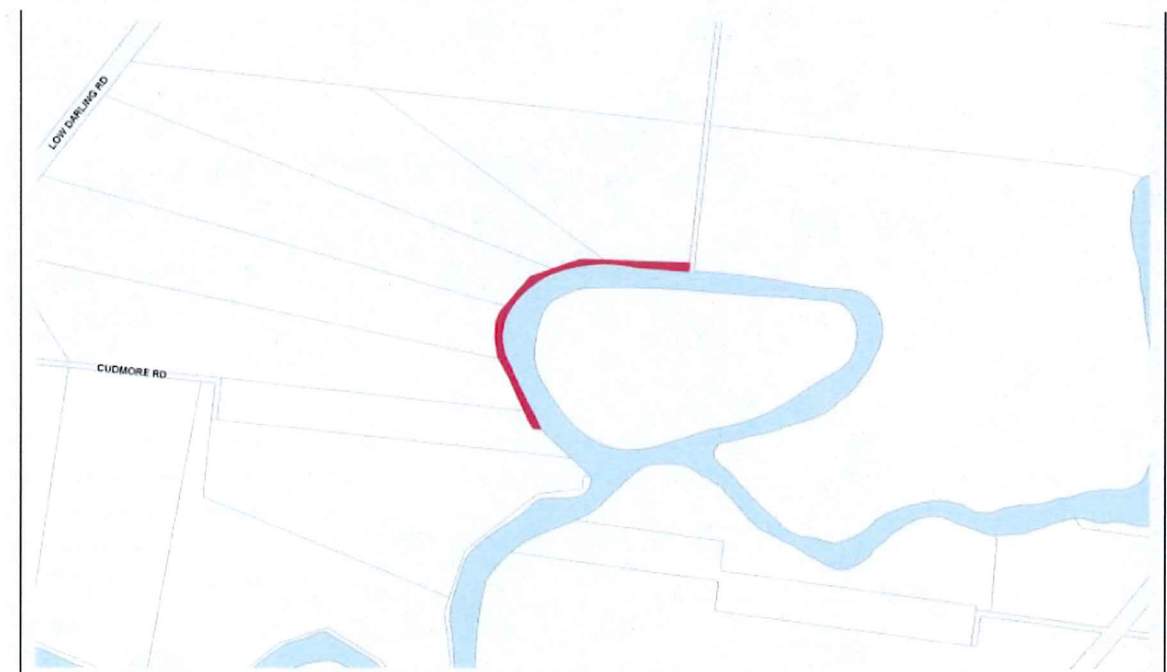
LOT 10, DP 740361	
Property Owner	Wentworth Shire Council;
Number of adjoining lots:	Four
Current classification	Community land
Proposed Classification	Operational
Title:	Freehold
Location and Access	
Public Reserve? –	Yes
<u>Zoning</u>	RU 1 – Primary Production
<u>Minimum Lot size</u>	10,000 ha
<u>Area</u>	11.23 ha
Planning and/or Environmental Constraints	Floodplain wetland; Red Gum Community; Black Box Community; LMC Priority Vegetation Coverage (61%); Terrestrial Biodiversity (part);
Background Information and How acquired	Land Grant Vol. 1429 Fol.131 Reservations on title.
Certificate of title provisions, restrictions on the land	Certificate of title (2/4/1987) states: • <i>“Reservations and conditions in the Crown Grant:</i>
Council interests in the land (lease arrangements, business dealings) -	None
Has/have adjoining owner(s) expressed interest in consolidating and purchasing?	Yes – all of the eight adjoining owners are conditionally interested in purchasing;
Is it proposed to discharge of the land and why?	Yes, by offer of sale to the adjoining landowners in accordance with Council Policy
Current Uses (authorised and unauthorised):	
Strategic and Site Specific Merit Issues:	• The site is not accessible to the public by public road – only through the adjoining private properties and from the river; • Location and lack of useability leads to conclusion that the public reserve does not enable the best use, management and maintenance of the subject lot;

RECOMMENDATION: RECLASSIFY TO OPERATIONAL LAND AND AMEND THE LOT SIZE MAP IN WENTWORTH LEP 2011 TO NO MINIMUM LOT SIZE REQUIREMENT FOR SUBDIVISION

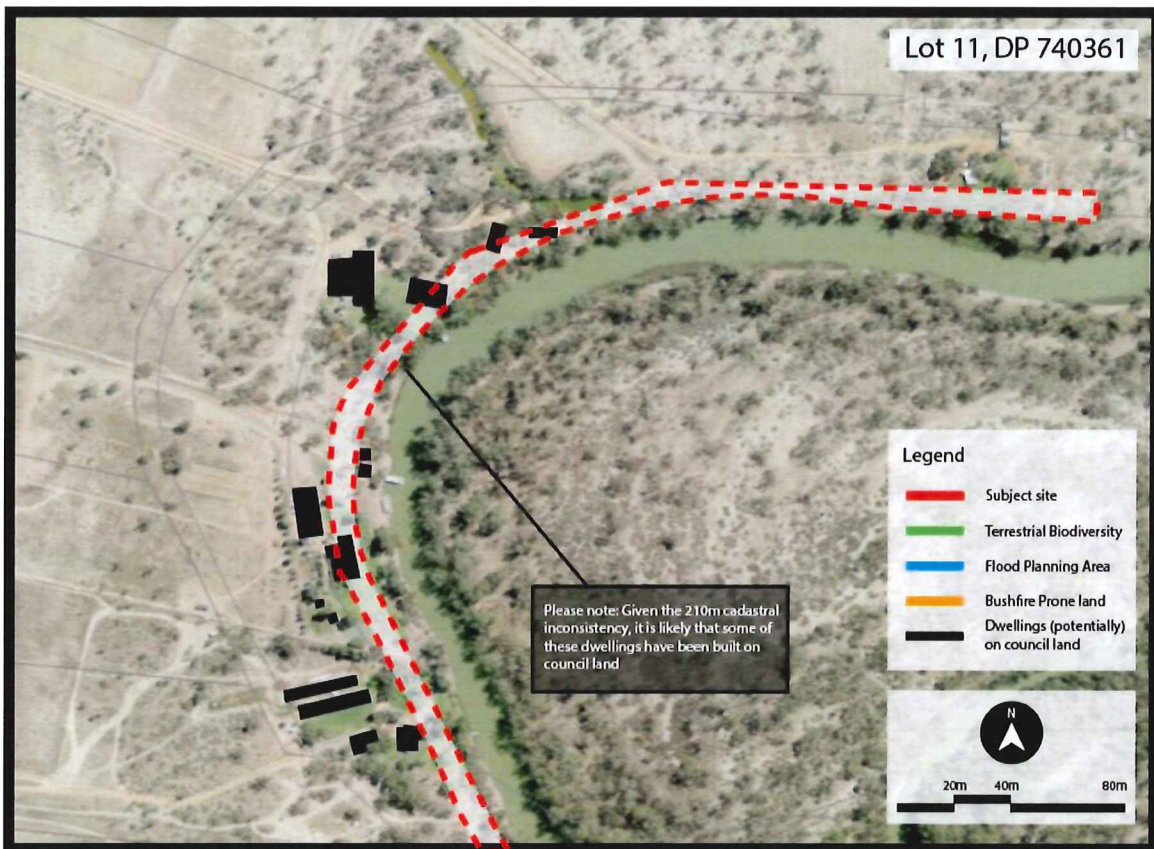
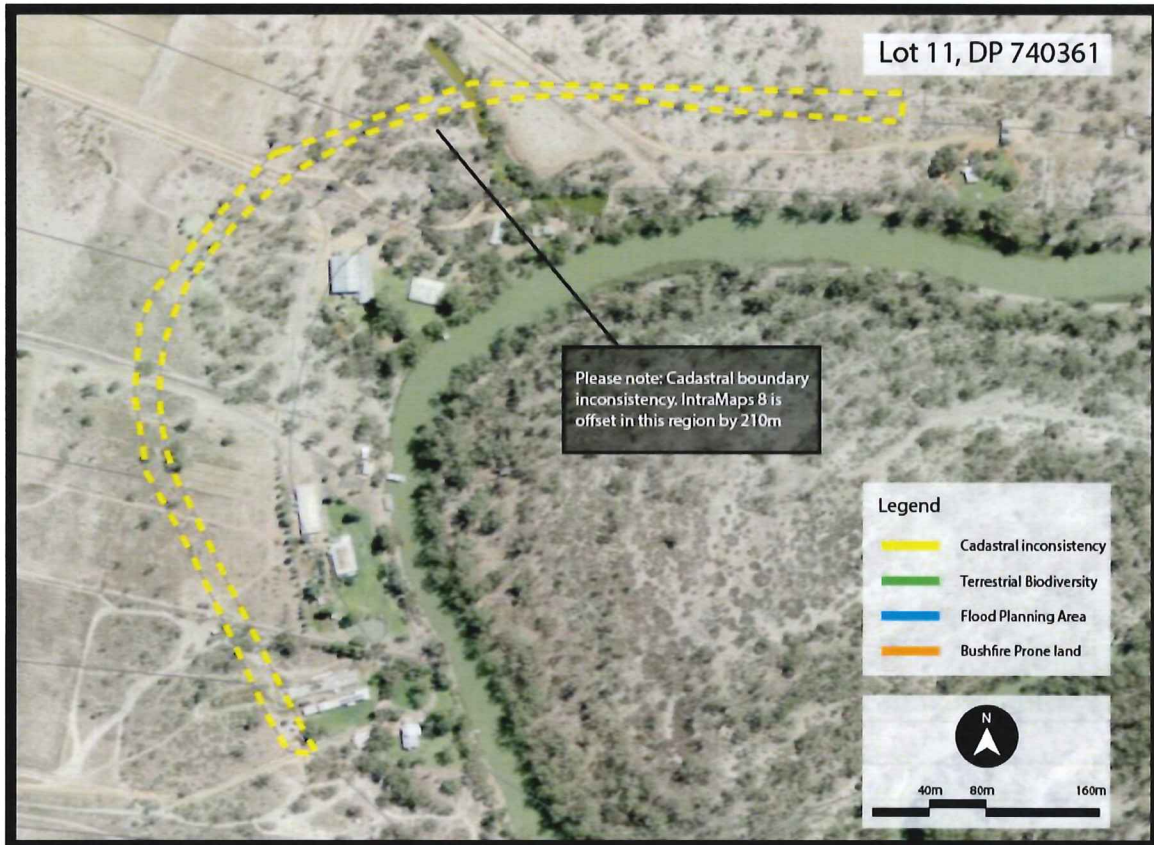
LOT 11, DP 740361

