

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, Neville 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, land-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 for 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:

- a) *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*
- b) *Develop a policy regarding the sale of the Riverfront Parcels;*
- c) *Assist affected landholders by initially undertaking a quotation process on behalf of affected landholders for the survey costs;*

- d) Assist affected landholders by waiving all or part of the fees associated with the subdivision of the Riverfront Parcels, and
- e) 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 embody education 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:

- a) 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:
 - i. In all cases community land and in most cases, Public Reserves;
 - ii. 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);
 - iii. Not historically maintained by Council;
 - iv. Subject to some significant public safety and liability risks .e.g. dangerous trees, steep banks and potential damage to adjoining private properties;
 - v. 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;
 - vi. 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;
 - vii. 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;
- b. 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;
- c. 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”;
- d. 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;

- e. 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;
- f. 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;
- g. 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
- h. 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 a single landholder if there are multiple adjoining landowners. (Again, 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:

- a) the subject sites are mainly land-locked - and therefore not accessible to the public;
- b) there is high level of interest from adjacent landholders in purchasing the subject parcels;
- c) the optimal maintenance (without further potential cost to Council) can be enabled; and
- d) the best land-use outcomes for the subject sites can be 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:

- a) **Lot 1, DP 803099, River Road, Mourquong**
- b) **Lot 2, DP 583614, Neville Street, Wentworth;**
- c) **Lot 2, DP 789452, River Road, Pomona;**
- d) **Lot 3, DP 576696, Sturt Highway, Trentham Cliffs;**
- e) **Lot 3, DP 616182, Boeill Creek Road, Boeill Creek;**
- f) **Lot 3, DP 631732, Pooncarie Road, Wentworth;**
- g) **Lot 4, DP 631732, Pooncarie Road, Wentworth;**
- h) **Lot 3, DP 776526, Sturt Highway, Trentham Cliffs;**
- i) **Lot 3, DP 786951, Pitman Road West, Buronga;**
- j) **Lot 3, DP 788830, Florence Road, Wentworth;**
- k) **Lot 4, DP 733472, Sturt Highway, Gol Gol;**
- l) **Lot 4, DP 746063, Boeill Creek Road, Boeill Creek;**
- m) **Lot 4, DP 777861, Boeill Creek Road, Boeill Creek;**
- n) **Lot 5, DP 775245, Darling View Rd/ Kelso Rd, Wentworth;**
- o) **Lot 5, DP 787557, Boeill Creek Road, Boeill Creek;**
- p) **Lot 7, DP 773189, Kelso Road, Wentworth;**
- q) **Lot 7, DP 827371, Sturt Highway, Monak;**
- r) **Lot 10, DP 735148, Pooncarie Road, Wentworth;**

- s) Lot 10, DP 740361, Cudmore Road, Wentworth;
- t) 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:

- a) 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;
- b) 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
- c) 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:

- a) Reclassifying the recommended 20 subject lots from community to operational;
- b) Retaining current zonings of the subject lots where appropriate; retaining minimum lot sizes on the Wentworth LEP 2011 Lot Size Map on the basis of the Gateway Determination of 31 August 2017 to the effect that the State Environmental Planning Policy: Exempt and Complying Development (Clause 38 – Subdivision) and Clause 4.6 of the Wentworth LEP 2011 can be applied for the potential subsequent subdivision of the subject lots for offer for sale to, and consolidation with, adjoining private lots;
- c) 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;
- d) Amending the Wentworth LEP 2011 by including the subject lots recommended for reclassification to operational in Schedule 4: *Classification and Reclassification of Public Land – Part 2: Land Classified or reclassified as operational land – interests changed.*

2.2 Current Land Use Provisions in the Wentworth LEP 2011

The four zones currently applicable to the subject lots in Wentworth LEP 2011 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.

2.2.1 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

2.2.2 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

2.2.3 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

2.2.4 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:

- **Lot 1, DP 803099, River Road, Mourquong**
- **Lot 2, DP 583614, Neville 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;**

2.4.1 Lot 1 DP 803099, River Road, Mourquong

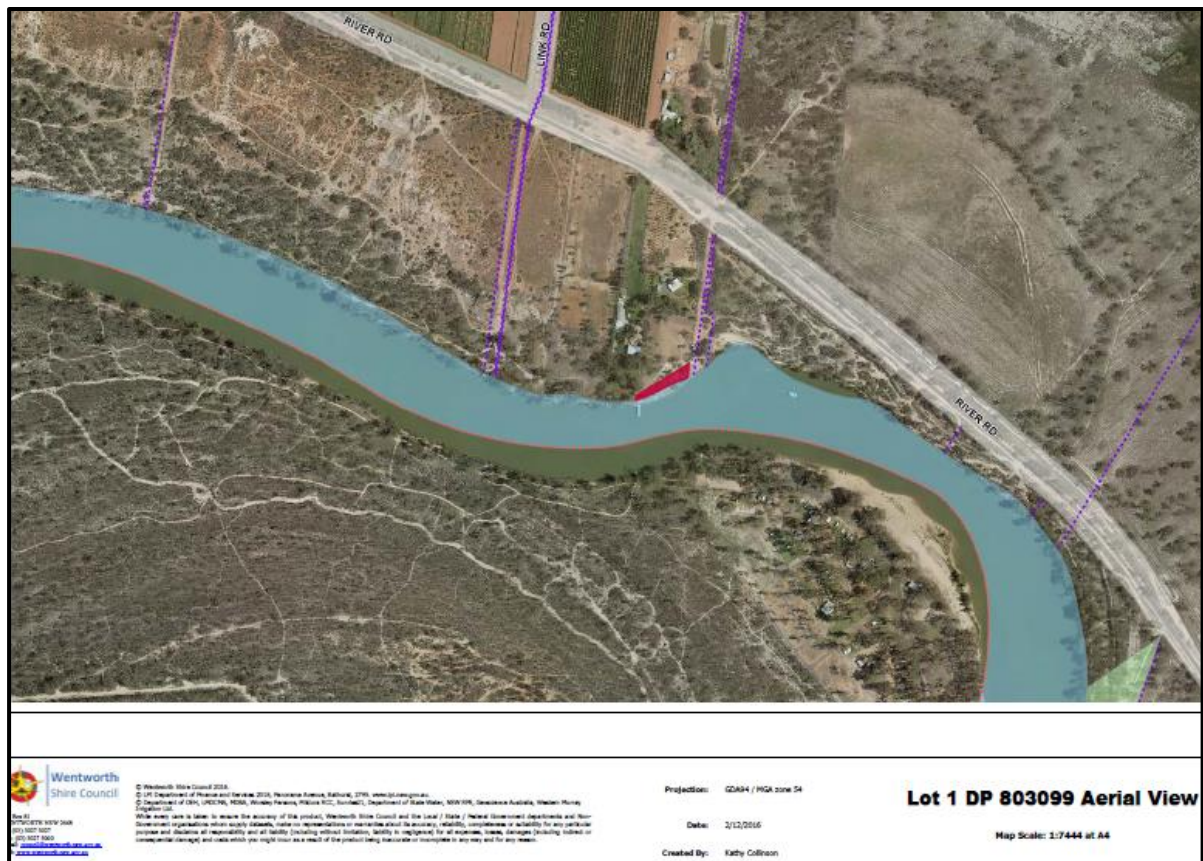


Figure 1: Aerial view of Lot 1 DP 803099

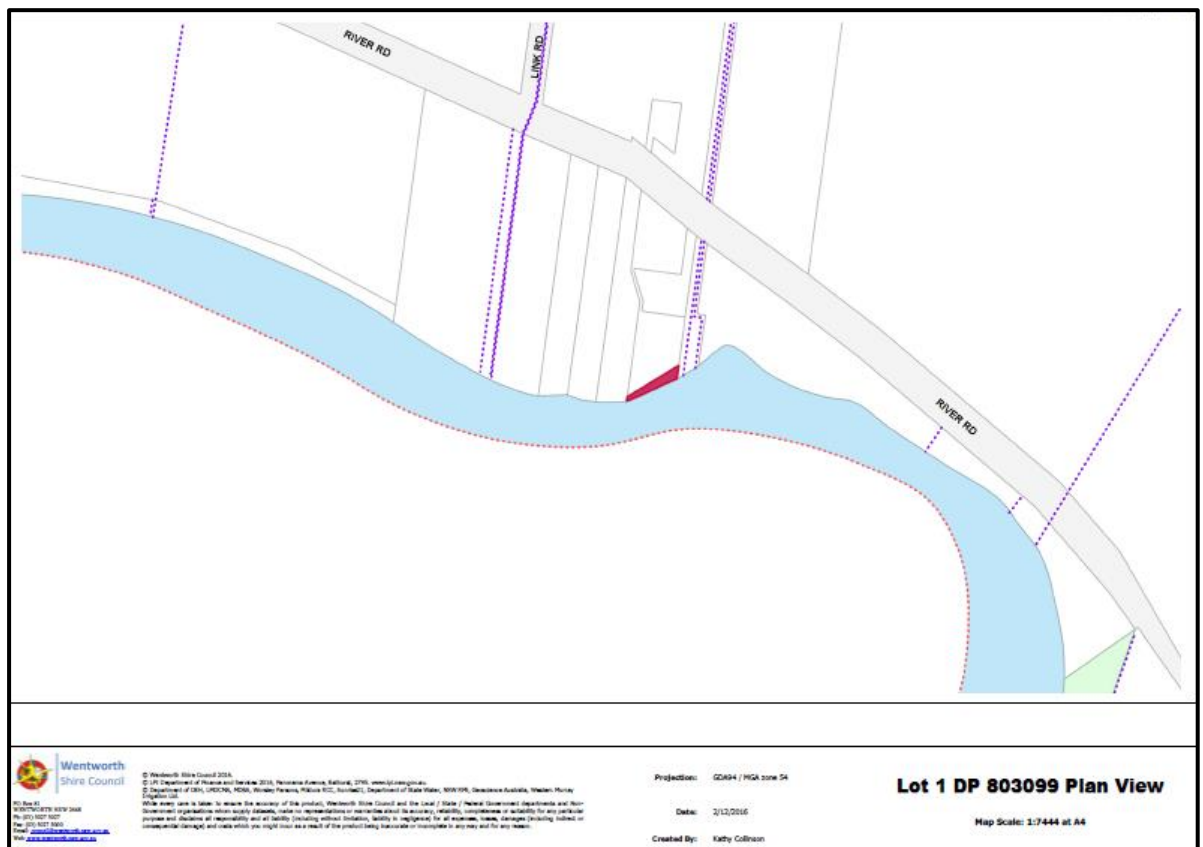


Figure 2: Plan view of Lot 1 DP 803099



Figure 3: Confirming that Lot 1 DP 803099 is within a flood planning area



Figure 4: Confirming that bushfire prone land mapping affects Lot 1 DP 803099



Figure 5: Confirming that terrestrial biodiversity mapping affects Lot 1 DP 803099

Table 1: Summary of salient information on Lot 1 DP 803099

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
Zoning	R5 – Large Lot Residential
Minimum Lot size	5000 m2
Area	1270 m2
Planning and/or Environmental Constraints	Floodplain Wetland, Flood Planning Area, Floodway and Terrestrial Biodiversity (part);
Background Information and How acquired	<ul style="list-style-type: none"> Land Grant Vol 430 Folio 236; Reservations on title; Single Land Parcel.
Certificate of title provisions, restrictions on the land	Torrens Title: 12 June 1990: <ul style="list-style-type: none"> Reservations and Conditions in the Crown Grant(s); Easement(s) affecting the part(s) of the land created by:

	<ul style="list-style-type: none"> ➤ 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?	<p>Yes</p> <ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • 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

