

Planning Services

Gateway Determination Report

LGA	Wentworth
RPA	Wentworth Shire Council
NAME	Reclassify 20 riverfront parcels of land from Community to Operational Land, discharge interests with no zoning or minimum lot size changes
NUMBER	PP_2017_WENTW_002_00
LEP TO BE AMENDED	Wentworth LEP 2011
ADDRESS	20 parcels of riverfront land in Wentworth LGA
RECEIVED	31 July 2017. Further information provided letter dated 17 August 2017
FILE NO.	17/06926
QA NUMBER	qA416200
POLITICAL DONATIONS	There are no known donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no known meetings or communications with registered lobbyists with respect to this proposal

INTRODUCTION

Description of Planning Proposal

Reclassify 20 riverfront parcels of land from Community to Operational Land, discharge interests, no zoning changes and RETAIN minimum lot size provisions (Wentworth Shire Council letter dated 17 August 2017). It is Council's intention to dispose of the allotments to adjoining private landowners through the sale and consolidation of the allotments as the subject land is excess to the community's open space requirements. A minimum lot size will not be applied to Lot 2 DP 583614, Nevill Street, Wentworth, as the land is zoned RU5 Village, which is not subject to a minimum lot size under the provisions of the LEP.

Site Description

The planning proposal applies to the following allotments:

Lot/DP/ Locality	Area	Zone	Minimum Lot Size
Lot 1 DP 803099, River Road, Mourquong	1270m ²	R5	5000m ²
Lot 2 DP 583614, Nevill Street, Wentworth	721m ²	RU5	Nil
Lot 2 DP 789452, River Road, Pomona	1511m ²	RU1	10ha
Lot 3 DP 576696, Sturt Highway, Trentham Cliffs	1856m ²	RU1	10ha
Lot 3 DP 616182, Boeill	1913m ²	RU1	10,000ha

Creek Road, Boeill Creek			
Lot 3 DP 631732, Pooncarie Road, Wentworth	1.53ha	RU1	10,000ha
Lot 4 DP 631732, Pooncarie Road, Wentworth	1294m2	RU1	10,000ha
Lot 3 DP 776526, Sturt Highway, Trentham Cliffs	896m2	RU1	10ha
Lot 3 DP 786951, Pitman Road West, Buronga		RU1	10,000ha
Lot 3 DP 788830, Florence Road, Wentworth	4395m2	W1	Nil
Lot 4 DP 733472, Sturt Highway, Gol Gol	994m2	RU1	10ha
Lot 4 DP 746063, Boeill Creek Road, Boeill Creek	3418m2	RU1	10,000ha
Lot 4 DP 777861, Boeill Creek Road, Boeill Creek	4335m2	RU1	10,000ha
Lot 5 DP 775245, Darling View Road/Kelso Road, Wentworth	6620m2	RU1	10ha
Lot 5 DP 787557, Boeill Creek Road, Boeill Creek	2317m2	RU1	10,000ha
Lot 7 DP 773189, Kelso Road, Wentworth	1.39ha	RU1	10,000ha
Lot 7 DP 827371, Sturt Highway, Monak	5.2ha	RU1	10,000ha
Lot 10 DP 735148, Pooncarie Road, Wentworth	9.23ha	RU1	10,000ha
Lot 10 DP 740361, Cudmore Road, Wentworth	11.23ha	RU1	10,000ha
Lot 11 DP 740361, Low Darling/Cudmore Road, Wentworth		RU1	10,000ha

The subject lots are located throughout the Wentworth Local Government Area in Boeill Creek, Trentham Cliffs, Mourquong, Monak, Pomona, Buronga and Wentworth. The lots are located on the riverfront, generally within the riverfront setback area.

These parcels are mainly landlocked with multiple adjoining landowners, adjoin private land, have no public access and are not maintained by Council. The parcels are zoned RU1 Primary Production, RU5 Village, R5 Large lot residential and W1 Natural Waterways with a minimum lot size (MLS) of 10,000 ha, 5000m2, nil and nil respectively, and subject to a combination of flood, terrestrial biodiversity and bushfire environmental constraints.