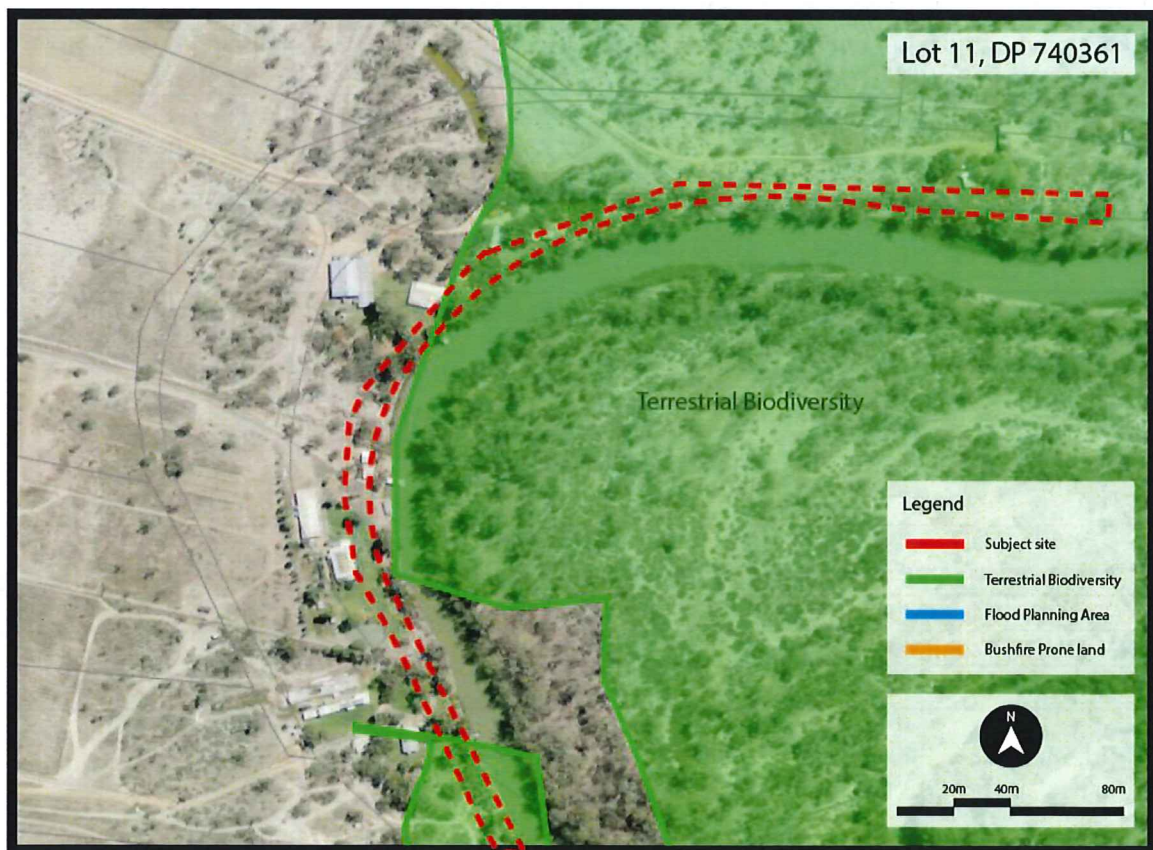
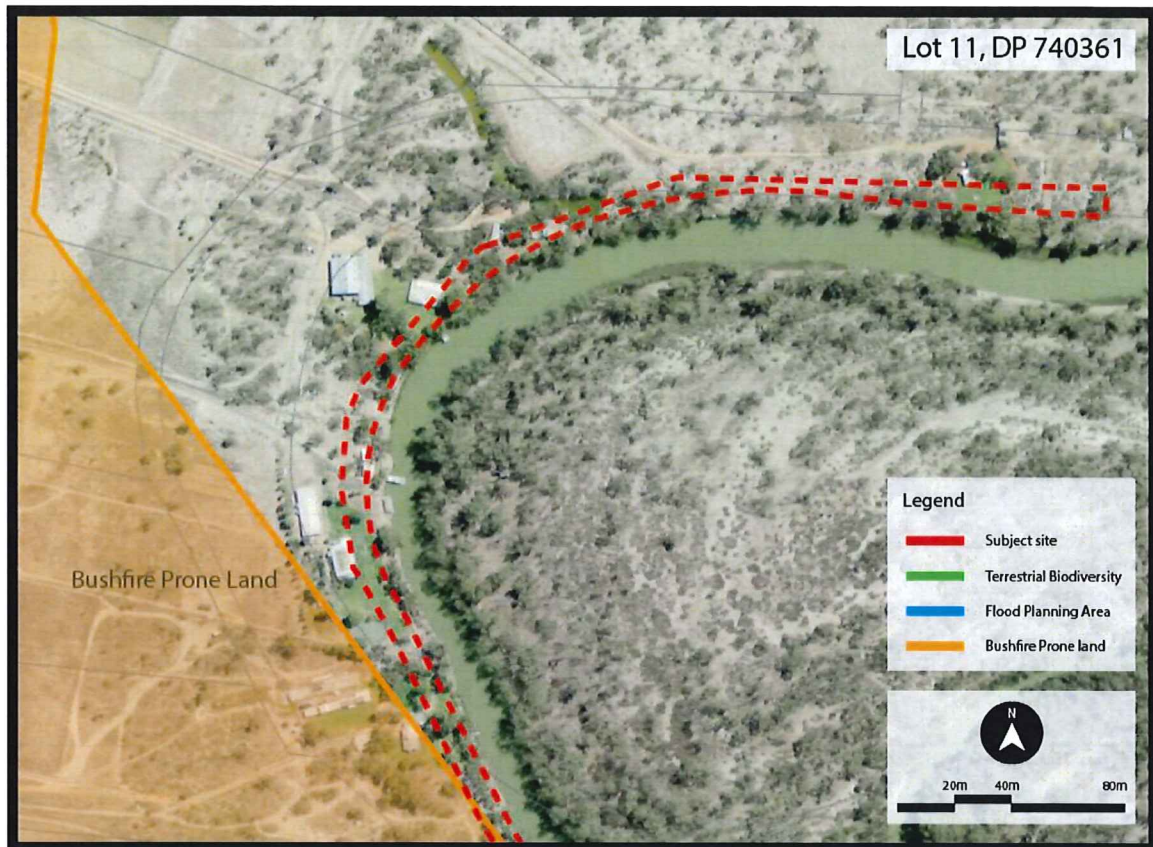


 Wentworth Shire Council 11. Box 11, CUMMORE NSW 2846 Ph: 08 9377 5000 Fax: 08 9377 5001 Email: info@wentworthshire.nsw.gov.au Web: www.wentworthshire.nsw.gov.au	© Wentworth Shire Council 2014 © 2014 Government of Western Australia 2014, Australian Bureau of Statistics 2014, www.copyright.gov.au © Department of Planning and Infrastructure 2014, Western Australia Police 2014, Department of State Services, 2014, 2015, Queensland Australia, Western Police, Copyright 2014 All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage or retrieval system, without prior written permission from Wentworth Shire Council.	Projection: GDA94 / MGA zone 54 Date: 5/12/2014 Created By: Kathy Gillman	Lot 11 DP 740361 Aerial View Map Scale: 1:13395 at A4
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 Wentworth Shire Council 11. Box 11, CUMMORE NSW 2846 Ph: 08 9377 5000 Fax: 08 9377 5001 Email: info@wentworthshire.nsw.gov.au Web: www.wentworthshire.nsw.gov.au	© Wentworth Shire Council 2014 © 2014 Government of Western Australia 2014, Australian Bureau of Statistics 2014, www.copyright.gov.au © Department of Planning and Infrastructure 2014, Western Australia Police 2014, Department of State Services, 2014, 2015, Queensland Australia, Western Police, Copyright 2014 All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage or retrieval system, without prior written permission from Wentworth Shire Council.	Projection: GDA94 / MGA zone 54 Date: 5/12/2014 Created By: Kathy Gillman	Lot 11 DP 740361 Plan View Map Scale: 1:13395 at A4
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LOT 11, DP 740361	
Property Owner	Wentworth Shire Council;
Number of adjoining lots:	Five
Current classification	Community land
Proposed Classification	Operational
Title:	Freehold
Location and Access	
Public Reserve? –	Yes
<u>Zoning</u>	RU 1 – Primary Production
<u>Minimum Lot size</u>	10,000 ha
<u>Area</u>	
Planning and/or Environmental Constraints	Black Box Community; LMC Priority Vegetation Coverage (61%); Terrestrial Biodiversity (part); Heritage Item – General Tapio homestead
Background Information and How acquired	Land Grant Vol. 515 Fol.7 and Land Grant Vol.683. Fol.42
Certificate of title provisions, restrictions on the land	Certificate of title (2/4/1987) states: • <i>“Subject to Reservations and conditions in favour of the Crown – see the Crown Grant:</i>
Council interests in the land (lease arrangements, business dealings) -	None
Has/have adjoining owner(s) expressed interest in consolidating and purchasing?	Yes – three out of five adjoining owners are conditionally interested in purchasing;
Is it proposed to discharge of the land and why?	Yes, by offer of sale to the adjoining landowners in accordance with Council Policy
Current Uses (authorised and unauthorised):	
Strategic and Site Specific Merit Issues:	• The site is not accessible to the public by public road – only through the adjoining private properties and from the river; • Location and lack of useability leads to conclusion that the public reserve does not enable the best use, management and maintenance of the subject lot;