2.4.2 Lot 2 DP 583614, Neville Street, Wentworth

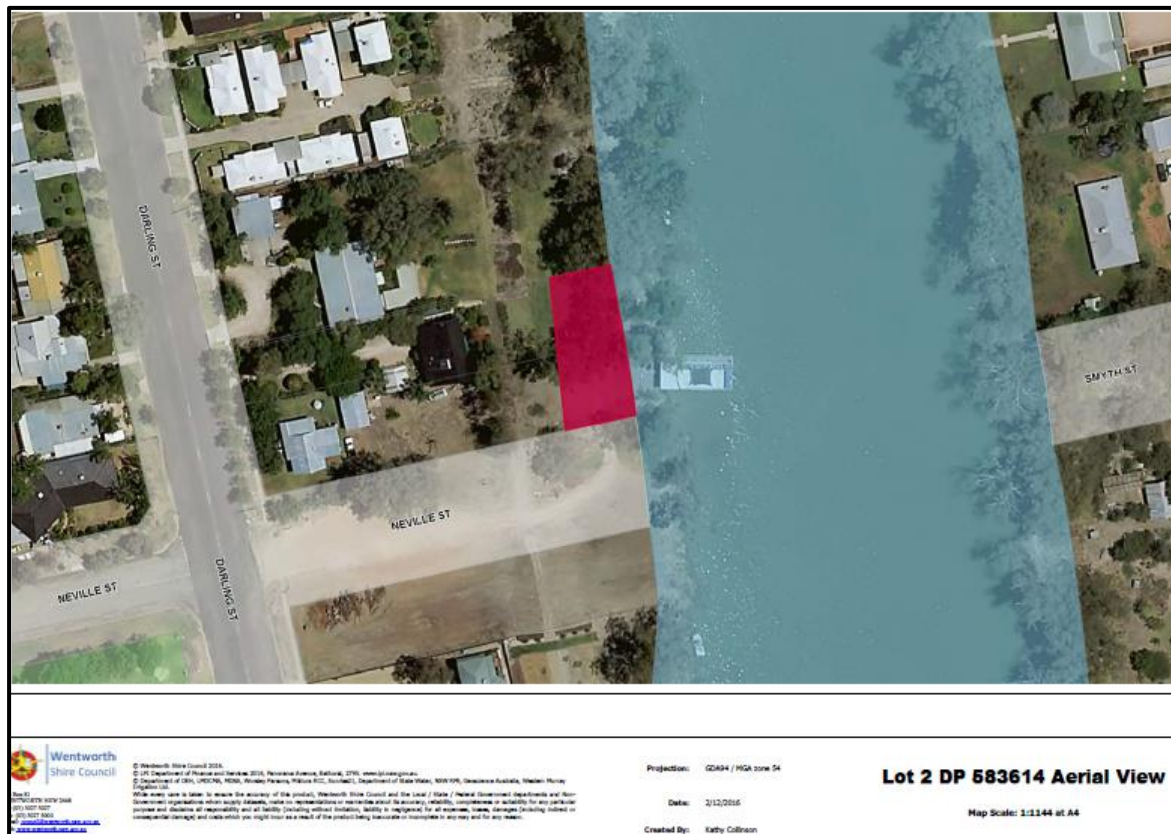


Figure 6: Aerial view of Lot 2 DP 583614

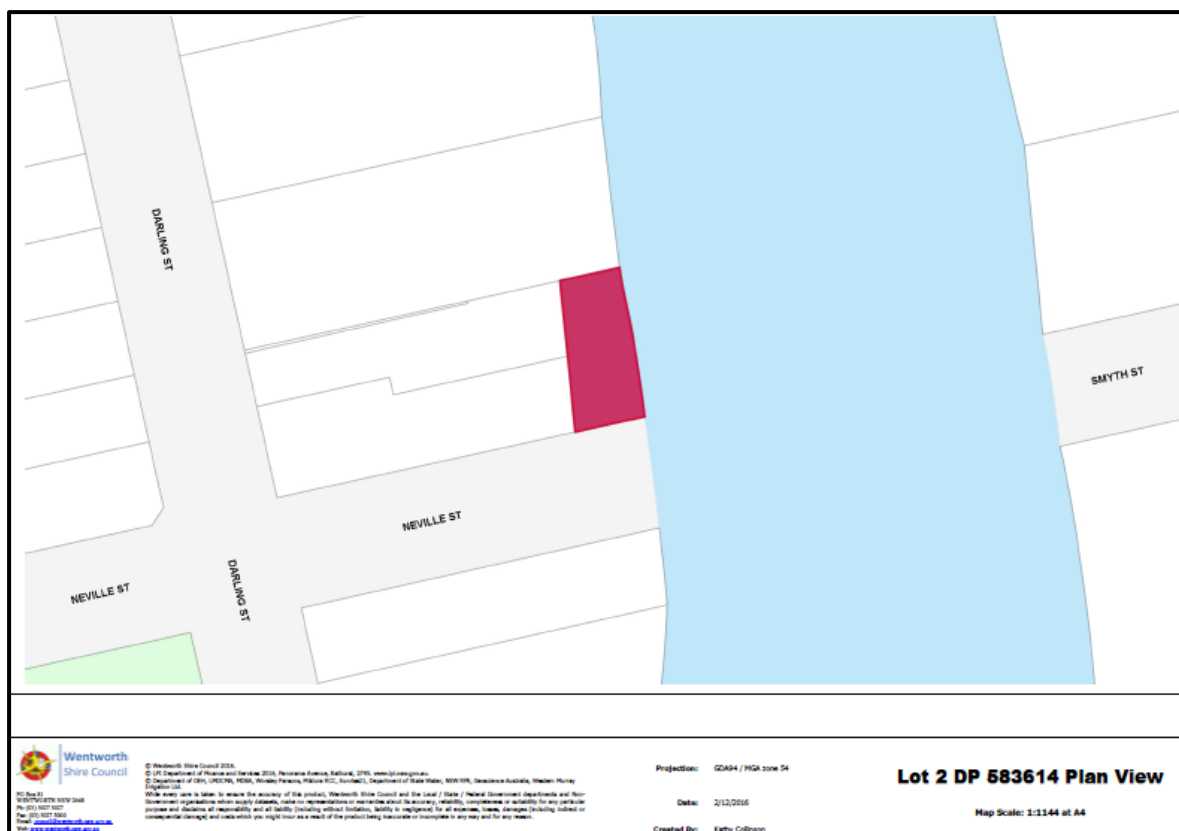


Figure 7: Plan view of Lot 2 DP 583614



Figure 8: Confirming that Lot 2 DP 583614 is within flood planning area

Note: No Bushfire Prone Land or Terrestrial Biodiversity mapping exists for Lot 2 DP 583614.

Table 2: Summary of salient information on DP 583614

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
Zoning	RU5 – Village
Minimum Lot size	Not Applicable
Area	721 m2
Planning and/or Environmental Constraints	Flood Planning Area, River Red Gum Potential
Background Information and How acquired	<ul style="list-style-type: none"> 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	<p>Torrens Title: 12 June 1990:</p> <ul style="list-style-type: none"> • 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?	<p>Yes</p> <ul style="list-style-type: none"> ➤ 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	<ul style="list-style-type: none"> • 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.

Recommendation:

Reclassify Lot 2 DP 583614 to operational land

2.4.3 Lot 2 DP 789452, River Road, Pomona

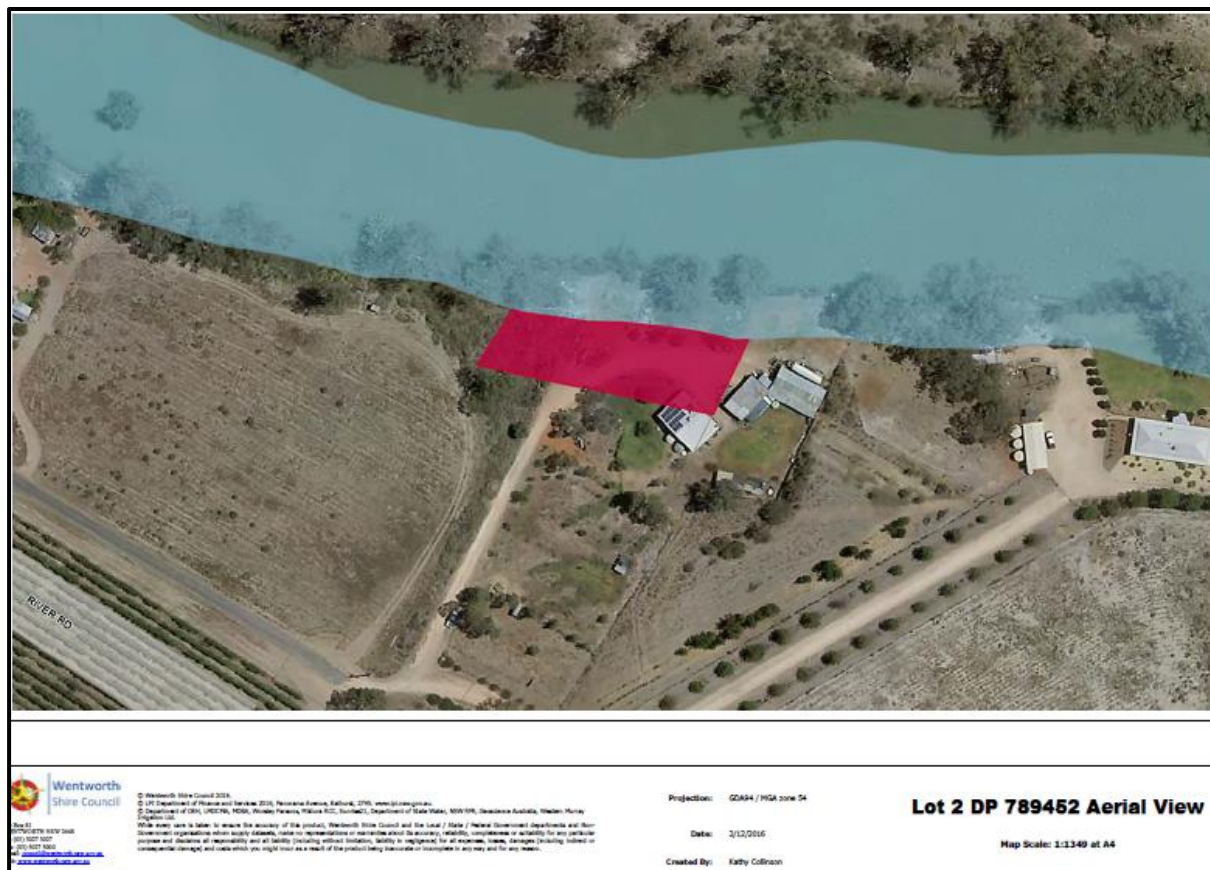


Figure 9: Aerial view of Lot 2 DP 789452

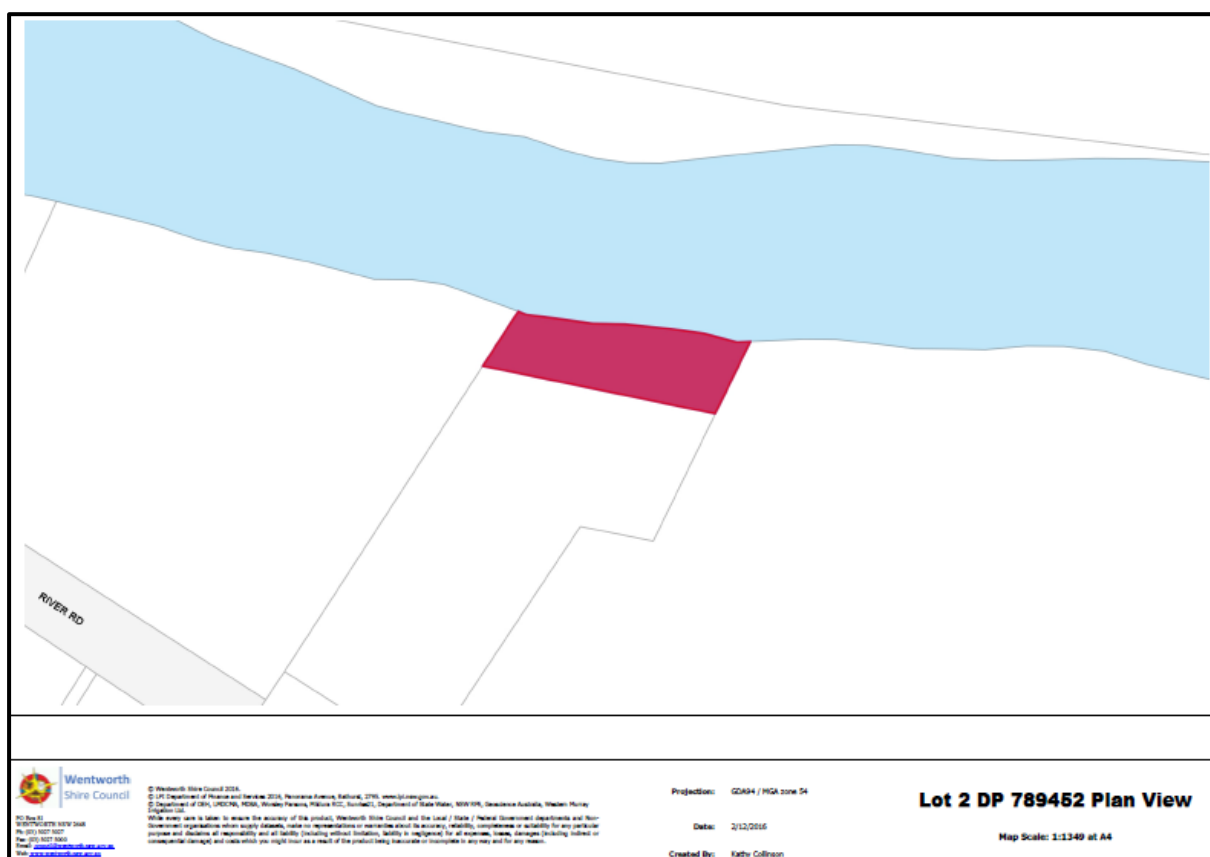


Figure 10: Plan view of Lot 2 DP 789452

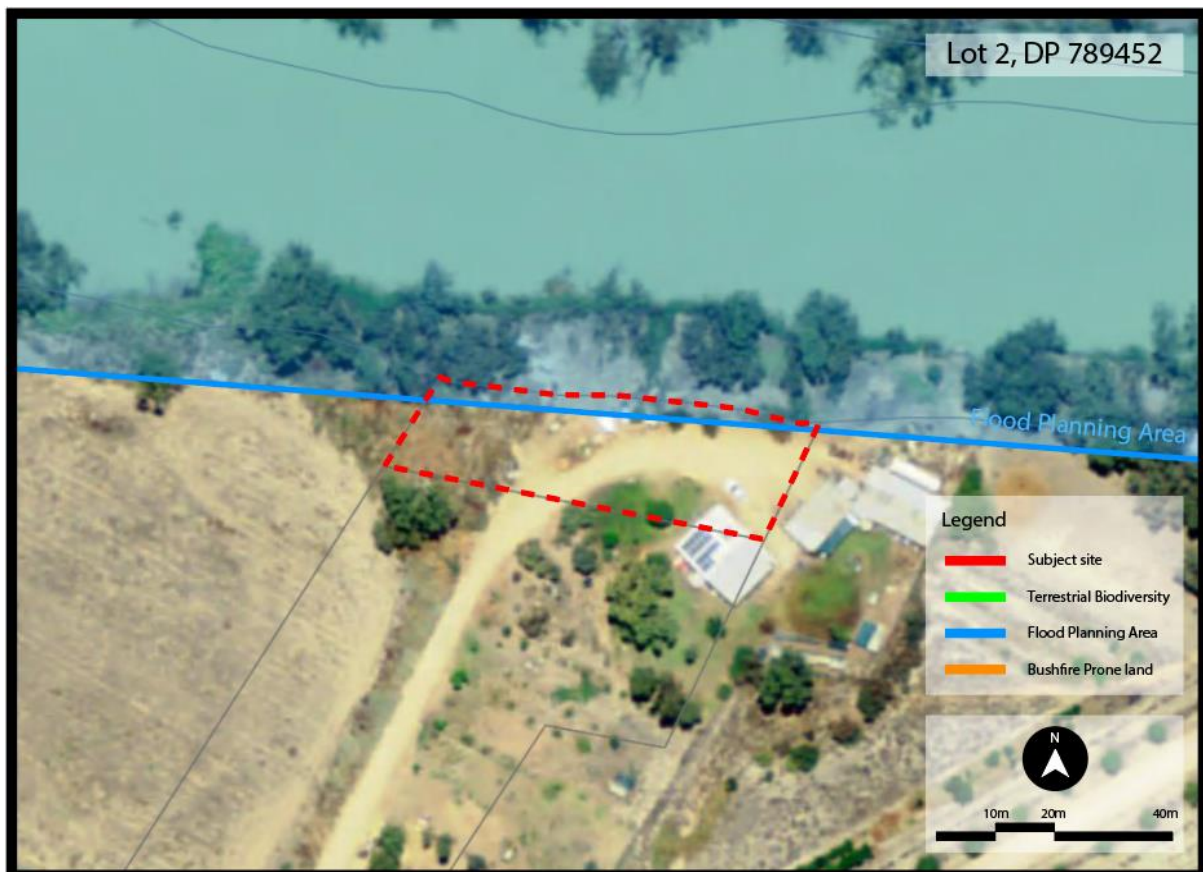


Figure 11: Confirming Lot 2 DP 789452 is affected by flood planning area

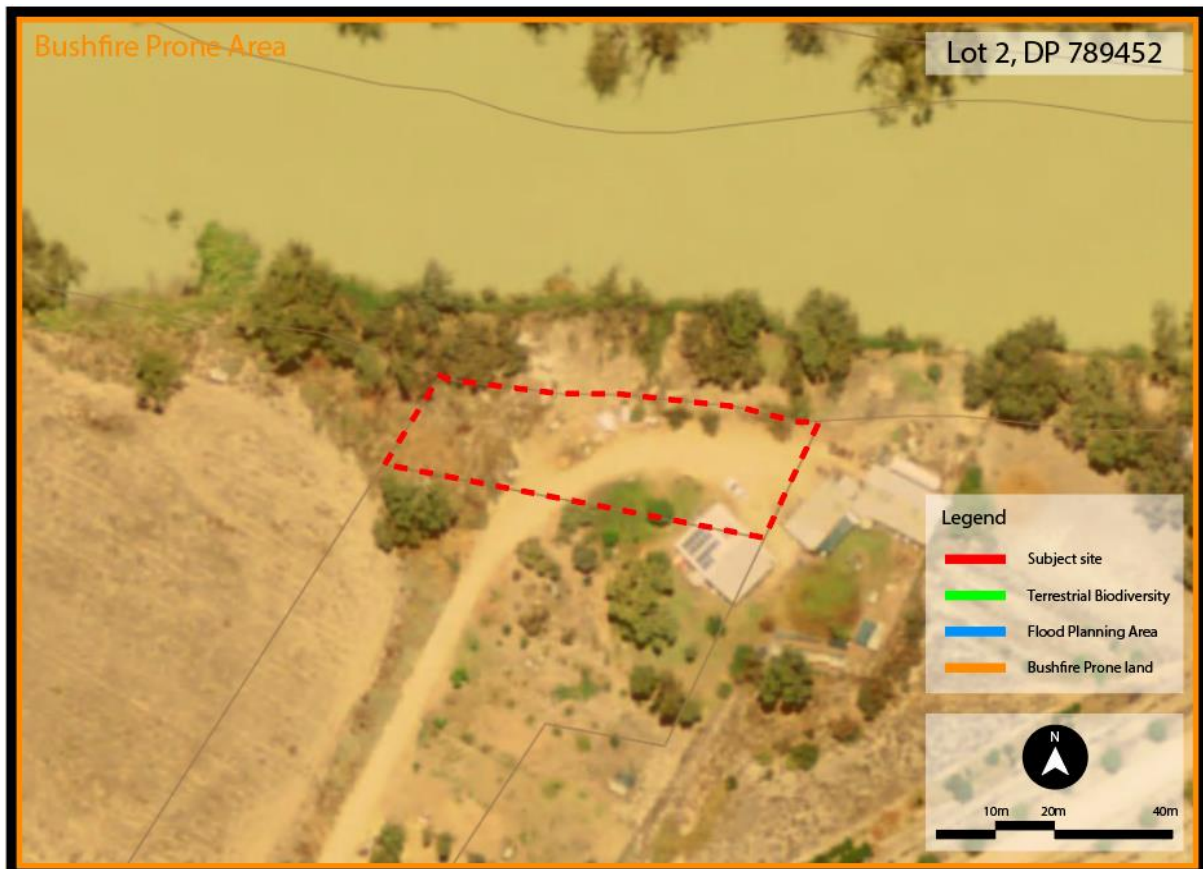


Figure 12: Confirming Lot 2 DP 789452 is within bush fire prone area

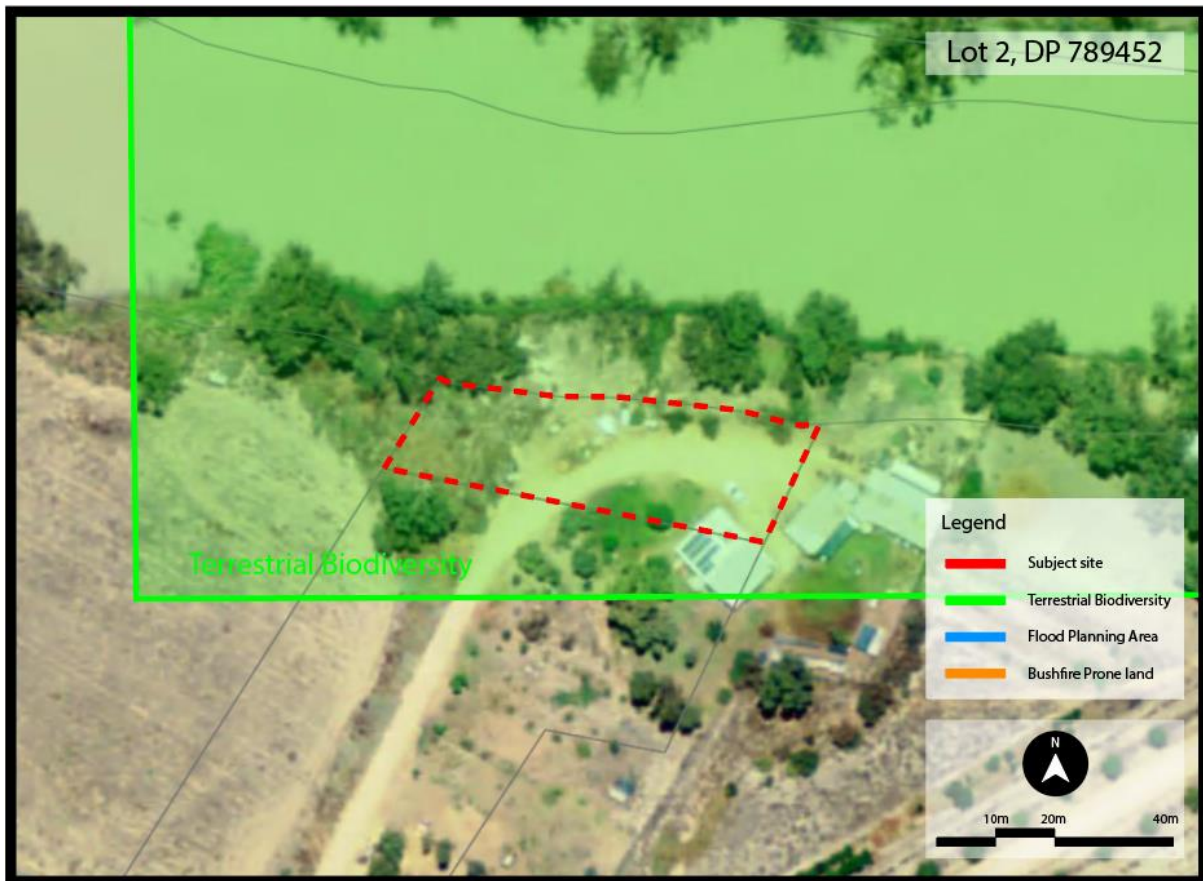


Figure 13: Confirming Lot 2 DP 789452 is affected by terrestrial biodiversity mapping

Table 3: Summary of salient information on Lot 2 DP 789452

LOT 2 DP 789452	
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
Zoning	RU1 – Primary Production
Minimum Lot size	10 ha
Area	1511 m2
Planning and/or Environmental Constraints	Floodplain wetland; Chenopod shrub-land and Terrestrial biodiversity;
Background Information and How acquired	<ul style="list-style-type: none"> 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:

	<ul style="list-style-type: none"> 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?	<p>Yes</p> <ul style="list-style-type: none"> ➤ 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	<ul style="list-style-type: none"> 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

2.4.4 Lot 3 DP 576696, Sturt Highway, Trentham Cliffs

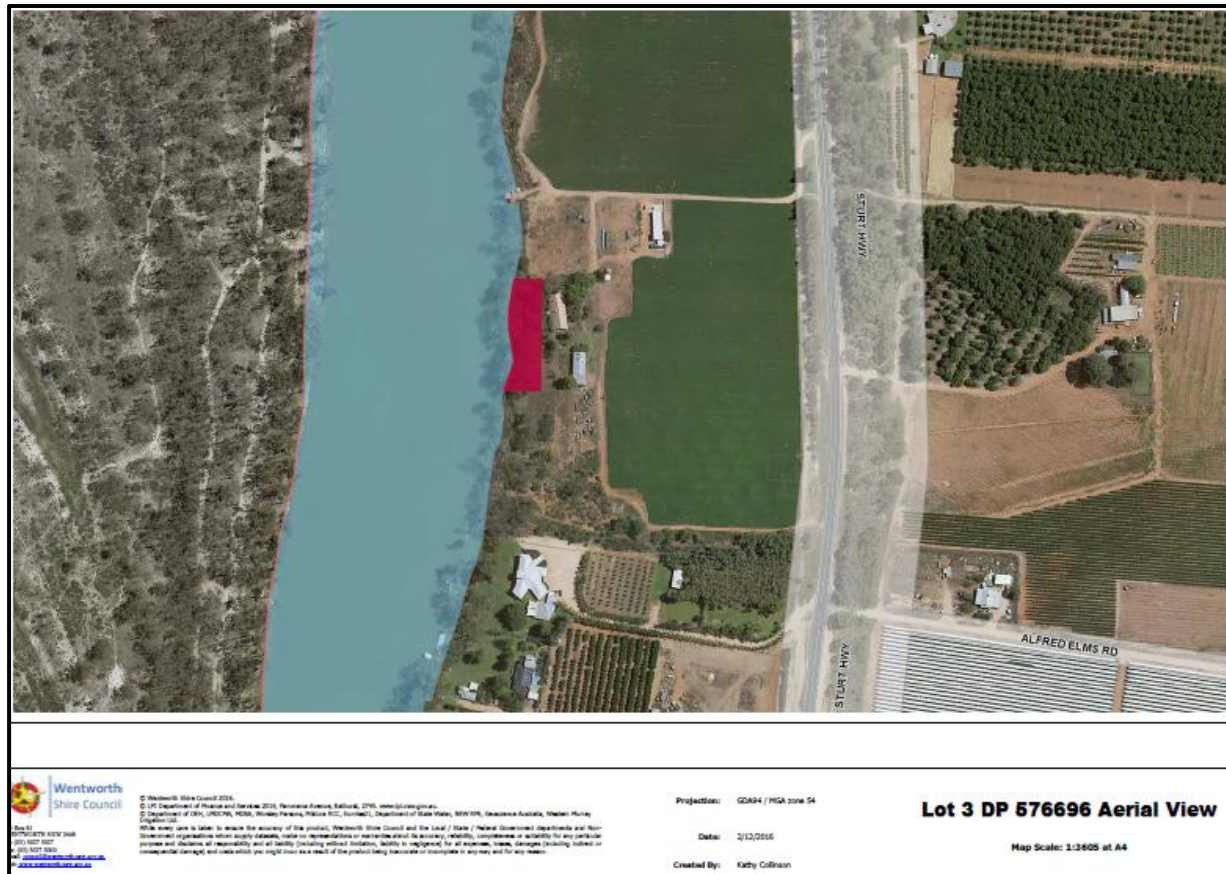


Figure 14: Aerial view of Lot 3 DP 576696

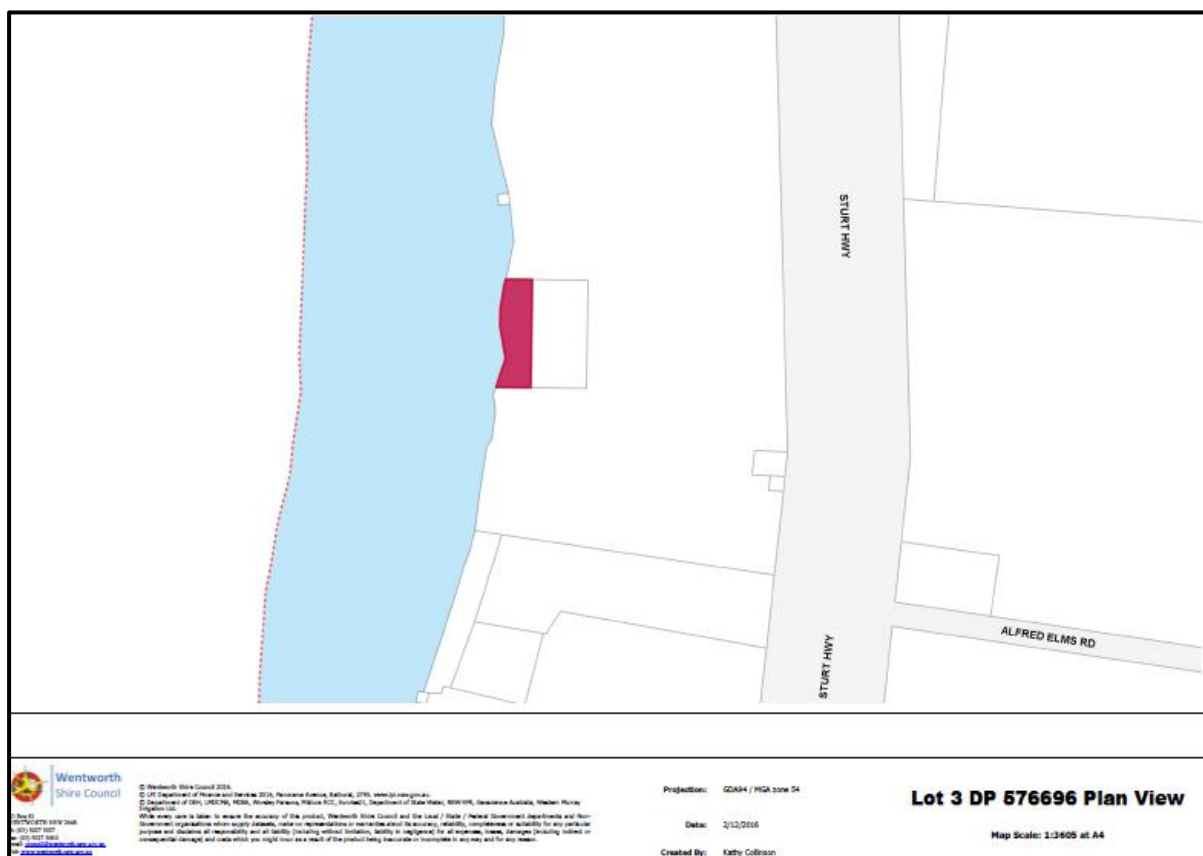


Figure 15: Plan view of Lot 3 DP 576696



Figure 16: Confirming that terrestrial biodiversity mapping affects Lot 3 DP 576696

Note: No Bushfire Prone Land or Flood Planning Area mapping exists for this site

Table 4: Summary of salient information on Lot 3 DP 576696

LOT 3 DP 576696	
Property Owner	Wentworth Shire Council
Number of Adjoining Owners:	One
Current classification	Community land
Proposed Classification	Operational land
Title:	Freehold
Public Reserve	Yes
Zoning	RU1 – Primary Production
Minimum Lot size	10 ha
Area	1856 m2
Planning and/or Environmental Constraints	Floodplain wetland; Red Gum Community; Terrestrial biodiversity
Background Information and How acquired	<ul style="list-style-type: none"> Land Grant Vol 10901 Fol 142. Reservations on title.
Certificate of title provisions, restrictions on the land	Torrens Title: 7 June 1989: <ul style="list-style-type: none"> Land excludes minerals and is subject to Reservations and Conditions in the Crown Grant(s); Easements appurtenant to the land;

	<ul style="list-style-type: none"> • 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?	<p>Yes</p> <ul style="list-style-type: none"> ➤ 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	<ul style="list-style-type: none"> • 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