Council previously acquired the land in the 1980's, as developer contributions for Open Space. Council has not maintained the land since its acquisition, nor has the land formally been used as open space. The parcels do not have legal road frontage and remote in location. The parcels have not been created for dwelling house purposes. Council intends to dispose of the land to adjoin landowners.

Summary of Recommendation

Proceed with Conditions – The proposal is a result of ongoing community consultation. Council have resolved that the subject lots are in excess of what is utilised by the community, and the proposal will not amend the zoning or the MLS of the land.

PROPOSAL

Objectives or Intended Outcomes

The objective of this Planning Proposal is to reclassify 20 parcels of land from Community to Operational Land and discharge Council's interest in the land. Council is not proposing to change the zoning or MLS of subject lots. The documentation prepared on Council's behalf indicates the removal of the MLS provisions.. Council advised in a letter dated 17 August 2017 that the MLS provisions are to remain with the clear intent to sell the parcels to adjoining landowners.

Explanation of Provisions

The reclassification of the lots from Community to Operational land will enable the lots to be disposed of by Council with the intent to sell to adjoining private landowners.

The proposed provisions in the Planning Proposal will achieve the intended outcomes by listing the subject land in Schedule 4 Classification and reclassification of public land Part 2 Land classified, or reclassified, as operational land – interests changed of Wentworth LEP 2011.

Mapping

Adequate locality maps are included in the Planning Proposal to identify the subject land. No mapping changes are required to the Wentworth LEP 2011 map suite.

NEED FOR THE PLANNING PROPOSAL

Council's intention is to reclassify the subject land and discharge interests in the land with the objective to sell the land. This is the result of extensive community and agency consultation. The objective of the proposal can only be achieved through an amendment to the Wentworth Local Environmental Plan 2011 via a Planning Proposal and approval of the Governor.

STRATEGIC ASSESSMENT

State

Not applicable. There is no State strategic planning framework applicable to the proposal.

Regional / District

The Far West Regional Plan:

The proposal is generally consistent with the Far West Regional Plan (the Plan). The Plan does not address the reclassification of land. The proposal will not result in the loss of any agricultural or residential land. The land is currently not used or maintained by Council. Small remote lots are not effective for public open space purposes. The subject land can be better utilised by disposal by Council to adjoining landowners.

Local

There is no current strategic land use plan applicable to the reclassification of land in the Wentworth area. Council is undertaking but no yet finalised a rural land use strategy.

Section 117(2) Ministerial Directions

1.2 Rural Zones and 1.5 Rural Lands

This Section 117 Direction applies to the subject lots currently zoned for primary production use. The proposal to reclassify the land will not reduce the agricultural productivity of the lots or reduce the availability of primary production or change of zoning of allotments within the LGA. This part of the proposal is consistent with this Direction. The Planning Proposal states it is to remove the MLS provisions applicable to parcels zoned RU1 Primary Production. This is inconsistent with the Direction. Council confirmed in a letter dated 17 August 2017 that it is not the intention of the proposal to remove the minimum lot size provisions. The reclassified parcels will be on-sold to the adjoining landowner, and a condition of sale will require the consolidation of the allotment. In this regard, the reclassified parcel will not require an amendment to the minimum lot size. The proposal is therefore consistent with this Direction.

3.1 Residential Zones

This Section 117 Direction applies to the subject lots currently zoned for residential use (zones R5 and RU5). The proposal to reclassify the land will not increase the development potential of the subject lots as they were all created for public recreation purposes. The R5 and RU% lands are highly constrained with limited development potential. This is consistent with this Direction.

4.3 Flood Prone Land

This Section 117 Direction applies to the proposal as some of the lots are identified as flood liable land in the Wentworth LEP 2011. Any future development would require compliance with the flooding controls. The objective of the proposal is to relinquish Council's interests in the land with the intention to sell the lot to adjoining landowners. The proposal is not proposing to change the flooding provisions. The Planning Proposal is consistent with this Direction as it does not remove or alter any provisions that affects flood prone land.

5.10 Implementation of Regional Plans

The proposal has considered the draft Far West Regional Plan. The proposal is not inconsistent with this Direction.