RECOMMENDATION: RECLASSIFY TO OPERATIONAL LAND AND AMEND THE LOT SIZE MAP IN WENTWORTH LEP 2011 TO NO MINIMUM LOT SIZE REQUIREMENT FOR SUBDIVISION

PART 3: JUSTIFICATION

This section provides responses to the following issues:

- Section A: Need for Proposal;
- Section B: Relationship to Strategic Planning Framework;
- Section C: Environmental, Social and Economic Impact; and
- Section D: State and Commonwealth Interests

3.1. **Section A: Need for Proposal**

Resulting from a Strategic Study or Report

The Planning Proposal results from a report to the Ordinary meeting of Wentworth Shire council on 18 March 2015 and the consequent Council resolution to proceed with the Planning Proposal.

The Council resolution of 18 March 2015 was as follows:

- *Provide funding in the 2015/2016 financial year to commence the required LEP Amendment to change the classification of the Riverfront Land Parcels from Community to Operational Land*
- *Develop a policy regarding the sale of the Riverfront Parcels;*
- *Assist affected landholders by initially undertaking a quotation process on behalf of affected landholders for the survey costs;*
- *Assist affected landholders by waiving all or part of the fees associated with the subdivision of the Riverfront Parcels, and*
- *Assist affected landholders by determining that the compensation payable to Council be at the rate determined by the Valuer-General for their property.*

Planning Proposal as the best way to achieve the objectives

The subject lots are currently zoned RU 1 – Primary Production, RU5 Village and R5 – Large Lot Residential. under the Wentworth Local Environmental Plan 2011 (WLEP 2011). The current minimum lot sizes for the subject lots zoned RU 1 – Primary Production are 10 ha or 10,000 ha.

The Planning Proposal is the best way to achieve the objectives for the following reasons:

- a) The subject lots are:
 - Land-locked and not accessible by the Council (without negotiated or enforced entry to the adjacent private land) or the public (except from the water);
 - Not historically maintained by Council;
 - Subject to some significant public safety and liability risks .e.g. dangerous trees, steep banks and potential damage to adjoining private properties;
 - Not maintained by Council (as the responsible owner) given inaccessibility and such maintenance does not represent the fair and equitable application of limited public funds to maintenance of public open space and riverfront land in the Shire;
 - Subject to bank disturbances and collapses which cause sediment flows into the rivers, potentially significant risks to the public and, in some cases, adjacent private properties;
- b) The current minimum lot sizes of the lots zoned RU1 Primary Production prohibit subdivision to enable offers for sale to adjoining/affected private property owners who would - under planning and environmental controls and agreements – provide for enhanced

- riverfront management and maintenance than Council for enhanced environmental outcomes in the public interest; and
- c) Improved fair and equitable allocation of limited Council funds for the embellishment and maintenance of public open space and areas of environmental values in the shire.

Net Community Benefit

The Planning Proposal will lead to:

- a) Offers for sale to adjoin /affected private property owners who would - under planning and environmental controls and agreements – provide for enhanced riverfront land use, management and maintenance than Council for enhanced environmental outcomes in the public interest;
- b) No anticipated negation or decline in public use or enjoyment of the subject lots which are currently Council-owned public reserves; and
- c) Improved fair and equitable allocation of limited Council funds for the embellishment and maintenance of public open space and areas of environmental values in the shire.

3.2. Section B: Relationship to Strategic Planning Framework

Consistency with Objectives and Actions within Regional Strategies

The Draft Murray Regional Strategy (2009)

This draft Strategy was published by the then NSW Department of Planning for consultation in October 2009, but was never finalised. This draft Strategy is now replaced by the draft Far West Regional Plan and the Riverina Murray Regional Plan. The draft Murray Regional Strategy contained some important pointers for consideration in terms of implementation of State Government policies for riverfront land planning and management in local government areas such as Wentworth.

This is quite a contentious issue because many property owners assert that the model provisions in the draft Murray Regional Strategy and Council LEPs deprived them of their rights to undertake certain activities or carry out certain developments within 40 or 100 metres of the top of the bank of defined water courses.

The draft Murray Regional Strategy provided that:

LEPs would include the endorsed model provisions and maps for land, water and biodiversity. Councils would investigate opportunities to increase public access to scenic river frontages in urban areas.

Councils will establish a building setback line from the bank of rivers to the satisfaction of the Director General of the Department of Planning – building setback lines will be incorporated into local environmental plans in accordance with the model provisions in Appendix 3.

Where a building setback line has not been designated in a non-urban zone (as described in Appendix 3), LEPs will establish a 100 metre building setback from the bank of a river.

Council shall consult with adjoining Councils in determining appropriate building setback lines along rivers.

Appendix 3 of the draft Murray Regional Strategy provides model clauses with regard to “development on river front areas” and “river based development” and also includes a draft direction encompassing draft definitions of “bed”, “river”, “river front area”, “river bank”, “river front building line map”, and “river front building line”.

The draft Murray Strategy also notes that the then Department of Planning completed a comprehensive review of the Murray Regional Environmental Plan No. 2 (in 2008 / 2009) and concluded that most of it has been superseded and can be updated through other planning mechanisms such as new LEPs that are consistent with this regional strategy.

Murray Regional Environmental Plan No. 2–Riverine Land (2009)

This is a deemed SEPP and contains various principles that must be implemented as Councils prepare and implement LEPs and give consideration to development applications. The REP - deemed SEPP - identifies principles, provisions and related consultation requirements for various development / uses which will potentially occur in the vicinity of the Murray River and have potential impacts.

This REP No.2 is programmed by DPE to be updated and amended to implement the recommendations of the Murray River Riparian Planning Controls Study (Ecological Australia, January 2016) – see below.

Murray River Riparian Planning Controls Study (Ecological Australia, January 2016)

The Department of Planning and Environment commissioned this Study to review the planning controls that apply to the Murray River and the issues affecting its users. The study identified the importance of continuing the use of river setback provisions to protect riverine values and to provide a wide range of benefits to the environment. It will form part of the evidence base required to support the review of the Murray Regional Environmental Plan No. 2–Riverine Land (2009).

There is however a consistent call for improvements to enable better management of the following issues:

Streamlining in the planning process, e.g. requirements of MREP2 and limited opportunity to use exempt and complying development provisions.

Consistency in requirements for setbacks and the definition of the 'high bank'.

Development on flood prone land and linear/ribbon developments.

Increasing tourism and recreational pressures.

Impact of environmental watering and climate change.

Funding and capacity constraints in government agencies.

The Murray River Riparian Planning Controls Study includes the following potentially relevant statements:

"Determining river setbacks"

The standard setback widths that currently apply to the Murray River apply only on the NSW bank of the river and are measured from a defined setback reference point (top of bank/ high bank point). The standard for the majority of the Murray River on the Victoria side is 60m. For other rivers within the Region, setback widths apply to both sides of the bank and are measured using the same methodology for calculating the setback reference point.

The minimum standard setback widths that currently apply to riverfront areas in the Region are 40m for urban zones and 100m for rural zones. It is recommended that river setbacks should remain as follows:

- **Rural areas** - not less than 100 metres in all rural zones (Zones RU1, RU2, RU3, RU4, RU6)
- **Urban areas** - not less than 40 metres in urban zones (Zones R1, R2, R3, R4, R5 or RU5)

The reference point for calculating the start of a river setback is to be measured generally the top of bank/ high bank (break of slope from the river bank to surrounding land) of the waterway (See Section 3.2.4, Figures 3-7). A riverfront building line should be mapped and incorporated in local plans along all riverfront land, clearly showing the required setback for development within each local government area.

As discussed during consultation with agencies and councils, there is a level of inconsistency in determining what constitutes the 'high bank', with different methods being applied across the councils visited and interviewed as part of the consultation process for this study.