2.4.5 Lot 3 DP 631732, Pooncarie Road, Wentworth

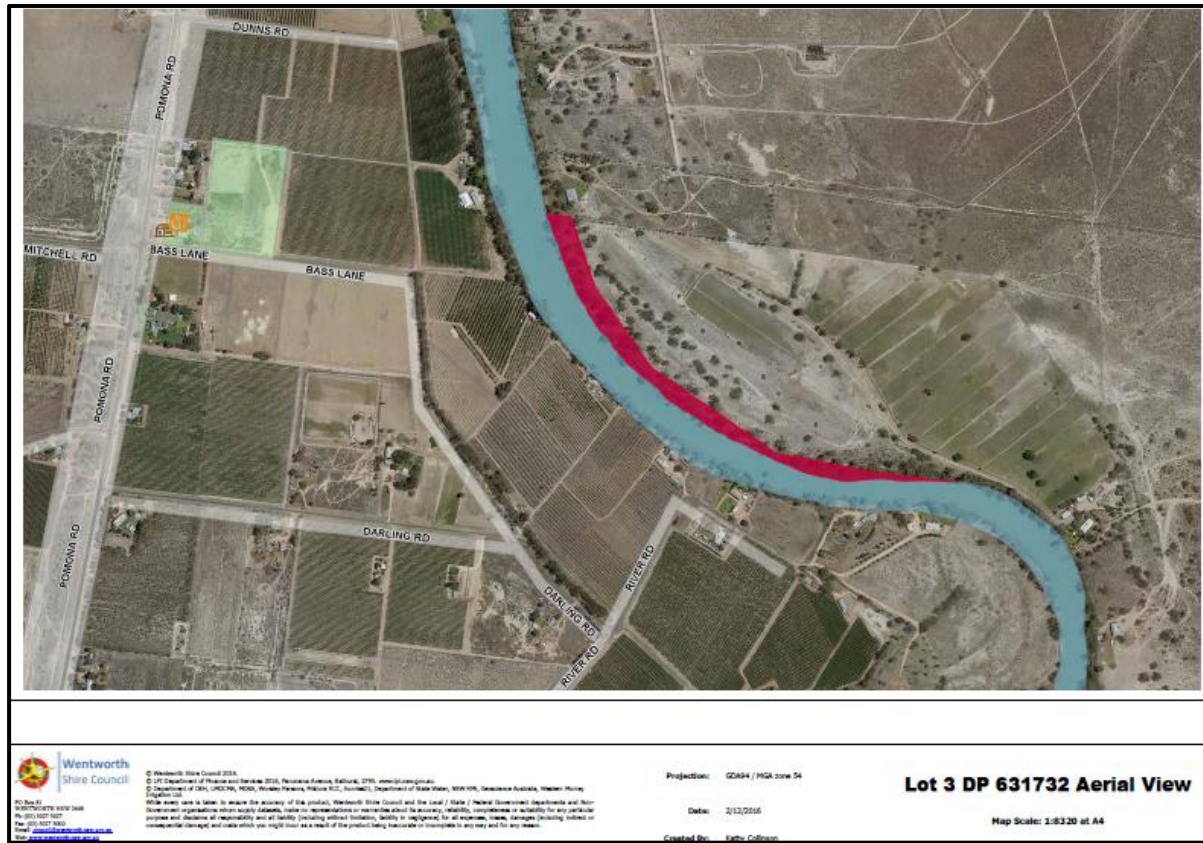


Figure 17: Aerial view of Lot 3 DP 631732

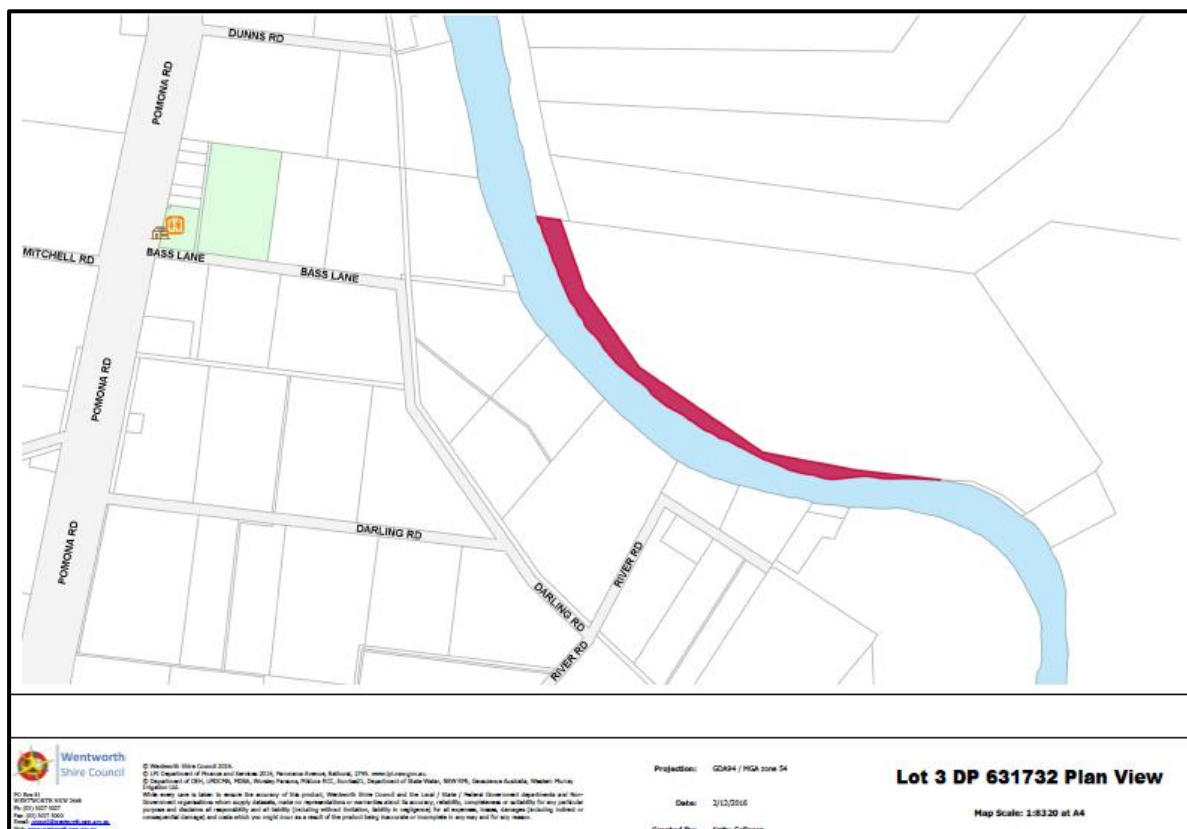


Figure 18: Plan view of Lot 3 DP 631732

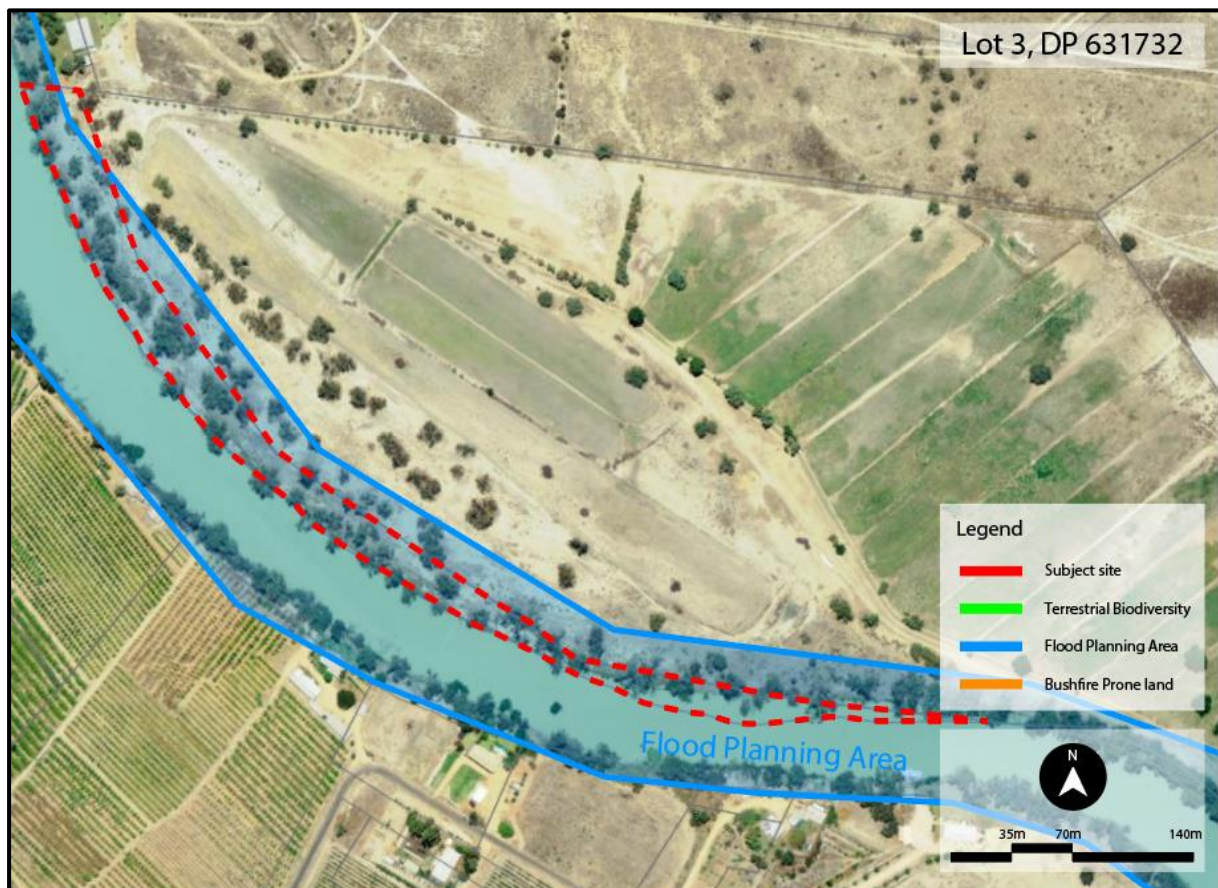


Figure 19: Confirming that Lot 3 DP 631732 is within flood planning area

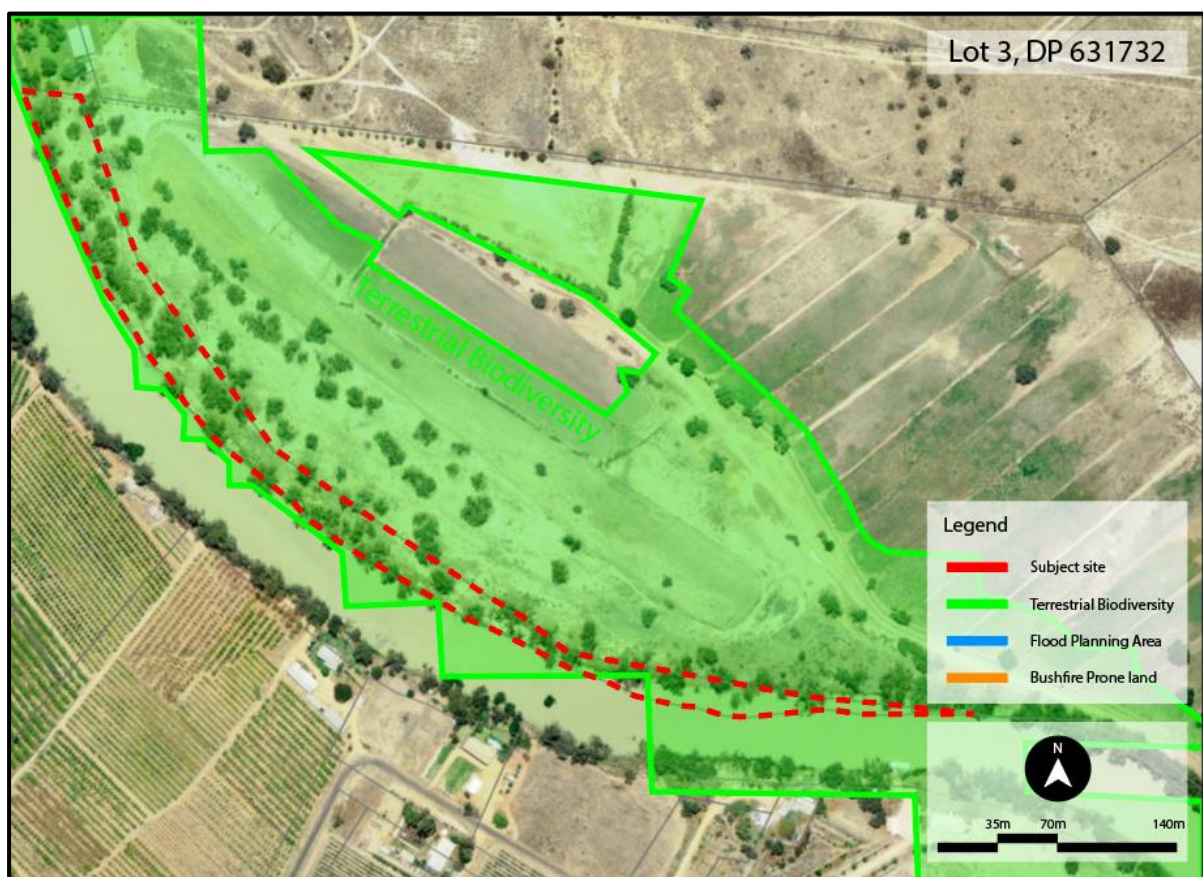


Figure 20: Confirming that terrestrial biodiversity mapping affects Lot 3 DP 631732

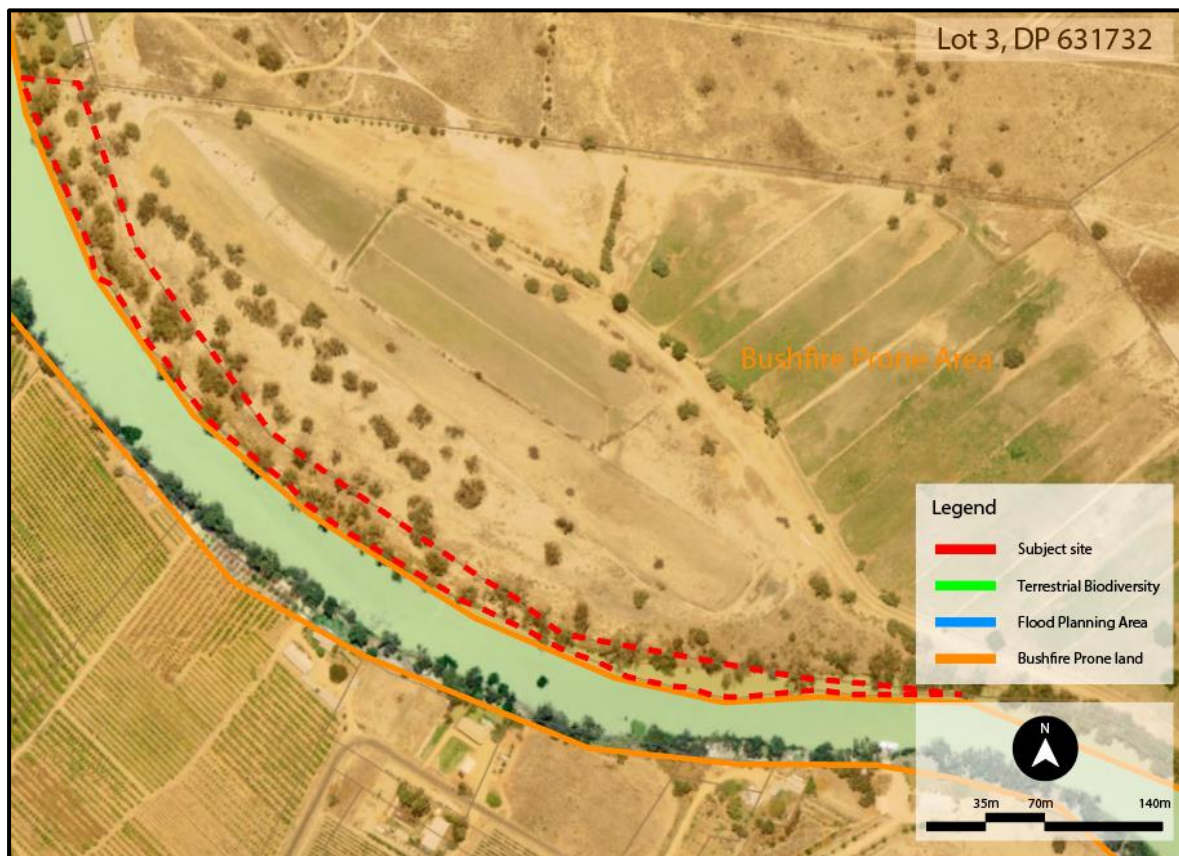


Figure 21: Confirming that Lot 3 DP 631732 adjoins bushfire prone area

Table 5: Summary of salient information on Lot 3 DP 631732

LOT 3 631732	
Property Owner	Wentworth Shire Council;
Current classification	Community land
Proposed Classification	Operational land
Title:	Freehold
Public Reserve	Yes
Zoning	RU 1 – Primary Production
Minimum Lot size	10,000 ha
Area	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:	<ul style="list-style-type: none"> • 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 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