6.2 Reserving Land for Public Purposes

This Section 117 Direction applies to the proposal as the objective is to reclassify the subject land from a public reserve to operational with the intentions of selling the land for development purposes. The outcome of this proposal will reduce the availability of Reserved land for public purposes in Wentworth LGA. The Planning Proposal is inconsistent with this Direction however the Director Regions, Western can be satisfied that the inconsistency is of minor significance. Council has provided adequate information to demonstrate that the subject land is not required for open space and there is adequate useable open space available elsewhere in Wentworth LGA. The Director Regions, Western as the Secretary's delegate can agree to the reduction in land for public recreation in this case.

State Environmental Planning Policies

SEPP (Rural Lands) 2008

The Rural Lands SEPP does not contain any provisions which relate to the reclassification of land. Land zoned RU1 Primary Production is proposed to be reclassified, however, the zoning and minimum lot size of the land is not proposed to be amended and no loss of agricultural land will result. There is no intent to allow additional dwellings or subdivision opportunities. The proposal is consistent with the SEPP in this instance.

Murray Regional Environmental Plan. No. 2 (MREP) – Riverine Land (deemed SEPP)

The proposal has addressed the MREP, however, has not addressed the 'access principles' of the MREP and many of the subject allotments are riverfront land or within the riverfront setback area. The Planning Proposal is to be amended to provide additional information in response to "access principles" of the MREP prior to community consultation. The reclassification process does not intend to remove any existing planning or environmental controls.

SITE SPECIFIC ASSESSMENT

Social

The social cost of this development is that the reclassification will limit the availability of public reserves and open space. Council has considered and justified the reduction of the public open space in the context of developed and maintained open space in Wentworth. The subject lands are isolated and unmaintained and not productive for open space purposes.

Environmental

The reclassification of the subject land will not have a negative environmental impact as the existing environmental protection provisions of the Wentworth LEP 2011 will continue to apply to the land. The future use of the land will be subject to current WLEP 2011 zoning and provisions.

Economic

The reclassification of the land will result in a positive economic benefit for Council and landowners for the sale of the land.

CONSULTATION

Community

A period of 28 days community consultation has been proposed by Council. This is considered to be adequate.

Agencies

Pre-lodgement consultation was undertaken with the Department of Planning and Environment, Office of Environment and Heritage and NSW Office of Water. Consultation will be required with the Office of Environment and Heritage, Department of Primary Industries – Water and Fisheries, Crown Lands and the Murray Darling Basin Authority.

TIMEFRAME

Council has estimated that the proposal will be completed in 6 months. A period of 12 months will be provided to allow for any unexpected delays and to seek the Governors approval.

DELEGATION

The planning proposal has been amended with Council's consent during the assessment process. Council has agreed to RETAIN minimum lot size provisions (Wentworth Shire Council letter dated 17 August 2017).

Council has requested delegations to complete the plan making process. The proposed reclassification of the land requires the Governors approval, and delegations are not able to be issued in this instance. Furthermore, Council is the landowner and has interest in all of the land. The Director Regions, Western can determine the subject proposal as it is consistent with

Council's open space needs and in accordance with broader government policy to not acquire land along the river corridor. Council has also agreed to the proposed amendments to proposal.

CONCLUSION

The Planning Proposal can be supported as it is a result of ongoing community consultation. Council have resolved that the subject lots are in excess of what is utilised by the community. The proposal will not rezone land or change the MLS or provide new dwelling house or subdivision opportunities.

RECOMMENDATION

It is recommended that the delegate of the Minister for Planning determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following Public Authorities: OEH, DPI Water and Fisheries and the Murray Darling Basin Authority.
3. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council is not to be authorised to exercise delegation to make this plan as it is the landowner and the Governor's approval is required.
5. Amend the Planning Proposal to clearly:
 - state that the current MLS provisions of the land will not be changed,
 - include additional information provided and amend Part 2 Explanation of Provisions, to note that the proposal will amend the Wentworth Local Environmental Plan 2011 by including the subject lots as operational land in Schedule 4 Classification and reclassification of public land Part 2 Land classified, or reclassified, as operational land – interests changed, prior to community consultation, and
 - address consistency with Murray Regional Environmental Plan No. 2 – Riverine Land.

Approval is to be sought from the Department prior to the commencement of community consultation.



31.8.17

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31.8.17

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