The provisions of the WM Act refer to the 'top of bank' to identify ... "the bed of any river, together with the land lying between the bed of the river and a line drawn parallel to, and the prescribed distance (40m) inland of, the highest bank of the river." The Act method adopts a geomorphology or structural approach to defining waterfront land rather than a hydrological approach. The hydrological approach is not considered appropriate for inland rivers due to the high flow variability and increased potential for misinterpretation. On the Murray River, particularly on the floodplain, there can be multiple high banks, anabranches and/or oxbows etc. The DP&E adopts the definition of the "Murray River" as including the 'River Murray' to apply the provisions to all connected waterways.

Technology, such as LiDAR (which the MDBA have for the entire river) should be able to remove much of the conjecture regarding changes to 'top of bank' following high flow/flooding events e.g. on a migrating meandering outer bend. The consistency of this data requires further investigation. For parts of the river where weirs or other regulating structures have created an environment of very stable water levels, the historical geomorphic 'flood banks' and the associated definitions in the WM Act are not always considered the most appropriate.

As such, identification of the high bank is important as it forms the reference point which setbacks are then measured from. This provides a consistent approach in calculating a setback distance along the length of the river and allows for various geomorphological differences (which can affect the way a particular section of a river functions).

Variations to river setbacks in urban zones (Zones R1, R2, R3, R4, R5 or RU5)

In some circumstances river setbacks may be varied to facilitate infill development opportunities (see **Figure 11**). Variation to the standard minimum setback provisions should only be approved where the variation sought applies to a setback in an urban zone (Zones R1, R2, R3, R4, R5 or RU5) to facilitate infill development.

Variations to river setbacks in rural zones (Zones RU1, RU2, RU3, RU4, RU6)

In rural areas, unless otherwise mapped in Council's LEP, the 100m setback applies and should not be varied. Variations to riverfront setbacks in a rural zone can still be approved by the Department but only where adequate justification is provided to the DP&E, with support from the OEH and DPI Water. This additional planning step is consistent with requirements in urban zonings (i.e. communities are not being treated differently) and commensurate to the significance of the river.

It is recommended that the DP&E establish a uniform set of criteria for assessing planning proposals related to setback variations. These criteria would provide a more consistent and transparent process for assessment of planning proposals related to river setback variations. These criteria would also assist councils and developers to prepare complete and appropriate planning proposals for assessment. These criteria should be developed to consider matters such as:

- Where is the variation sought?
Details of the location, subject zone and applicable minimum lot size.
- Why is the standard being varied?
Details on how the reduced setback would meet objectives such as maintaining and improving water quality, protecting the environmental values of rivers, protecting the stability of the bed and bank and limiting the impacts on natural riverine processes and navigability.
- What is the impact of the variation?
Details of the extent of the variation in response to specific circumstances and topography (mapping would be expected to provide a detailed survey of the river

bank the extent of flooding vegetation and other riverine habitat as well as existing development and structures).

- *How is this variation justified?*
Justification is required in terms of setback design. The varied setback distance should not contribute to increased erosion destruction of the bank have adverse impact on native vegetation or ecological habitats.

Assumed concurrence for setback variations in all zones

It is important that arrangements are in place to protect the riverine environment, particularly where buildings or works do not meet the prescribed riverfront setback standards and seek to encroach into the riverfront setback area. Arrangements should be applied equally across all land use zones as the potential cumulative impact of development along the Murray River is a matter of regional significance.

Consideration should be given to revoking the assumed concurrence delegations for variation to riverfront setbacks for all Murray River councils. As set out in the in the DP&E's 'Guide to Varying Development Standards' (2011), notification of assumed concurrence of the Director-General under clause 4.6(4) (and the former clause 24(4)) of the Standard Instrument (Local Environmental Plans) Order 2006) may be varied or revoked by written notice provided by the Director-General.¹⁵

Interim measures could also be considered, such as the revocation of concurrence delegations until such time as further work, such as a comprehensive Waterfront Management Strategy has been completed.

Recommendations

1. Included in the recommendations of the Murray River Riparian Planning Controls Study are:

Buffers, Setbacks and overlays	6. Retain minimum river setback distances of 40 metres for urban zones and 100 metres for rural zones in Local Environmental Plans. 7. Amend the model river setbacks clause (and those LEPs containing river setbacks clauses) to expressly include provision for infill development in urban areas and zones. 8. Amend the model clause 4.6(8) (Exceptions to development standards) to expressly preclude the model river setbacks clause from variation – except for variations for applying to infill development. 9. Investigate the options for revocation of council's assumed concurrence delegations in relation to the variation of riverfront setbacks. 10. Prepare practice notes or similar that detail the various elements of river management including: • changing context of the Murray River; • the definition of inside and outside bend; • application of 'high bank' and 'top of bank' definitions including: i. classification of the 'river geomorphologies' with specific high bank definition and ii. fine scale mapping of the 'high bank' within urban areas where cadastre information is insufficient.
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Waterfront Management	11. Develop a multi-agency Waterfront Management Strategy – led by DPE, in conjunction with other state agencies for the River Murray. 12. Align existing local tourism and recreation strategies with the Murray Tourist Destination Management Plan. 13. Investigate the opportunity to develop dedicated river use zones – including high impact ski zones and low impact / passive use zones in areas where impact of respective activities can be minimised and/or are consistent with management goals for that river reach. 14. Support the actions in the Regional Boating Plan Murray-Riverina Region – including partnering on implementation if appropriate. 15. Streamline approval process for moorings – through development of supporting guidelines to expedite approvals process and investigating single authority/single approval process.
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The Draft Far West Regional Plan

Following the completion of the Murray River Riparian Planning Controls Study (January 2016), the draft Far West Regional Plan was placed on public exhibition between 13 December 2016 and 13 March 2017. The draft Plan is currently in the “Submissions Review period”. Fifteen (15) submissions have been received from Government agencies and other organisations and eleven (11) from members of the public (one from Wentworth shire).

The Wentworth Shire Council made a submission (March 2017) asserting that there were concerns that were raised “by members of the community” in terms of:

An apparent focus on unrelated issues to the Wentworth community, including:

Environmental significance

Health of Murray River and species residing within it – our river and tributaries are considered to be well managed and maintained.

The submission did not raise the issue of river setbacks.

The Draft Regional Plan covers the Local Government areas of Balranald Shire Council, Bourke Shire Council, Brewarrina Shire Council, Broken Hill City Council, Central Darling Shire Council, Cobar Shire Council, Walgett Shire Council and Wentworth Shire Council

Relevant actions stated in the draft Plan to enact Direction 14: “Manage and Conserve Water Resources for the Environment” are to:

Locate, design, construct and manage new developments to minimise impacts on water catchments, including downstream impacts and groundwater sources.

Minimise the impacts of development on fish habitat, aquaculture and waterways (including watercourses, wetlands and riparian lands) and meet the NSW Government’s Water Quality and River Flow Objectives.

Prepare and implement a waterfront management strategy for the Murray River.

Protect the biodiversity, water quality and aesthetic values of the Murray River by retaining riverfront setback provisions in local plans and limiting ribbon development along the river.

Assess the potential impacts new development may have on biodiversity along river corridors and establish plans to manage offsets.

These actions and Direction 14 are in turn formulated to implement “Goal 2: An exceptional and distinctive natural environment”.

The draft Far West Regional Plan references the Murray River Riparian Planning Controls Study as having identified the importance of continuing the use of river setback provisions to protect riverine values and to provide a wide range of benefits to the environment. MRRPCS recommendations will form part of the evidence base required to support the review of the Murray Regional Environmental Plan No. 2–Riverine Land (2009).

Consistency with Council's Community Strategic Plan or other Local Strategic Plan

Wentworth Community Strategic Plan

The draft Community Strategic Plan 2017-2027; the draft 2017-2021 Delivery Program and 2017-2018 Operational Plan are, at the time of preparation of this Planning Proposal, on public exhibition and public submissions will be considered by Council before the final plan is adopted on 28 June 2017.

The Wentworth Region Community Strategic Plan is underpinned by the following social justice principles:

- Equity – there should be fairness in the distribution of resources, particularly for those in need. In addition to this, equity should be considered when planning activities to ensure there is a balance between who pays and who benefits.
- Access – there should be fair access to public facilities and services, regardless of an individual's social and/or economic circumstances.
- Participation – people across our region should have the opportunity to genuinely participate in decisions that affect their lives. This also involves a two-way flow of information.
- Rights – equal rights should be provided at all times. Discriminatory practices should be avoided.

Throughout the process of updating the Community Strategic Plan, it was established that community place importance on the following:

- Lifestyle - Space; country feel; climate; proximity to large regional centre and tristate location; religious and cultural diversity; semi-rural aspect.
- Natural environment - The meeting place of the Murray and Darling Rivers; the proximity to Mungo National Park and the outback.
- Amenity and aesthetics - Sporting facilities; public spaces; gardens; freedom and space; aged care facilities; access to educational facilities.
- Sense of history - River and paddle-steamer history; the stories of our people (Indigenous and non-Indigenous history); historic buildings and towns.
- Tourism - Places of historic significance, Indigenous history, the river and the outback.
- Community spirit and pride - Tidy towns; community events; community connectedness; friends and family.