2.4.6 Lot 4 DP 631732, Pooncarie Road, Wentworth



Figure 22: Aerial view of Lot 4 DP 631732

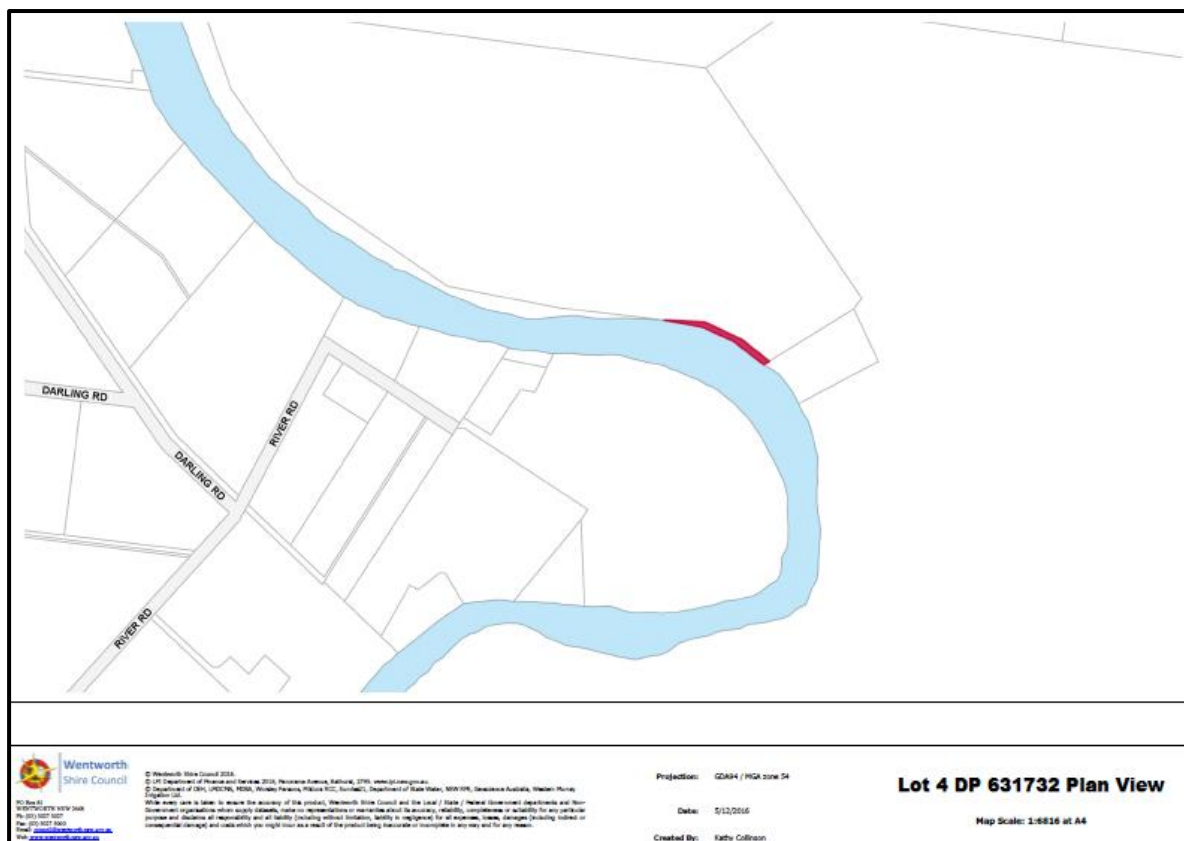


Figure 23: Plan view of Lot 4 DP 631732

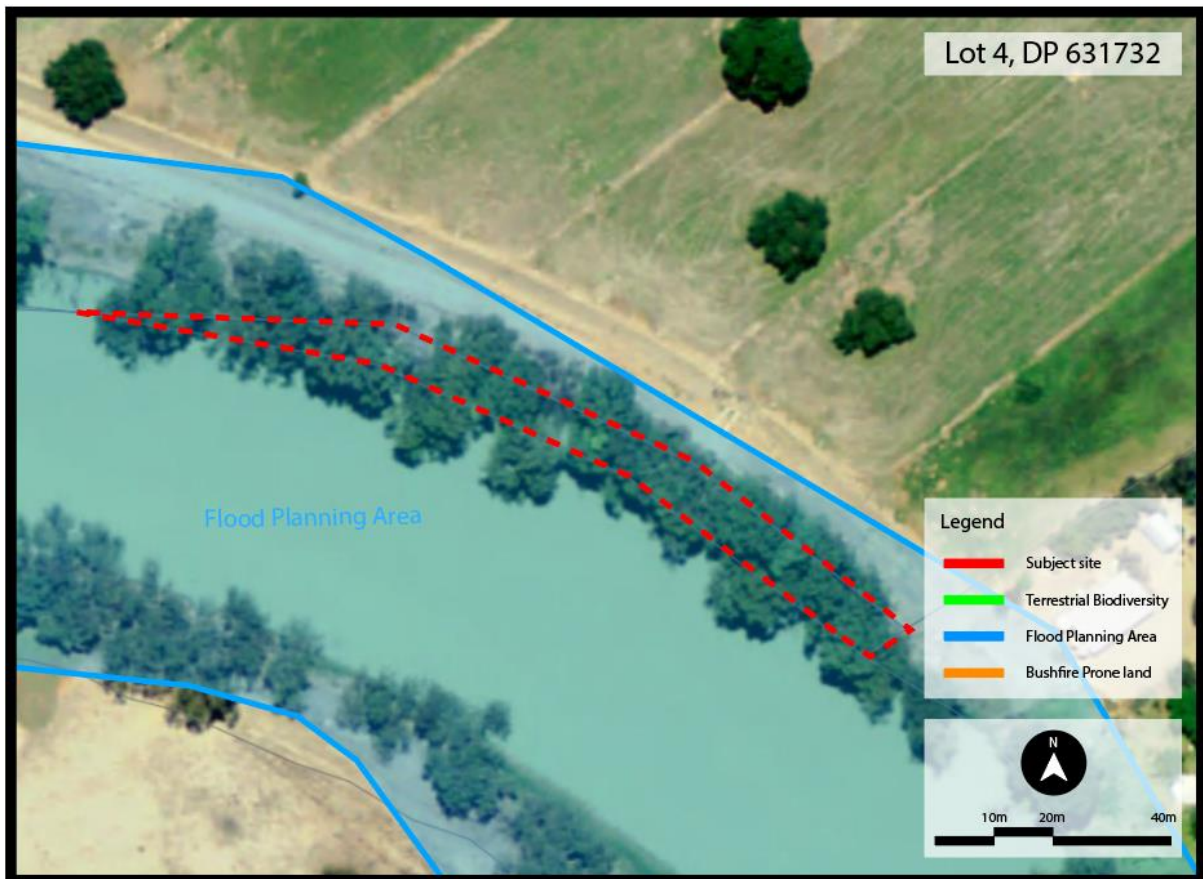


Figure 24: Confirming that Lot 4 DP 631732 is within flood planning area

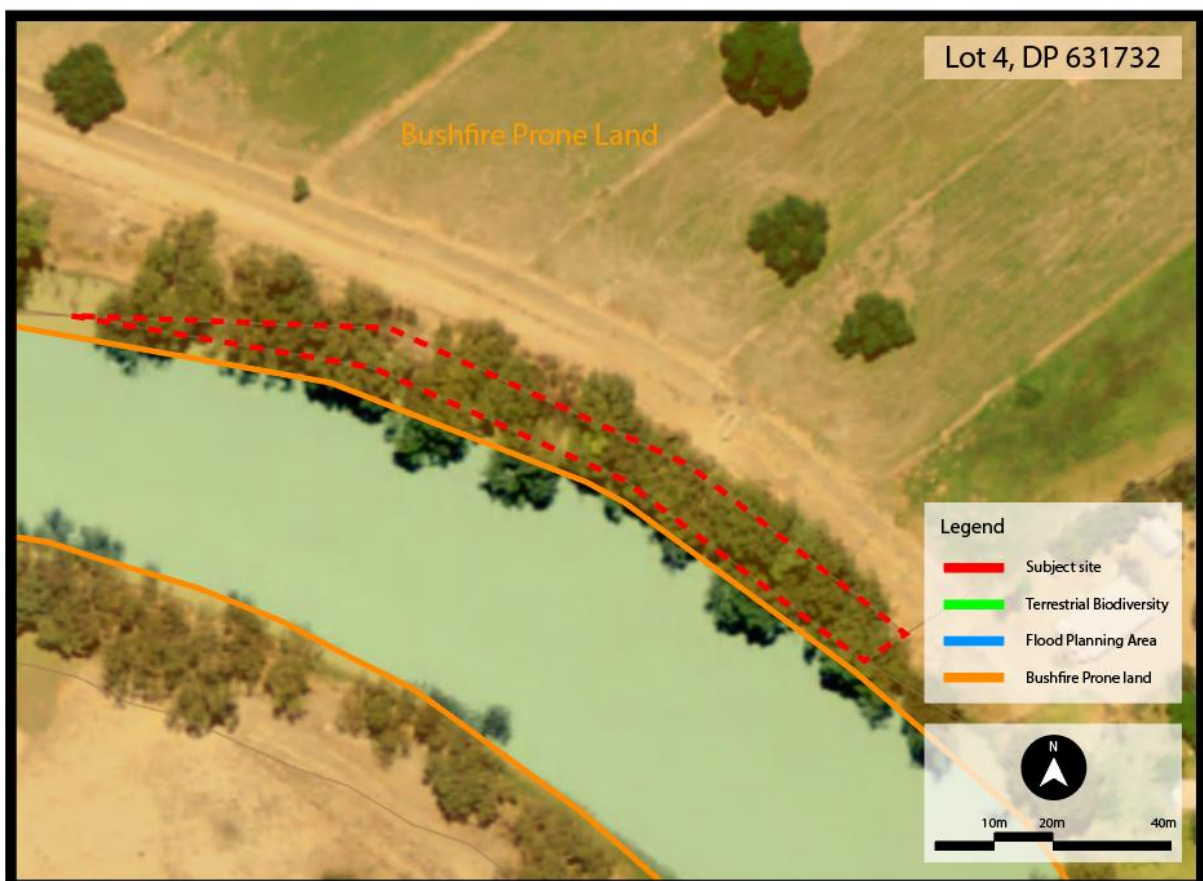


Figure 25: Confirming that Lot 4 DP 631732 adjoins bushfire prone land

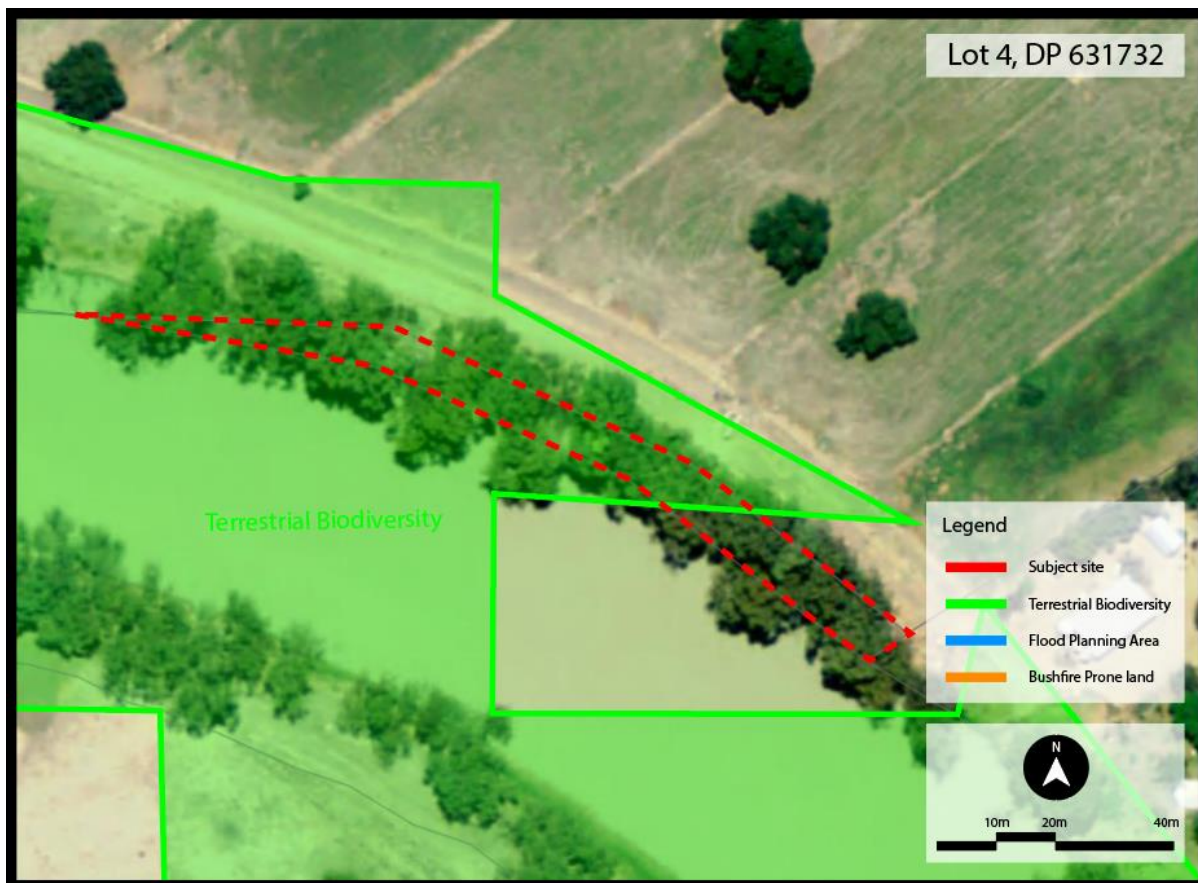


Figure 26: Confirming that terrestrial biodiversity mapping affects Lot 4 DP 631732

Table 6: Summary of salient information on Lot 4 DP 631732

LOT 4 DP 631732	
Property Owner	Wentworth Shire Council;
Current classification	Community land
Proposed Classification	Operational land
Title:	Freehold
Public Reserve	Yes
Zoning	RU 1 – Primary Production
Minimum Lot size	10,000 ha
Area	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:	<ul style="list-style-type: none"> • 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 4 DP 631732 to operational land