The consultation and engagement activities undertaken to inform the Wentworth Region Community Strategic Plan have resulted in the formation of the following concise and ambitious vision for the region:

"A thriving region, supported by a robust economic base, distinctive open spaces, and strong local governance and leadership"

Flowing from the vision and of most relevance to this Planning Proposal are the following goal and strategies:

"GOAL 2 - WENTWORTH IS A DESIRABLE SHIRE TO VISIT, LIVE, WORK AND INVEST (SOCIAL)

2.1 Strategy - Grow visitation to the Shire by developing a quality visitor experience and promoting our destination

2.5 Strategy – Maintain/create desirable open spaces and recreation facilities".

This Planning Proposal is a significant contribution to enabling the maintenance of the subject riverfront lots and the optimum means of allocating resources to "Maintaining/creating desirable open spaces and recreation facilities ".

Consistency with State Environmental Planning Policies

An assessment of relevant SEPPs against the planning proposal is provided in the table below.

Table 1: Relevant State Environmental Planning Policies

SEPP	Relevance	Consistency and Implications
SEPP 1 - Development Standards	The SEPP makes development standards more flexible. It allows councils to approve a development proposal that does not comply with a set standard where this can be shown to be unreasonable or unnecessary.	Not applicable.
SEPP 15 - Rural Land Sharing Communities	The SEPP provides for multiple occupancy development, with council consent, in rural and non-urban zones, subject to a list of criteria in the policy.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP 21 - Caravan Parks	The SEPP provides for development for caravan parks.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP 30 - Intensive Agriculture	The SEPP provides considerations for consent for intensive agriculture.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP 32 - Urban Consolidation (Redevelopment of Urban Land)	The SEPP makes provision for the re-development of urban land suitable for multi-unit housing and related development.	Not applicable – an urban zone will not be applied to any of the riverfront lots
SEPP 33 - Hazardous & Offensive Development	The SEPP provides considerations for consent for hazardous & offensive development.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP 36 - Manufactured Homes Estates	The SEPP makes provision to encourage manufactured homes estates through permitting this use where caravan parks are permitted and allowing subdivision.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP 44 - Koala Habitat Protection	This SEPP applies to land across NSW that is greater than 1 hectare and is not a National Park or Forestry Reserve. The SEPP encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range.	There is no research or evidence to the effect that any of the subject lots contain natural vegetation areas that provide habitat for koalas
SEPP 50 - Canal Estates	The SEPP bans new canal estates from the date of gazettal, to ensure coastal and aquatic environments are not affected by these developments.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP 55 - Remediation of Land	This SEPP applies to land across NSW and states that land must not be developed if it is unsuitable for a	Not applicable.

	proposed use because of contamination	
SEPP 62 - Sustainable Aquaculture	The SEPP relates to development for aquaculture and to development arising from the rezoning of land and is of relevance for site specific rezoning proposals.	Not applicable.
SEPP 64 - Advertising and Signage	The SEPP aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish.	Nothing in this planning proposal affects the aims and provisions of this SEPP
SEPP 65 - Design Quality of Residential Development	The SEPP relates to residential flat development across the state through the application of a series of design principles. Provides for the establishment of Design Review Panels to provide independent expert advice to councils on the merit of residential flat development.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP Building Sustainability Index: BASIX 2004	The SEPP provides for the implementation of BASIX throughout the State.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP Housing for Seniors or People with a Disability 2004	The SEPP aims to encourage provision of housing for seniors, including residential care facilities. The SEPP provides development standards.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP Major Development 2005	The SEPP defines certain developments that are major projects to be assessed under Part 3A of the Environmental Planning and Assessment Act 1979 and determined by the Minister for Planning. It also provides planning provisions for State significant sites. In addition, the SEPP identifies the council consent authority functions that may be carried out by Joint Regional Planning Panels (JRPPs) and classes of regional development to be determined by JRPPs.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP Infrastructure 2007	The SEPP provides a consistent approach for infrastructure and the provision of services across NSW, and to support greater efficiency in the location of infrastructure and service facilities.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP Mining, Petroleum Production and Extractive Industries 2007	The SEPP aims to provide proper management of mineral, petroleum and extractive material resources and ESD.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP Temporary Structures 2007	The SEPP provides for the erection of temporary structures and the use of places of public entertainment while	Nothing in this planning proposal affects the aims and provisions of this SEPP.

	protecting public safety and local amenity.	
SEPP Exempt and Complying Development Codes 2008	The SEPP provides exempt and complying development codes that have State-wide application, identifying, in the General Exempt Development Code, types of development that are of minimal environmental impact that may be carried out without the need for development consent; and, in the General Housing Code, types of complying development that may be carried out in accordance with a complying development certificate.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP Rural Lands 2008	The SEPP aims to facilitate economic use and development of rural lands, reduce land use conflicts and provides development principles. This SEPP includes the highly relevant principles, explained below, to guide local Councils seeking the varying minimum lot sizes in rural zones, enabling subdivision for the purposes of primary production below the minimum lot size without allowance for a dwelling and introducing heads of consideration for the assessment of land use conflict. A Ministerial Direction under Section 117 of the Environmental Planning and Assessment Act as amended 1979 (Direction 1.5) on Rural Lands – requires that when a Council prepares an LEP for land within a rural or environmental protection zone it needs to be consistent with the rural planning principles listed in Clause 7 of this SEPP. The most relevant principles for this Planning Proposal are: • The application of standards for subdivision in rural zones to allow land owners a greater chance to achieve zone objectives that facilitate primary production; • That land may be subdivided for the purpose of primary production to create a lot of a size smaller than the minimum prescribed lot size that applies to the land, but this cannot enable a dwelling to be part of the lot created if it is already erected upon the property and a dwelling cannot be built on the lot created; • Any lot that has a dwelling entitlement under a current LEP should retain that dwelling entitlement – giving effect to the policy position of the NSW	This planning proposal proposes the reclassification of a number of lots which are zoned RU1 - Primary Production. Only two of the subject lots - are being used for agricultural purposes and the recommended reclassifications simply reaffirm existing actual and/or potential uses. The reclassification of these lots enables consolidation of the current lots with adjoins lots – thereby enlarging areas of the existing adjoin lots. It is concluded that there are no inconsistencies with this SEPP.

	Department of Planning and Environment to the effect that it is reasonable to preserve such entitlements. When preparing a new LEP therefore, a Council may decide to modify its dwelling provisions, but where it does so the Council would need to be mindful of the equity implications of such an approach, and to ensure that the proposed changes are broadly communicated within the community.	
SEPP Affordable Rental Housing 2009	The SEPP provides for an increase in the supply and diversity of affordable rental and social housing in NSW.	Not applicable
SEPP State and Regional Development 2011	The SEPP aims to identify development and infrastructure that is State significant and confer functions on the Joint Regional Planning Panels (JRPPs) to determine development applications.	Not applicable

Consistency with s.117 Ministerial Directions for Local Plan Making

An assessment of relevant s.117 Directions against the planning proposal is provided in the table below.

Table 2: Relevant s.117 Ministerial Directions

Ministerial Direction	Aim of Direction	Consistency and Implication
1. EMPLOYMENT AND RESOURCES		
1.1 Business and Industrial Zones	Encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified strategic centres.	Not applicable
1.2 Rural Zones 1.5 Rural lands	The objective of this direction is to protect the agricultural production value of rural land and facilitate the economic development of rural lands for rural related purposes.	Only two of the subject lots - are being used for agricultural purposes and the recommended reclassifications simply reaffirm existing actual and/or potential uses. The reclassification of these lots enables consolidation of the current lots with adjoins lots – thereby enlarging areas of the existing adjoin lots. It is concluded that there are no inconsistencies with this Direction.
1.3 Mining, Petroleum Production and Extractive Industries	The objective of this direction is to ensure that the future extraction of State or regionally significant reserves coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	Not applicable

2. ENVIRONMENT AND HERITAGE		
2.1 Environmental Protection Zones	The objective of this direction is to protect and conserve environmentally sensitive areas.	None of the subject lots are zoned environmental protection
2.3 Heritage Conservation	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	All of the subject lots are freehold and no places of environmental heritage significance and/or indigenous heritage significance have been identified. The Tapio homestead is located on one of the subject lots but will not be affected by this Planning Proposal

2.4 Recreation Vehicle Areas	The draft LEP amendment does not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the <i>Recreation Vehicles Act 1983</i>).	Not applicable
3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT		
3.1 Residential Zones	Encourage a variety and choice of housing types to provide for existing and future housing needs, make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and minimise the impact of residential development on the environment and resource lands.	Not applicable
3.2 Caravan parks and Manufactured Home Estates	The objective of this direction is to provide for a variety of housing types, and provide opportunities for caravan parks and manufactured home estates.	Not applicable
3.3 Home Occupations	The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.	Not applicable
3.4 Integrating Land Use and Transport	The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs subdivision and street layouts achieve the sustainable transport objectives.	Not applicable
3.5 Development Near Licensed Aerodromes	The objectives of this direction to ensure the efficient and safe operation of aerodromes, ensure their operation is not compromised by incompatible future adjoining land uses	Not applicable
3.6 Shooting Ranges	The objective of this direction is to maintain appropriate levels of public safety and amenity, reduce land use conflict and identify issued that must	Not applicable

	be addressed when rezoning land adjacent to an existing shooting range.	
4. HAZARD AND RISK		
4.1 Acid Sulphate Soils	The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils	Not applicable
4.2 Mine Subsidence and Unstable Land	The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.	None of the subject sites are within a mine subsidence district and has not been subjected to subsurface mining.