2.4.7 Lot 3 DP 616182, Boeill Creek Road, Boeill Creek

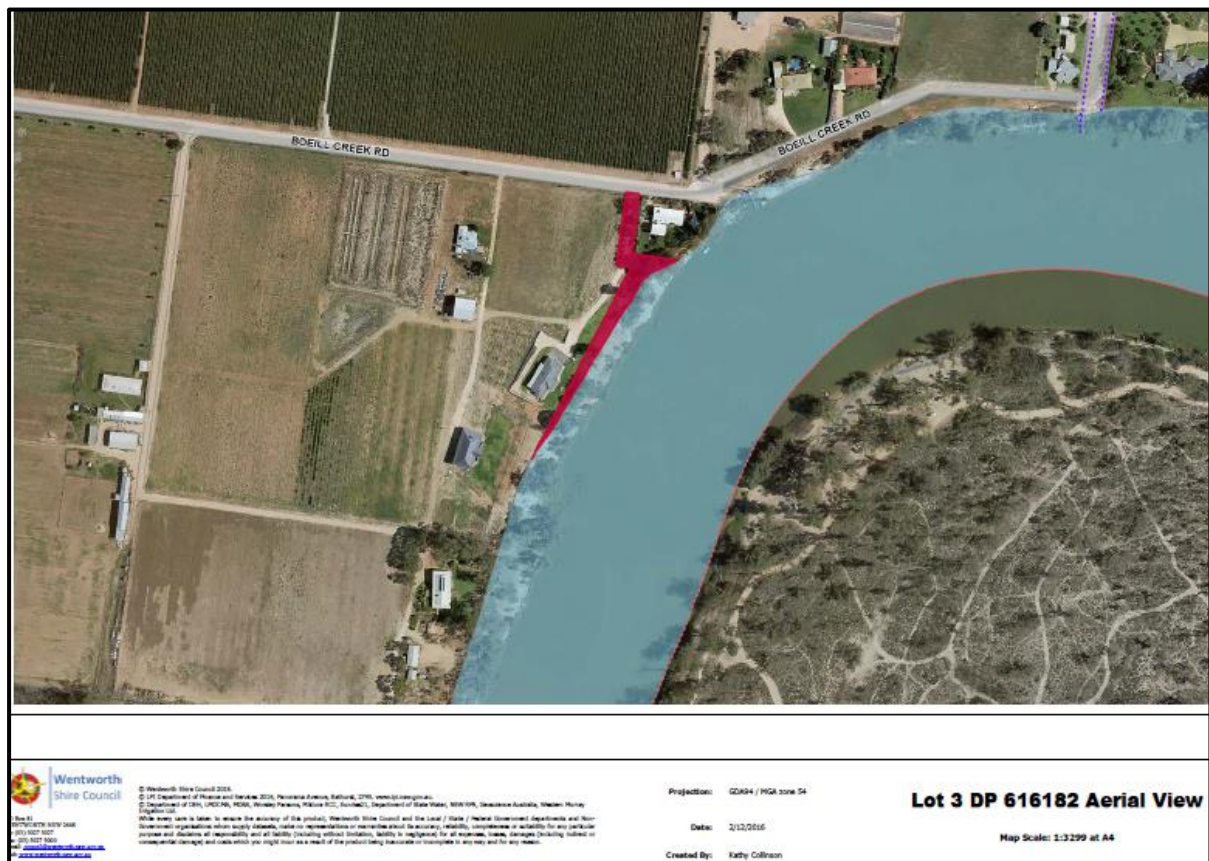


Figure 27: Aerial view of Lot 3 DP 616182

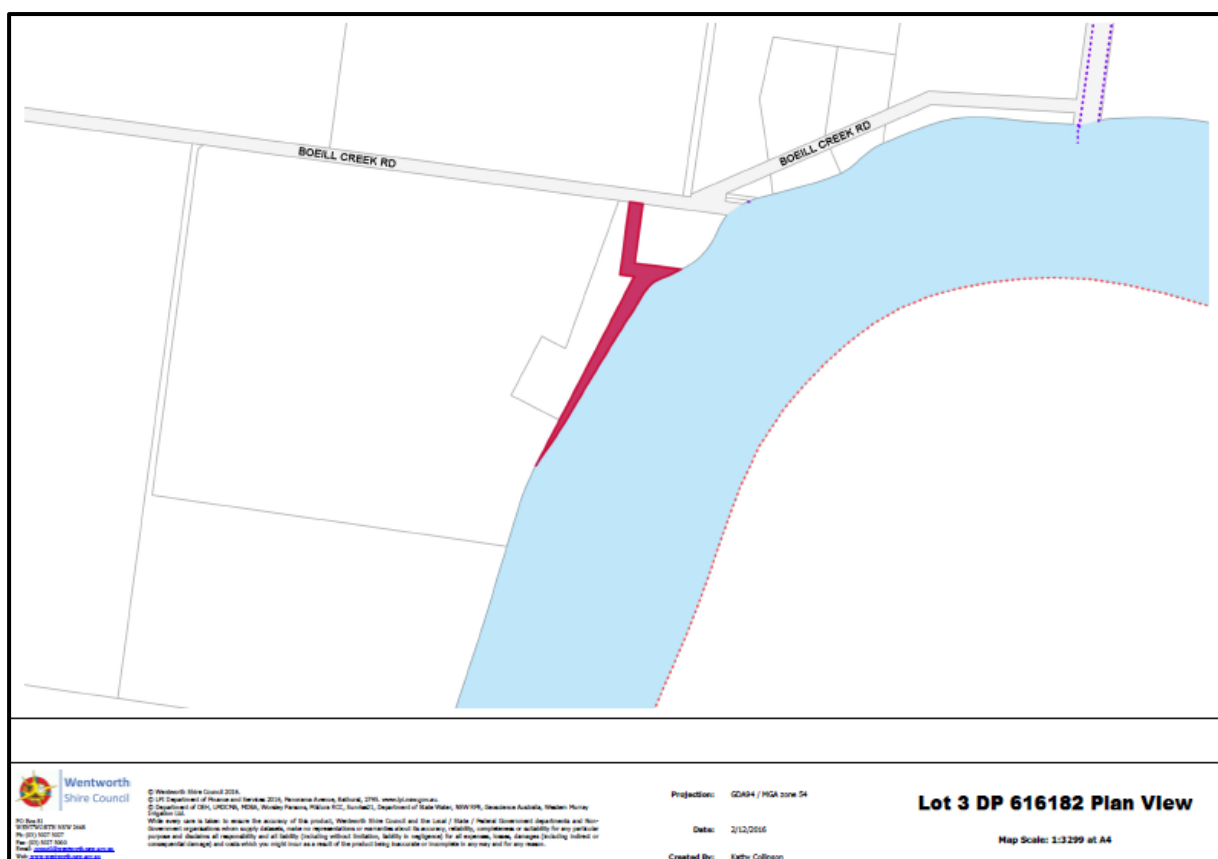


Figure 28: Plan view of Lot 3 DP 616182



Figure 29: Confirming that Lot 3 DP 616182 is within flood planning area



Figure 30: Confirming that terrestrial biodiversity mapping affects Lot 3 DP 616182

Note: No Bushfire Prone Land mapping exists for this site.

Table 7: Summary of salient information on Lot 3 DP 616182

LOT 3 DP 616182	
Property Owner	Wentworth Shire Council
Number of Adjoining Owners:	Three
Current classification	Community land
Proposed Classification	Operational land
Title:	Freehold
Public Reserve	Yes
Zoning	RU1 – Primary Production
Minimum Lot size	10, 000 ha
Area	1913 m2
Planning and/or Environmental Constraints	Flood Planning Area
Background Information and How acquired	<ul style="list-style-type: none"> 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	<p>Torrens Title: 5 August 1981:</p> <ul style="list-style-type: none"> 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?	<p>Yes - by enabling subdivision and offer of sale to the adjoining landowners in accordance with Council Policy.</p> <ul style="list-style-type: none"> Not used as public open space; Location and site conditions inappropriate for public open space provision and use; 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

	<p>servicing private owners is within the reserve;</p> <p>b) Not utilised as public open space;</p> <p>c) Adjacent to and accessible via Boeill Creek Road, Boeill Creek;</p> <p>d) Public Reserve includes public road access to the reserve;</p> <p>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.</p> <p>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.</p>
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Recommendation:
Reclassify Lot 3 DP 616182 to operational land

2.4.8 Lot 3 DP 776526, Sturt Highway, Trentham Cliffs

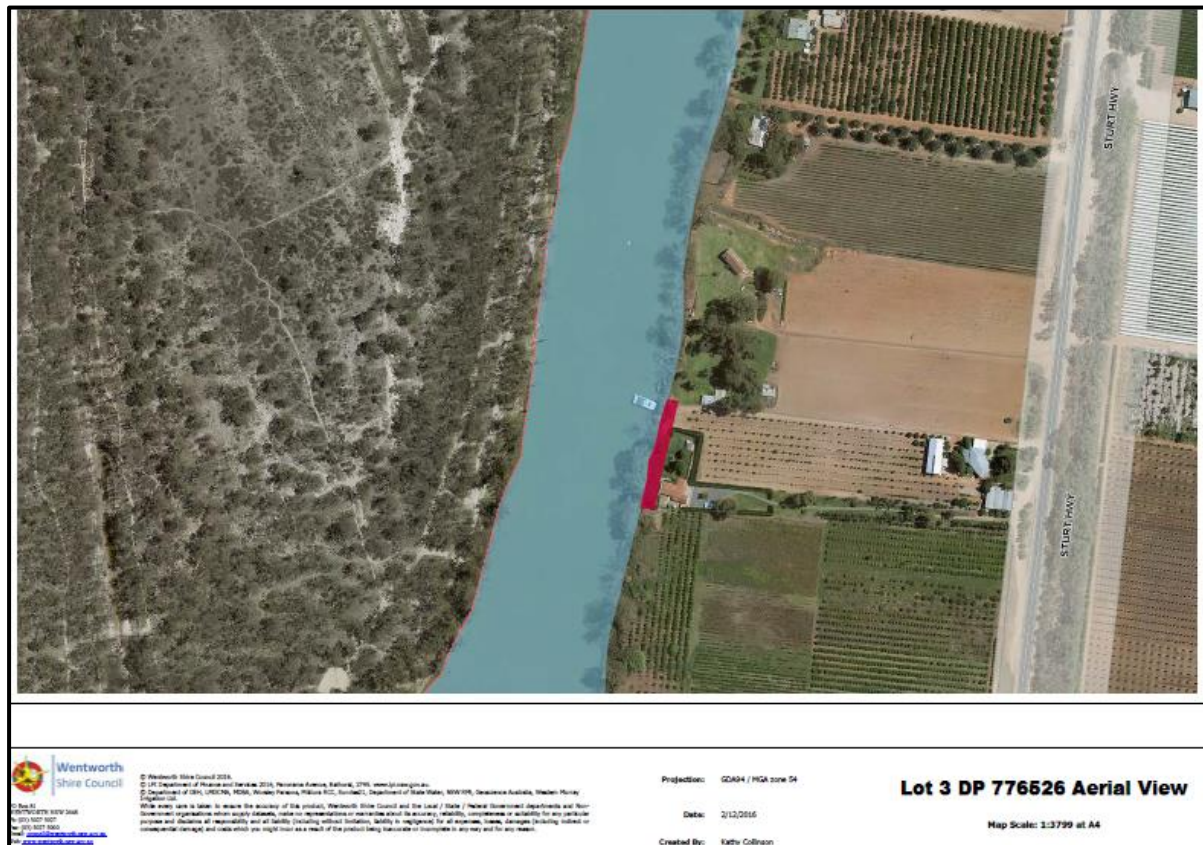


Figure 31: Aerial view of Lot 3 DP 776526

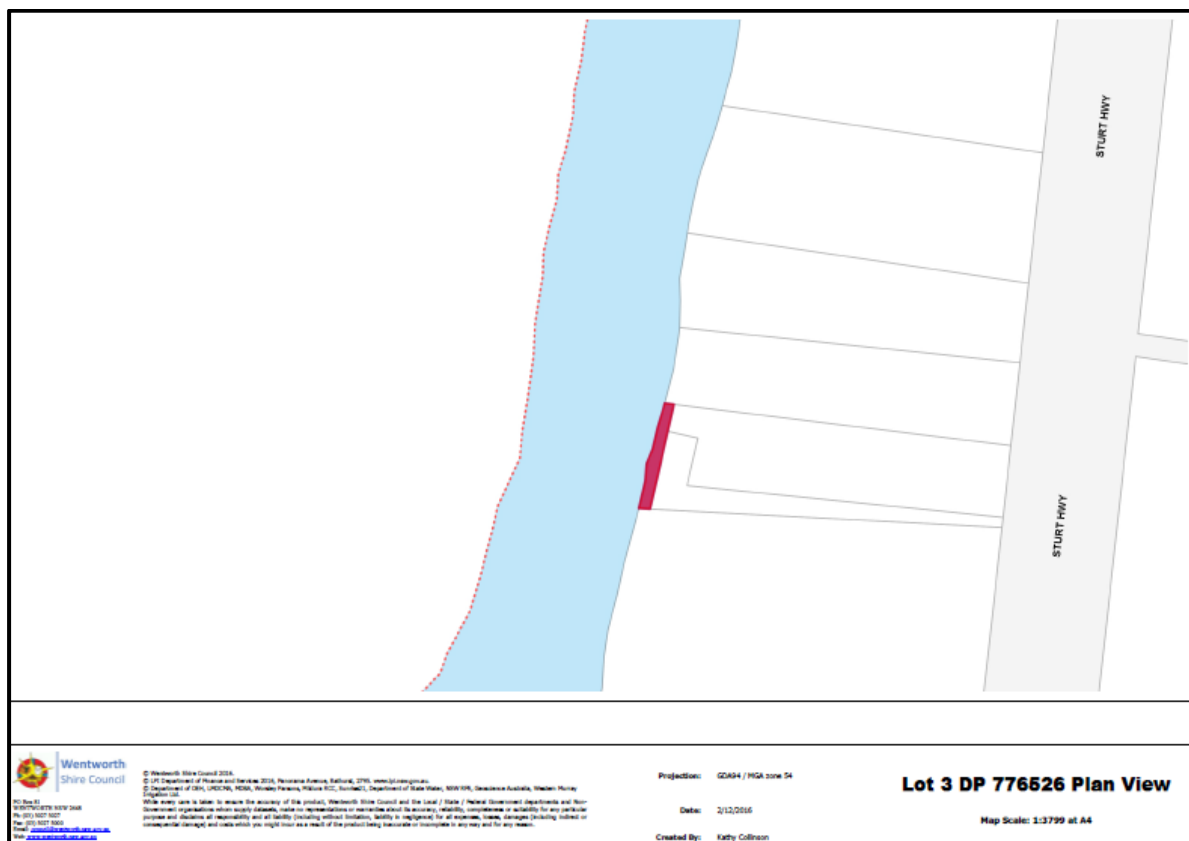


Figure 32: Plan view of Lot 3 DP 776526



Figure 33: Confirming terrestrial biodiversity mapping affects Lot 3 DP 776526

Note: No Bushfire Prone Land or Flood Planning Area mapping exists for this site

Table 8: Summary of salient information on Lot 3 DP 776526

Lot 3 DP 776526	
Property Owner	Wentworth Shire Council;
Current classification	Community land
Proposed Classification	Operational land
Title:	Freehold
Public Reserve	yes
Zoning	RU 1 – Primary Production
Minimum Lot size	10 ha
Area	896m ²
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:	<ul style="list-style-type: none"> • 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 Lot 3 DP 776526 to operational land

2.4.9 Lot 3 DP 786951, Pitman Road West, Buronga

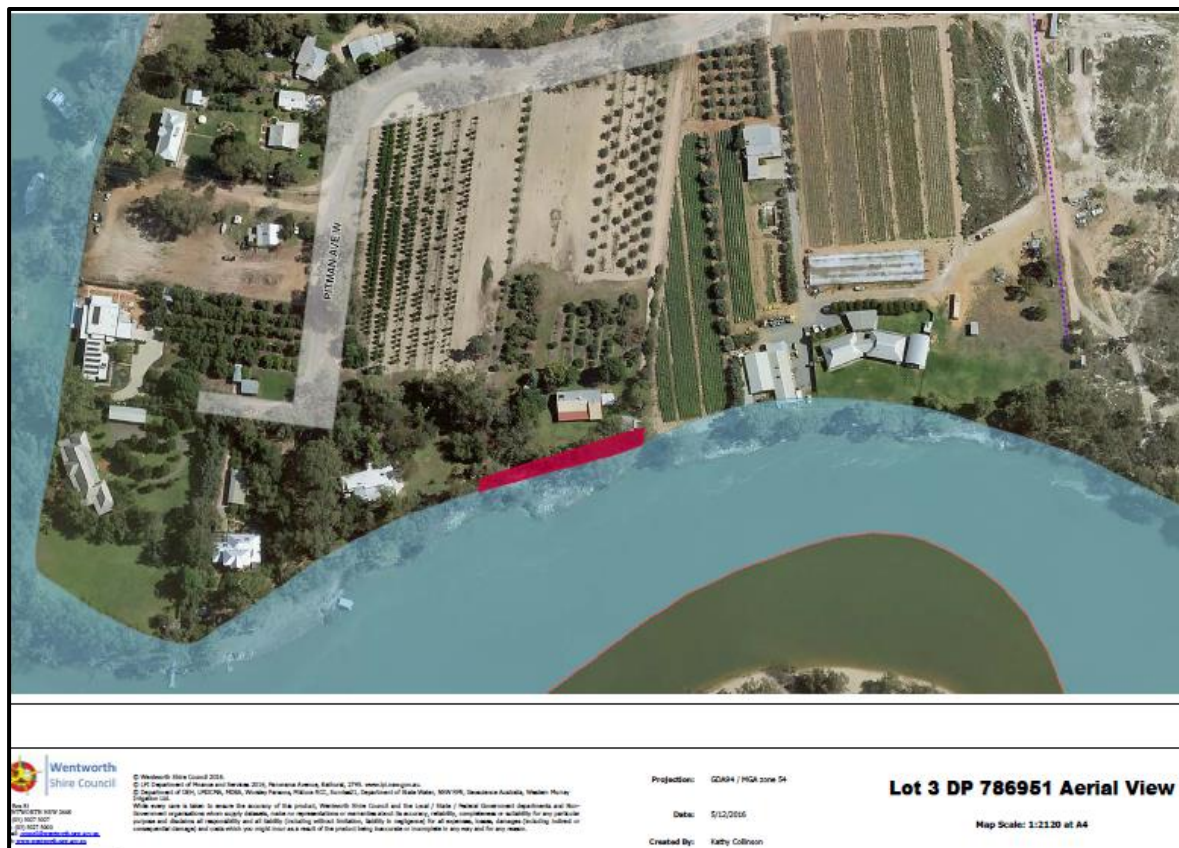


Figure 34: Aerial view of Lot 3 DP 786951

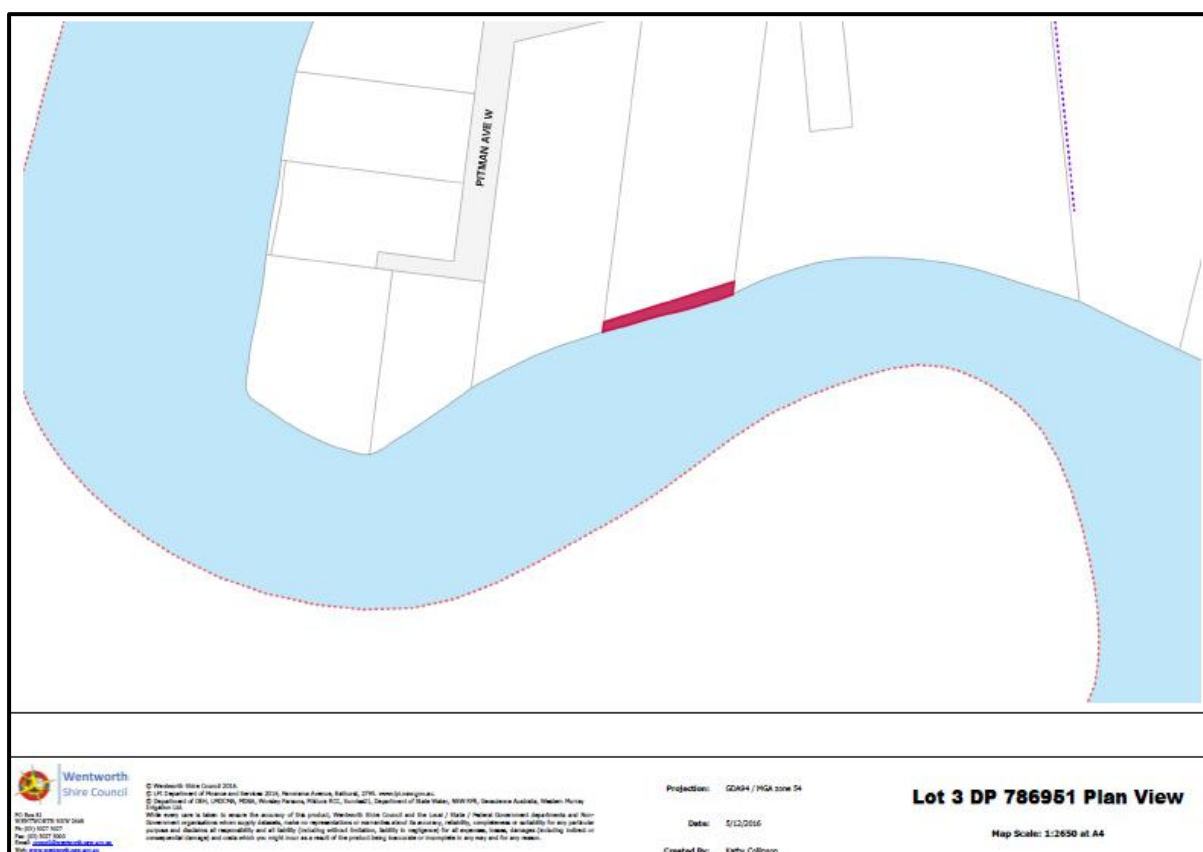


Figure 35: Plan view of Lot 3 DP 786951

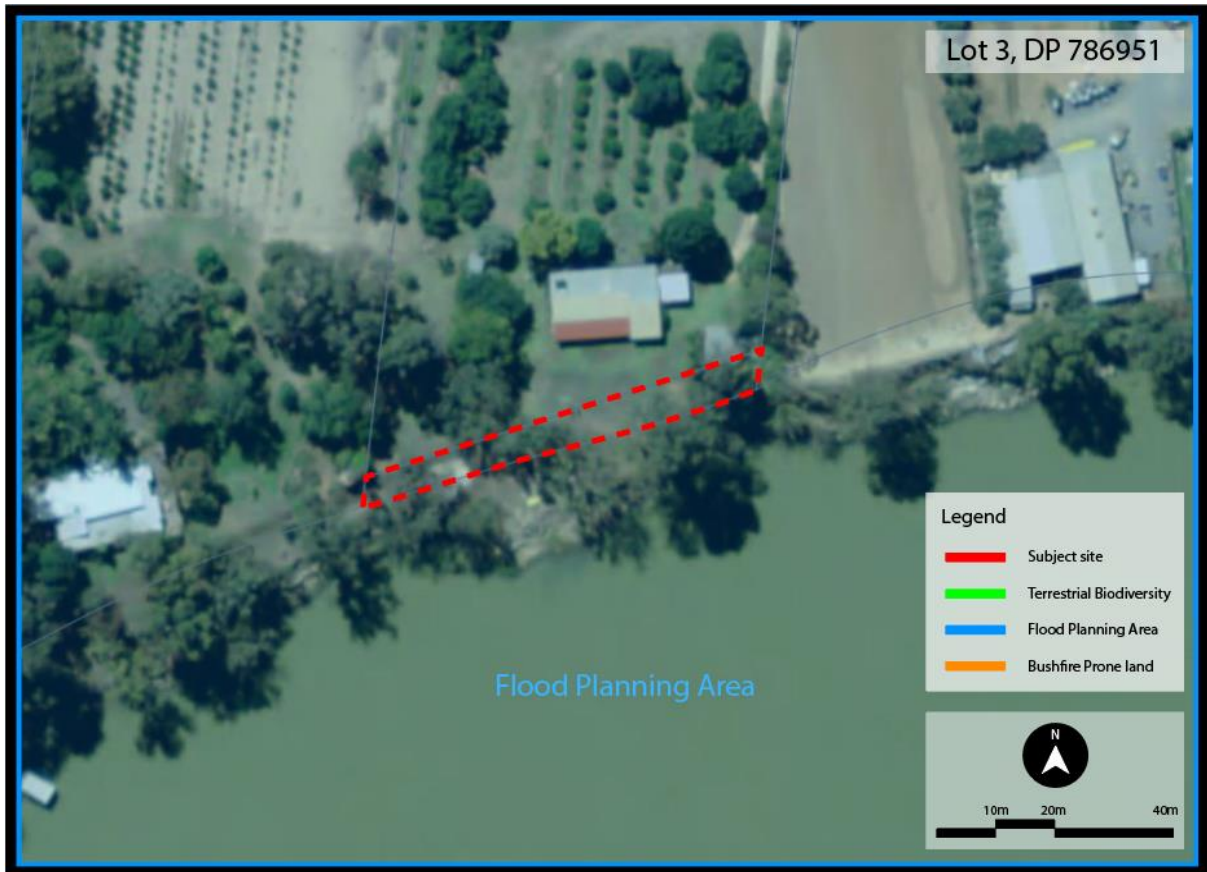


Figure 36: Confirming that Lot 3 DP 786951 is within flood planning area

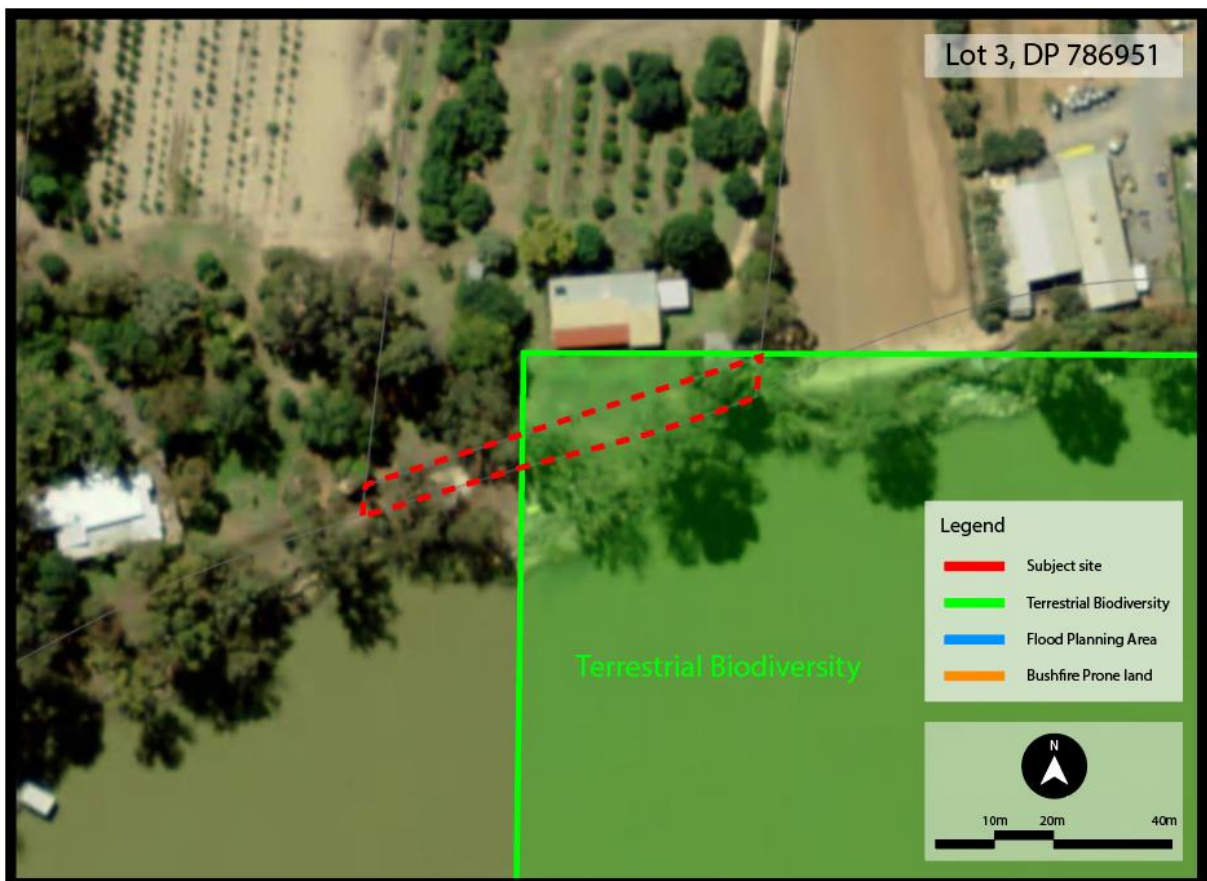


Figure 37: Confirming that terrestrial biodiversity mapping affects Lot 3 DP 786951

Note: No Bushfire Prone Land mapping exists for Lot 3 DP 786951.

Table 9: Summary of salient information on Lot 3 DP 786951

LOT 3 DP 786951	
Property Owner	Wentworth Shire Council;
Current classification	Community land
Proposed Classification	Operational
Title:	Freehold
Public Reserve	YES
Zoning	RU 1 – Primary Production
Minimum Lot size	10,000 ha
Area	
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:	<ul style="list-style-type: none"> • 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 Lot 3 DP 786951 to operational land