4.3 Flood Prone Land	The objectives of this direction are to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i>, and that the provisions of an LEP on flood prone land are commensurate with flood hazard and include consideration of the potential flood impacts both on and off the subject land.	Subject lots are identified as being subject to floodway, flood Planning and/or and where relevant and maps provided for each lot recommended for reclassification. Given the continued applicability of planning controls – with the exception of amendments to minimum lot sizes for some of the subject lots – controls for development of flood prone land will remain consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i>. The provisions of the Wentworth LEP 2011 on flood prone will remain commensurate with flood hazard and will still include relevant provisions for the consideration of the potential flood impacts both on and off the subject land.
4.4 Planning for Bushfire Protection	The objectives of this direction are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, to encourage sound management of bush fire prone areas.	The bushfire prone mapping relevance to each of the subject lots is identified above. Given the continued applicability of planning controls – with the exception of amendments to minimum lot sizes for some of the subject lots – there is no reduction of the effects of bushfire protection and sound management of bush fire prone areas.
5. REGIONAL PLANNING		
5.1 Implementation of Regional Strategies	The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.	Reference Part 3 above of this Planning Proposal. While Wentworth Shire Council currently contains river setback provisions at variation from the (now superseded) draft Murray Regional Strategy, the draft Far West Regional Plan and the Murray River Riparian Controls Study, the reclassifications will not adversely impact upon the intended environmental outcomes of these regional plans and Study. Further a comprehensive environmental study consisting of various studies are provided as listed in part 1 of this PP.
6. LOCAL PLAN MAKING		

6.1 Approval and Referral Requirements	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Consultation with relevant authorities is required to ensure consistency with the direction and preliminary consultations have been completed - see Section D below.
6.2 Reserving Land for Public Purposes	The objectives of this direction are to facilitate the provision of public services and facilities by reserving land for public purposes, and facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition. The objectives of this direction are: (a) to facilitate the provision of public services and facilities by reserving land for public purposes, and (b) to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition. This direction applies when a relevant planning authority prepares a planning proposal. A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General). When a Minister or public authority requests a relevant planning authority to reserve land for a public purpose in a planning proposal and the land would be required to be acquired under Division 3 of Part 2 of the Land Acquisition (Just Terms Compensation) Act 1991, the relevant planning authority must: (a) reserve the land in accordance with the request, and (b) include the land in a zone appropriate to its intended future use or a zone advised by the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), and	All of the subject lots were transferred to Council ownership as contributions to public and environmental benefit and were integral to consents for the subdivision of adjoining land. None of the lots were concurrently or subsequently rezoned to 6(a) Public Open Space. All of the subject lots are unused and highly under-utilised as public open spaces/reserves. The majority of the lots are land-locked by privately owned lots between the public reserve and the nearest public road. Any public use appears to be by occupiers of passing water-craft who may or may not differentiate the relevant lots as public land. Even if access is legally available, it is in most cases, physically and financially prohibitive. The Planning Proposal recommends amendments to the Lot Size map in Wentworth LEP 2011 as relevant to subject lots on the bases that: • None of the subject lots are zoned RE1 Public Recreation; • No detrimental effects will be resultant for public open space use and availability; and • Environmental attributes can be protected and/or enhanced rather than adversely affected. Hence, there are no inconsistencies with this Direction.

	(c) identify the relevant acquiring authority for the land. A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that:	
6.3 Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	WLEP 2011 maps are recommended for amendment to the effect of no minimum lot sizes applying to the lots recommended for reclassification to enable subsequent subdivision and offers for sale and consolidation. No amendments to clauses relating to site specific planning controls are proposed.

3.3. Section C: Environmental, Social and Economic Impact

Impact on Threatened Species

An Ecological Assessment Report has been undertaken in accordance with current OEH and Council guidelines. The report's conclusions are as follows:

Environmental Impact

There are substantial and diverse ecological significance and environmental values and assets attributable to the subject lots. These are identified for each of the subject lots above.

Social and Economic Impacts

One of the primary objectives of this project is to enable reallocation of limited Council funds for public open space/reserves maintenance and embellishment to much more highly used and valued open spaces and reserves. This will be achieved by offers for sale of lots subdivided following reclassification and LEP amendments at Valuer-General valuations. The returns of sales will be allocated by Council to embellishment and maintenance of more highly used and valued public reserves in the Shire.

Adequate Public Infrastructure

Given the significant limitations and controls for riverfront development and environmental works, no net additional Council/public costs are anticipated. Hence, there will be no cost to the broader community in either the provision or ongoing management and maintenance of these lots and facilities.

Indeed, one of the primary objectives of this project is to enable reallocation of limited Council funds for public open space/reserves maintenance and embellishment to much more highly used and valued open spaces and reserves.

Some infrastructure (pumps, boat ramps etc) and facilities (gazebos, tables and chairs etc) are present on the riverfront lots - many of which are subject of licenses or leases between adjoining/affected private owners and Council.

3.4. State and Commonwealth Interests

A range of NSW State agencies have responsibilities for the management and environmental qualities of the Murray and Darling Rivers and the related riparian lands. The Murray Darling Basin Authority has responsibilities at the Commonwealth level for the health of these rivers systems and water allocations for agriculture, environmental and other needs and demands.

Consultation has occurred with relevant government agencies in the preparation of the respective reports that accompany this PP. The Gateway Determination will also require that Council consult with specific government agencies and receive their feedback. This will be done in conjunction with the public exhibition of the PP.

Consultations have been held to date with the Department of Planning and Environment (DPE), Office of Environment and Heritage (OEH) and Water NSW during February 2017 with the following feedback:

DPE:

Key points are:

- *"From the Department's perspective, the reclassification and consolidation of lots to adjoining landowners is a better outcome than the continued operation of landlocked Council reserves. As we understand, the lots were acquired by Council in the 1980's as open space, in lieu of contributions. It is the intention of Council to reclassify the lots to Operational and sell to adjoining landowners, consolidating the lots into private ownership.*
- *From the initial investigations undertaken by David, there doesn't appear to be many changes to the lots, other than their classification. The existing zoning, minimum lot size and environmental constraints (flooding, river front setbacks, and environmental sensitivities) will remain. As we discussed, the outcomes of the Ecological report on river front development will influence the recommendations in the draft Far West Regional Plan, which in turn will influence the policy for development and protection along the river in Wentworth.*
- *Any future planning proposal will need to consider the development of the lots. It should be determined whether any of the lots would hold a dwelling entitlement through the 'former rural lots' provisions of clause 4.2B of the Wentworth LEP 2011. Given the process in which the land was acquired, and its reserve status, it is unlikely that these lots would enjoy a dwelling entitlement or be considered an existing holding, however, this should be confirmed.*
- *As we discussed, the existing provisions of the Wentworth LEP, such as the minimum lot size, preclude the subdivision of the lots as they exist currently. In this regard, the lot would need to be acquired by only one landowner. This should be considered by Council in the tender/sale process for the lots with multiple adjoining owners.*
- *For your information, I have attached the revised Practice Note for the Reclassification of Land. The Department is available to assist throughout the project, should you require".*

OEH (Andrew Fisher):

"Key points are:

- *The Flood Planning Area applies to additional lots.*
- *Terrestrial Biodiversity map in the Wentworth LEP needs to be considered for a number of lots.*
- *OEH mapping shows Crown Land may adjoin some of these lots, and provide potential access opportunities (site 13 is the most realistic of these).*
- *For some lots there are buildings/sheds/boat ramps that have been built on this Community land.*
- *In addition Aboriginal Cultural Heritage (ACH) will need to be considered for all of these parcels as this area is considered to have the potential for the occurrence of ACH given the proximity of these lots to an indicative landscape feature (Murray and Darling Rivers) and known sites across the area. Any ground disturbance activities or tree removal associated with future development has the potential to impact ACH. OEH recommends that proponents undertake an assessment in accordance with the "Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW", inclusive of a visual inspection undertaken by a person/s with expertise in locating and identifying Aboriginal sites and objects:*
 - *to identify whether or not Aboriginal objects are, or are likely to be, present in the proposed development area;*
 - *To determine whether or not the proposed activities are likely to harm Aboriginal objects (if present); and*

- *To determine whether further assessment in the form of an Aboriginal Cultural Heritage Assessment (ACHA) and/or an Aboriginal Heritage Impact Permit (AHIP) application is required.*
- *We can work with yourself and/or Council to put together a package that would be made available to potential purchasers that would identify any procedures that would be implemented in relation to ACH and biodiversity, and it would be prudent to contact a range of other agencies that may have a role (DPI Water, DPI Crown Lands, DPI Fisheries, etc.) to get the type of information they would like to see incorporated as well. This would also be the document to discuss the matter of setbacks for any future developments including the LEP, Murray REP2 and the Waterfront Management Strategy being developed by DP&E.*
- *The key issue for some will be how the lots can be subdivided below the minimum lot size to make the sale to multiple neighbours possible (and Council's responsibility if lots are not purchased) but we believe that DP&E in Dubbo will be the lead on providing this advice".*

Water NSW (Clare Turtle):

Key points are:

- *Access to water supply to the new blocks will need to be done in accordance with the Water Management Act 2000. Landholders that have direct river frontage will enjoy a basic right under section 52. Any other set up may require and Approval/Licence;*
- *Any physical works done on waterfront land may need Approval from DPI Water.*

DPI – Water

DPI – Water was consulted - including invitation to participate in the video-conference in February 2017 and with subsequent invitations on a number of occasions to comment based upon aerial photos and information provided - but, to date, has not provided comments.

DPI: Crown Lands, DPI: Fisheries and the Murray Darling Basin Authority will be consulted, subject to Gateway determination, during the formal exhibition stage.

PART 4: COMMUNITY CONSULTATION

During the period of assessment of the subject lots, David Broyd from DBCS Pty Ltd has held discussions with 33 adjoining/affected landowners.

It is anticipated that the Gateway Determination will require that the Planning Proposal and accompanying reports be placed on exhibition for a period of 28 days.
A Public Hearing will be conducted during that 28 day period.

PART 5: PROJECT TIMELINE

Task	Timeframe
Commencement Date – Gateway Determination	Week ending 11 August 2017
Timeframe for completion of technical information	Week ending 1 September 2017
Government Agency Consultation - During Report Preparation - Following Report Completion	Week ending 1 September 2017 Week ending 29 September 2017
Commencement and Completion Dates for Public Exhibition Period	Week ending 22 September 2017
Dates for Public Hearing	12 October 2017
Timeframe for Consideration of Submissions	Week ending 27 October 2017
Timeframe for the consideration of a proposal post exhibition	15 November 2017
Submission to DoPI to finalise LEP	22 November 2017
Anticipated date RPA will forward to DoPI for notification	Week ending 15 December 2017

Appendix 1: Location Plan

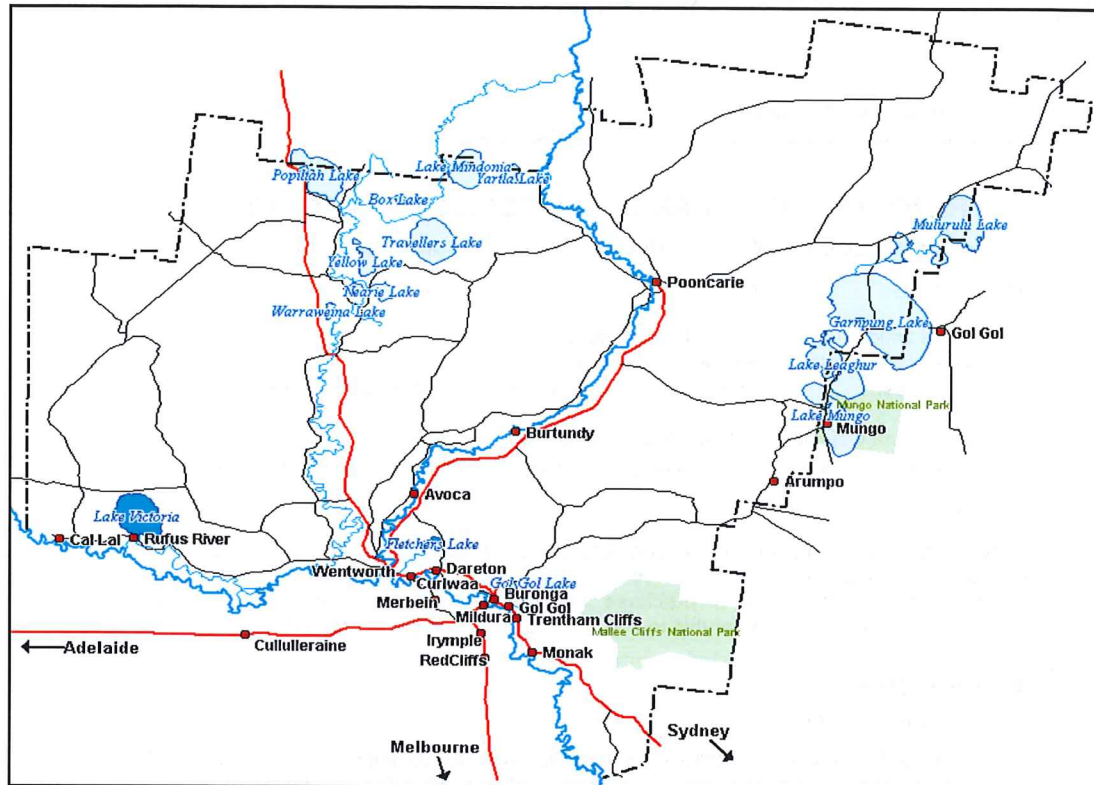


Figure 1: Map of Wentworth Shire

Appendix 2: Council Report and Minutes

ORDINARY MEETING MINUTES

18 MARCH 2015

11 REPORTS FROM FINANCE AND POLICY DIRECTORATE

11.1 SALE OF COUNCIL OWNED RIVERFRONT LAND PARCELS

File Number: RPT/15/201

Responsible Officer: Simon Rule - Director Finance and Policy
Responsible Directorate: Finance and Policy
Reporting Officer: Kathy Collinson - Reserves and Acquisitions Officer

Delivery Program Objective: 2. Growth & Development

Delivery Program Strategy: 2.3 Encourage land development and housing construction

Summary

Council holds title to a number of riverfront land parcels which were provided in lieu of Public Open Space Contributions when land was subdivided. Landholders adjacent to these parcels have indicated that they wish to purchase the portion of the land parcel between their property and the river. In order for this to occur, there are a number of processes.

Recommendation

That Council resolves to:

- provide funding in the 2015/2016 financial year to commence the required LEP Amendment to change the classification of the Riverfront Land Parcels from Community to Operational Land
- develop a policy regarding the sale of the Riverfront Parcels
- assist affected landholders by initially undertaking a quotation process on behalf of affected landholders for the survey costs
- assist affected landholders by waiving all or part of the fees associated with the subdivision of the Riverfront Parcels, and
- assist affected landholders by determining that the compensation payable to Council be at the rate determined by the Valuer General for their property.

Council Resolution

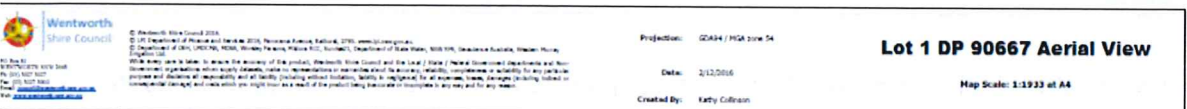
That Council resolves to:

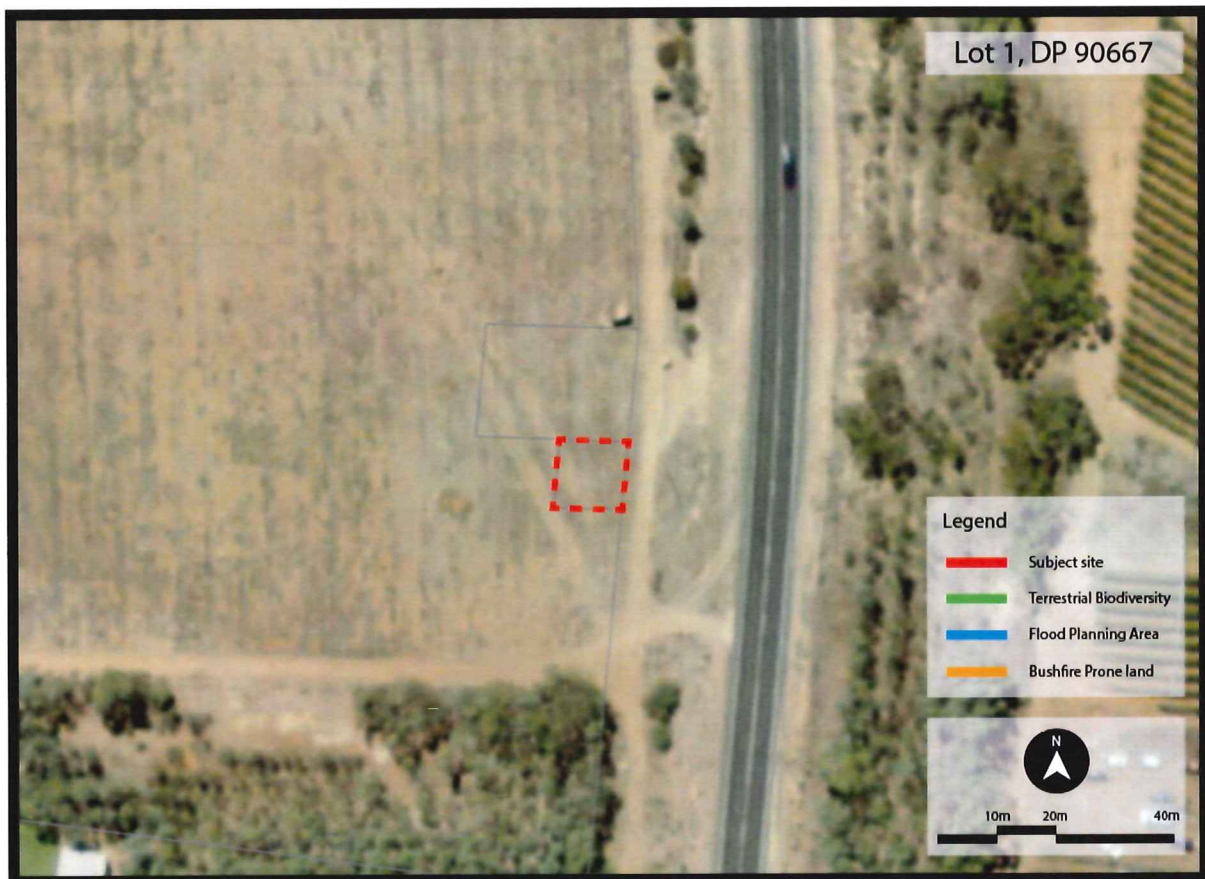
- provide funding in the 2015/2016 financial year to commence the required LEP Amendment to change the classification of the Riverfront Land Parcels from Community to Operational Land
- develop a policy regarding the sale of the Riverfront Parcels
- assist affected landholders by initially undertaking a quotation process on behalf of affected landholders for the survey costs
- assist affected landholders by waiving all or part of the fees associated with the subdivision of the Riverfront Parcels, and
- assist affected landholders by determining that the compensation payable to Council be at the rate determined by the Valuer General for their property.

Moved Councillor Bob Wheeldon, Seconded Councillor B Wakefield

CARRIED

LOT 1, DP 90667, STURT HIGHWAY, TRENTHAM CLIFFS





Note: No Flood Planning Area, Terrestrial Biodiversity or Bushfire Prone Land mapping exists on this site



 Wentworth Shire Council Wentworth Shire Council PO Box 100 Wentworth NSW 2807 Tel: 08 9577 7000 Fax: 08 9577 7001 Email: info@wentworth.nsw.gov.au	© Wentworth Shire Council 2017 © 2017 Department of Planning and Infrastructure, NSW Government © Department of Planning and Infrastructure, NSW Government © Department of Planning and Infrastructure, NSW Government All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage or retrieval system, without prior written permission from the publisher. This map is a tool to assist in the planning of the project. It is not a guarantee of the accuracy of the information. The user of this map is responsible for their own interpretation and use of the information. The user of this map is responsible for their own interpretation and use of the information. The user of this map is responsible for their own interpretation and use of the information.	Projection: GDA94 / MGA zone 54 Date: 1/07/2017 Created By: Kathy Collinson	Lot 35 DP 756936 Lot 1 DP 90677 Map Scale: 1:1512 at A4
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Figure 1: Yellow indicates Barkandji coexisting rights for Crown Reserve Lot 35 DP 756936

LOT 1, 90667	
Property Owner	Wentworth Shire Council;
Number of adjoining owners	- One - Adjacent Lot 35 DP 756936 is Crown land in the care of WSC; - Barkandji coexisting rights apply to Crown Reserve Lot 35 DP 756936;
Current classification	Community land
Proposed Classification	Community land
Title:	Freehold
Public Reserve? –	Yes
<u>Zoning</u>	RU1 – Primary Production
<u>Minimum Lot size</u>	10 ha
<u>Area</u>	145 m2
Planning and/or Environmental Constraints	None
Background Information and How acquired	- Lot 1 in DP 90667 (5 ¾ perches part of portion 17 Parish of Cliffs) was resumed by the Commonwealth of Australia on 22.12.1953. - Cert of Volume 7766 Folio 203 issued on 16.9.1959 by way of primary application No. 40667 for Lot 1 in DP 90667. - Prior to the resumption, Lot 1 in DP 90667 formed part of Western Lands Lease 6172; - Adjacent Lot 35 DP 756936 is coming up as Crown land in the care of WSC. - Crown Reserve is Lot 35 DP 756936 – with Barkandji coexisting rights;
Certificate of title provisions, restrictions on the land	- Certificate Of Title Has Not Issued Land - Lot 35 In Deposited Plan 756936 at Gol Gol Local Government Area Wentworth Parish of Cliffs County Of Wentworth (Formerly Known As Portion 35) Title Diagram Crown Plan 1026.1820 First Schedule - The State Of New South Wales (Ca144222) Second Schedule (2 Notifications) * 1 The Land Is A Reserve Within The Meaning Of Part 5 Of The Crown Lands Act 1989 And There Are Restrictions On Transfer And Other Dealings In The Land Under That Act, Which May Require Consent Of The Minister. * 2 Limited Title. Limitation Pursuant To Section 28t (4) of the Real Property Act, 1900. - The Boundaries Of The Land Comprised Herein Have Not Been Investigated By The Registrar General. - Notations -- Unregistered Dealings: Nil
Council interests in the land (lease arrangements, business dealings) -	None

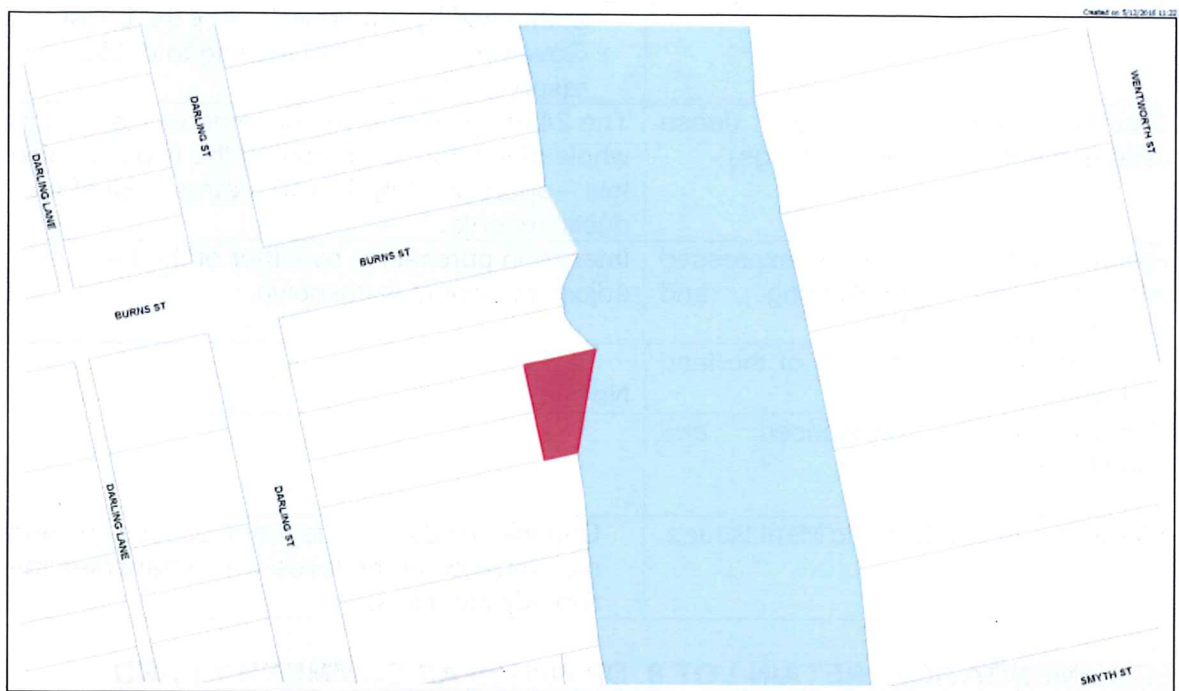
Has/have adjoining owner(s) expressed interest in consolidating and purchasing?	Unknown – no contact from adjoining owner
Is it proposed to discharge of the land and why?	Yes – no public use and currently used for agricultural production; Not river-front land;
Current Uses (authorised and unauthorised):	Agricultural production
Strategic and Site Specific Merit Issues:	1) Although, clearly the current and logical future use of this lot is for agricultural purposes, the adjacent lot (Lot 35 DP 756936) is Crown land in the care of WSC with Barkandji coexisting rights; 2) The implications of this need to be resolved before the lot can be recommended for reclassification to operational.

RECOMMENDATION: RETAIN LOT 1, DP 90667 AS COMMUNITY LAND

LOT 3 DP 595647 WENTWORTH STREET, WENTWORTH



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Wentworth Shire Council

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Projection: GDA94 / MGA zone 54

Date: 5/12/2016

Created By: Kathy Gillman

Lot 8 DP 601739 Plan View

Map Scale: 1:1757 at A4

LOT 8, DP 601739	
Property Owner	Wentworth Shire Council;
Current classification	Community land
Proposed Classification	Community land
Title:	Freehold
Public Reserve? –	Yes
<u>Zoning</u>	RU 5 – Village
<u>Minimum Lot size</u>	Not Applicable
<u>Area</u>	575 m2
Planning and/or Environmental Constraints	Floodway, Flood Planning Area, Floodway coverage 7.2%, River Red Gum - potential
Background Information and How acquired	- Land Grant 1862/1231 to Isabella Burne Dated 31-12-1862 (Old System) - Reservations on title. - Multiple affected landholders. - Potential issues with Strata Title
Certificate of title provisions, restrictions on the land	- Estate in Fee Simple in Lot 5, DP 595647 granted to Isabella Burne on 31/12/1862 - Reservations and conditions, if any, contained in the Crown Grant referred to; - The registered proprietor holds subject to section 604 Local government Act 1919; - K20000P Caveat by the Registrar General forbidding registration of instruments not

	authorised by the provisions of the Local Government Act 1919 relating to public reserves.
Council interests in the land (lease arrangements, business dealings) -	The 24 metre wide levee easement crosses the whole of the 40 metre width of the two adjoining lots – approximately 6 to 10 metres west of the public reserve.
Has/have adjoining owner(s) expressed interest in consolidating and purchasing?	Interest in purchasing by either of the two adjoining owners is unknown.
Is it proposed to discharge of the land and why?	No
Current Uses (authorised and unauthorised):	
Strategic and Site Specific Merit Issues:	Council needs to safeguard access to, and maintenance of the levee which traverses the two adjoining lots;

RECOMMENDATION: RETAIN LOT 8, DP 601739 AS COMMUNITY LAND