2.4.10 Lot 3 DP 788830, Florence Road, Wentworth

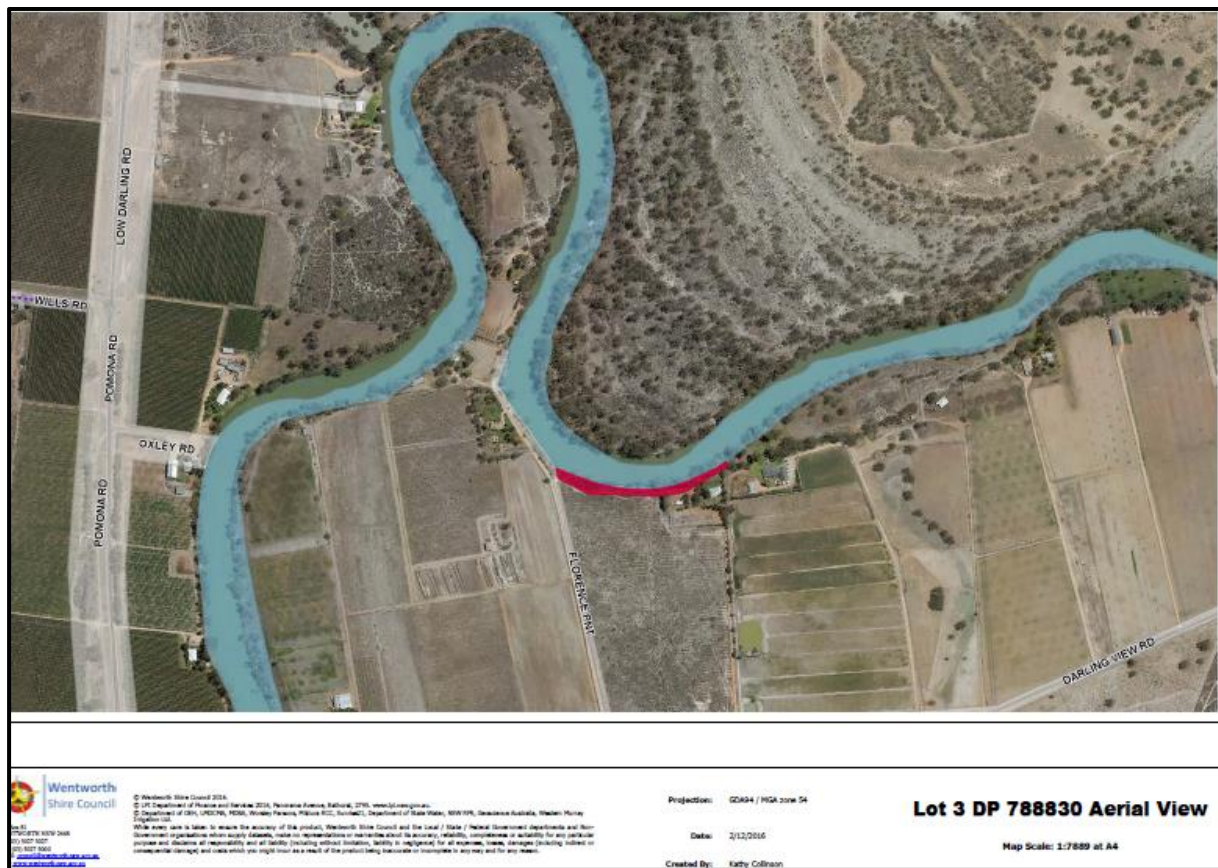


Figure 38: Aerial view of Lot 3 DP 788830

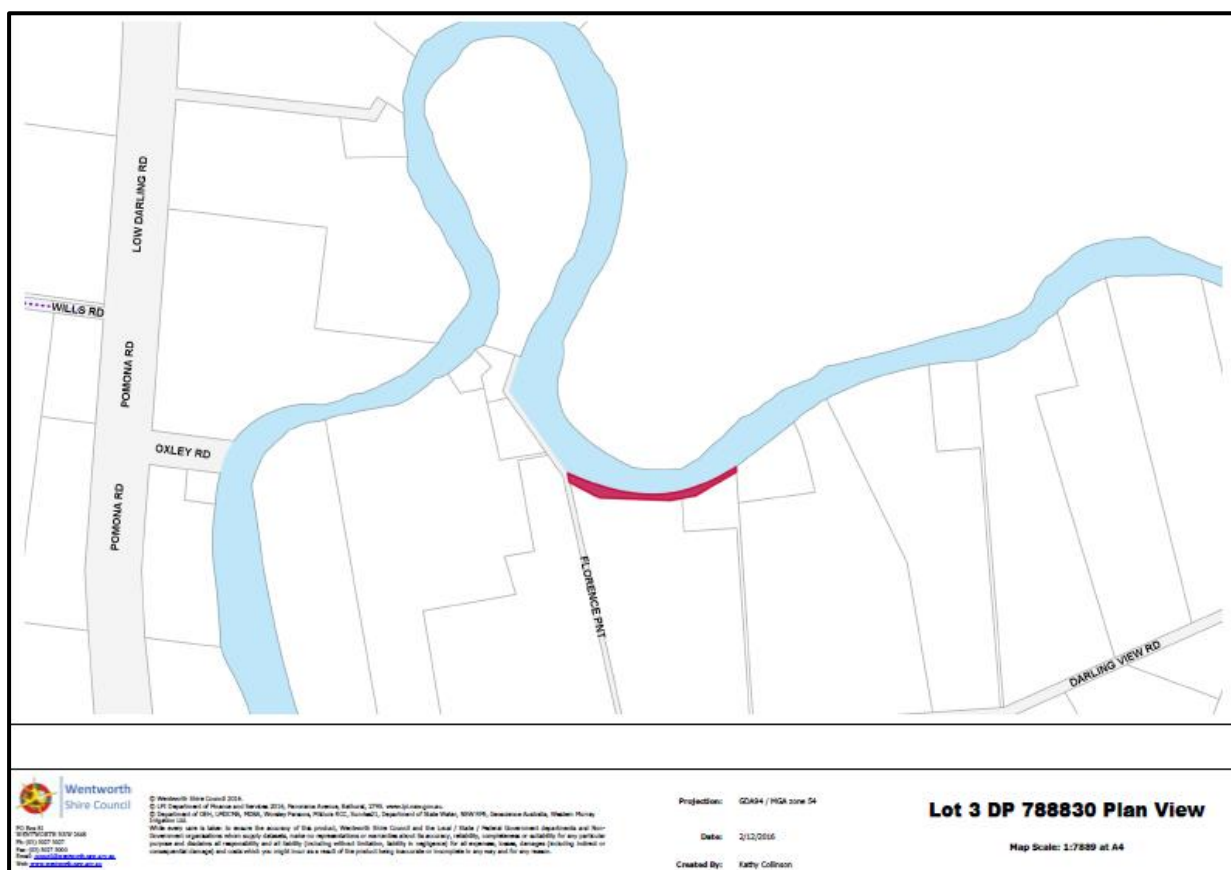


Figure 39: Plan view of Lot 3 DP 788830

Note: No Bushfire Prone Land or terrestrial biodiversity or flood planning area mapping exists for Lot 3 DP 788830

Table 10: Summary of salient information on Lot 3 DP 788830

LOT 3 DP 788830	
Property Owner	Wentworth Shire Council;
Current classification	Community land
Proposed Classification	Operational
Title:	Freehold
Public Reserve	Yes
Zoning	W1 – Natural Waterways
Minimum Lot size	Not Applicable
Area	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: <i>“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 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:	<ul style="list-style-type: none"> • 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
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Recommendation:
Reclassify Lot 3 DP 788830 to operational land

2.4.11 Lot 4 DP 733472, Sturt Highway, Gol Gol

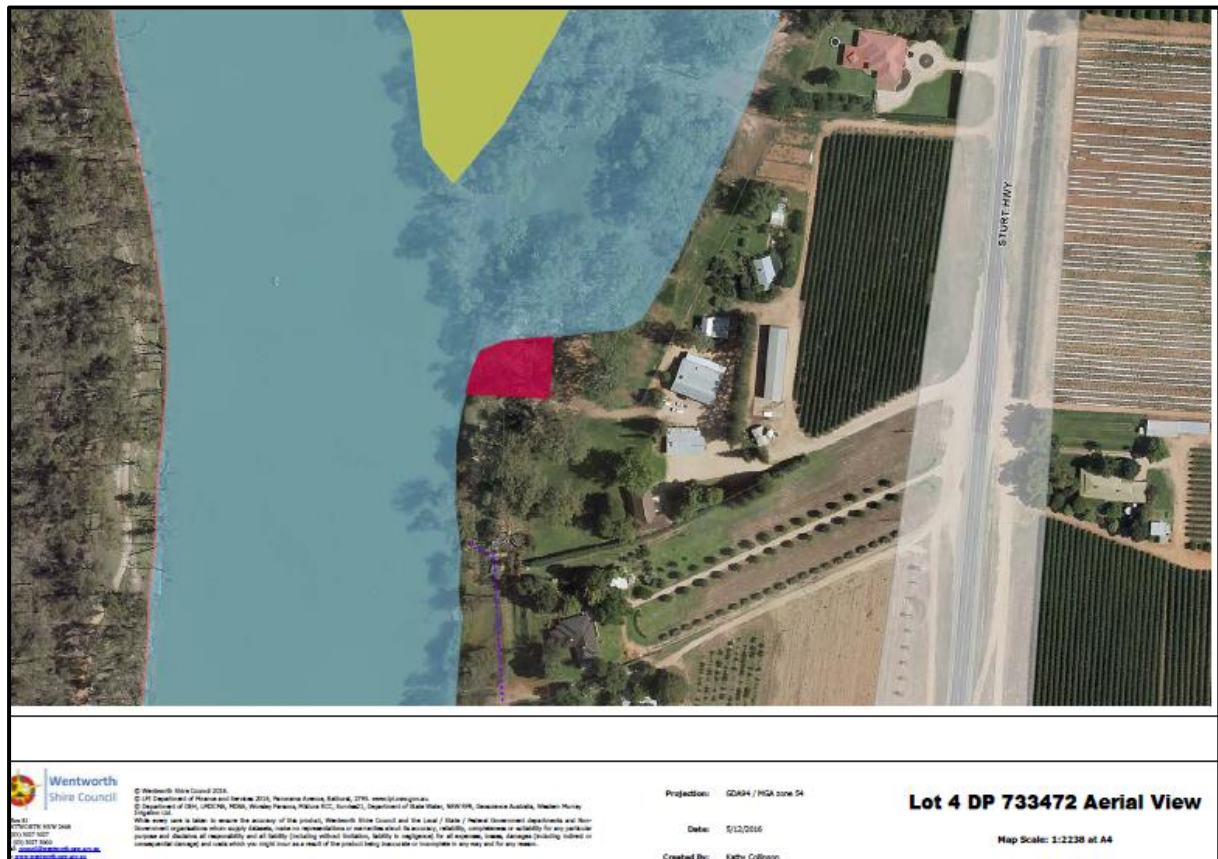


Figure 40: Aerial view of Lot 4 DP 733472

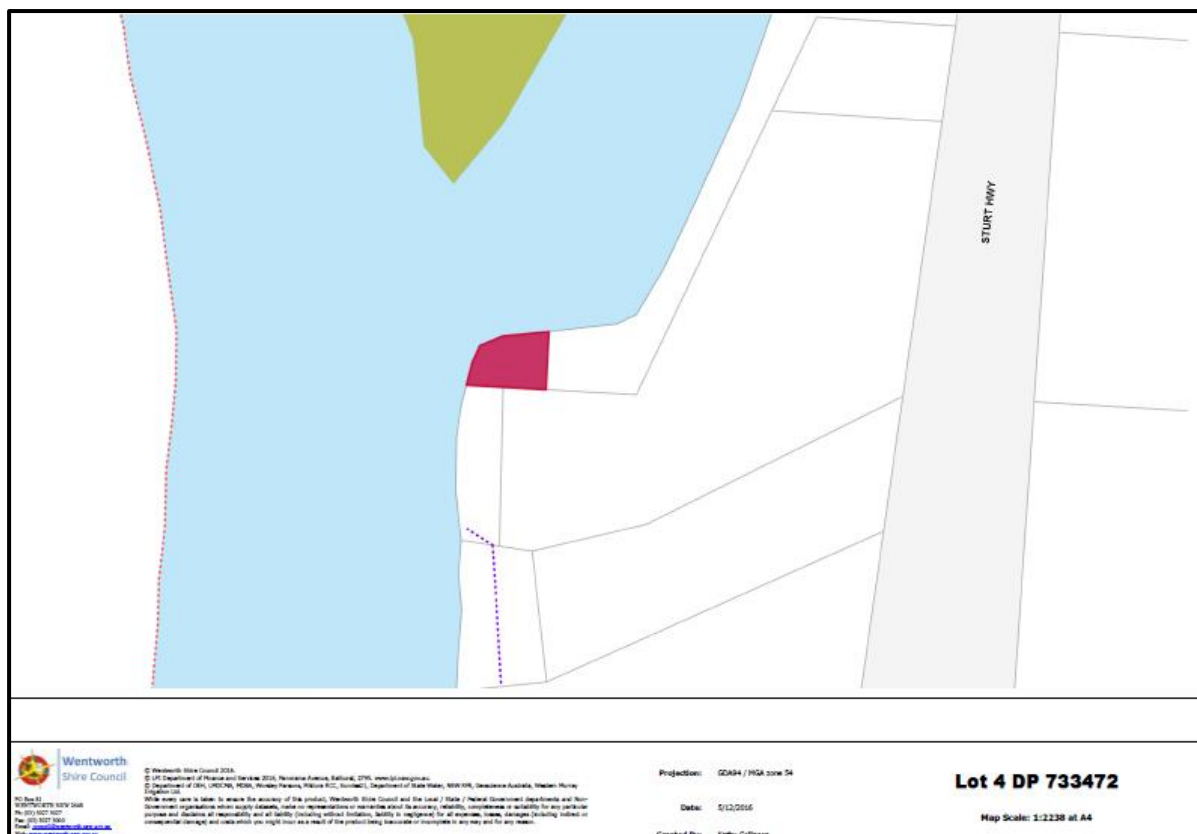


Figure 41: Plan view of Lot 4 DP 733472



Figure 42: Confirming that terrestrial biodiversity mapping affects Lot 4 DP 733472

Note: No Bushfire Prone Land or Flood Planning Area mapping exists for Lot 4 DP 733472

Table 11: Summary of salient information on Lot 4 DP 733472

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
Zoning	RU 1 – Primary Production
Minimum Lot size	10 ha
Area	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: “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?	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:	<ul style="list-style-type: none"> • 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 Lot 4 DP 733472 to operational land

2.4.12 Lot 4 DP 746063, Boeill Creek Road, Boeill Creek

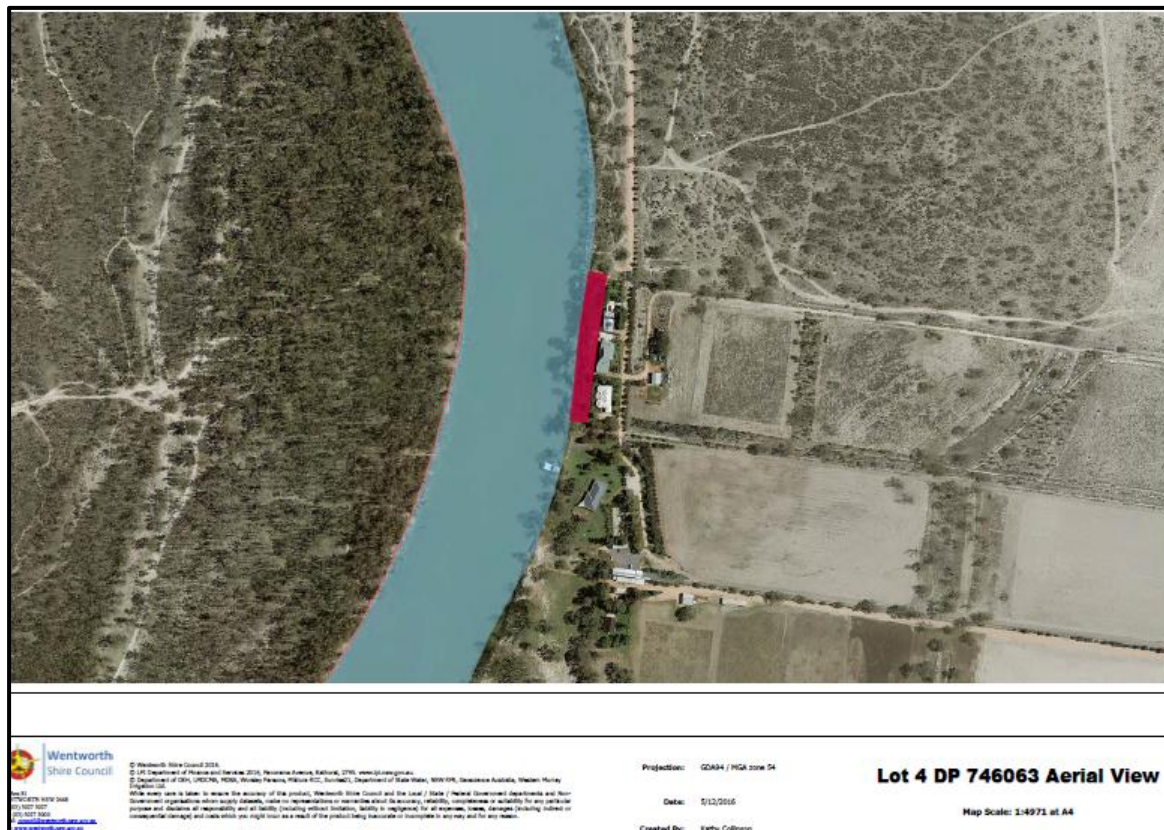


Figure 43: Aerial view of Lot 4 DP 746063

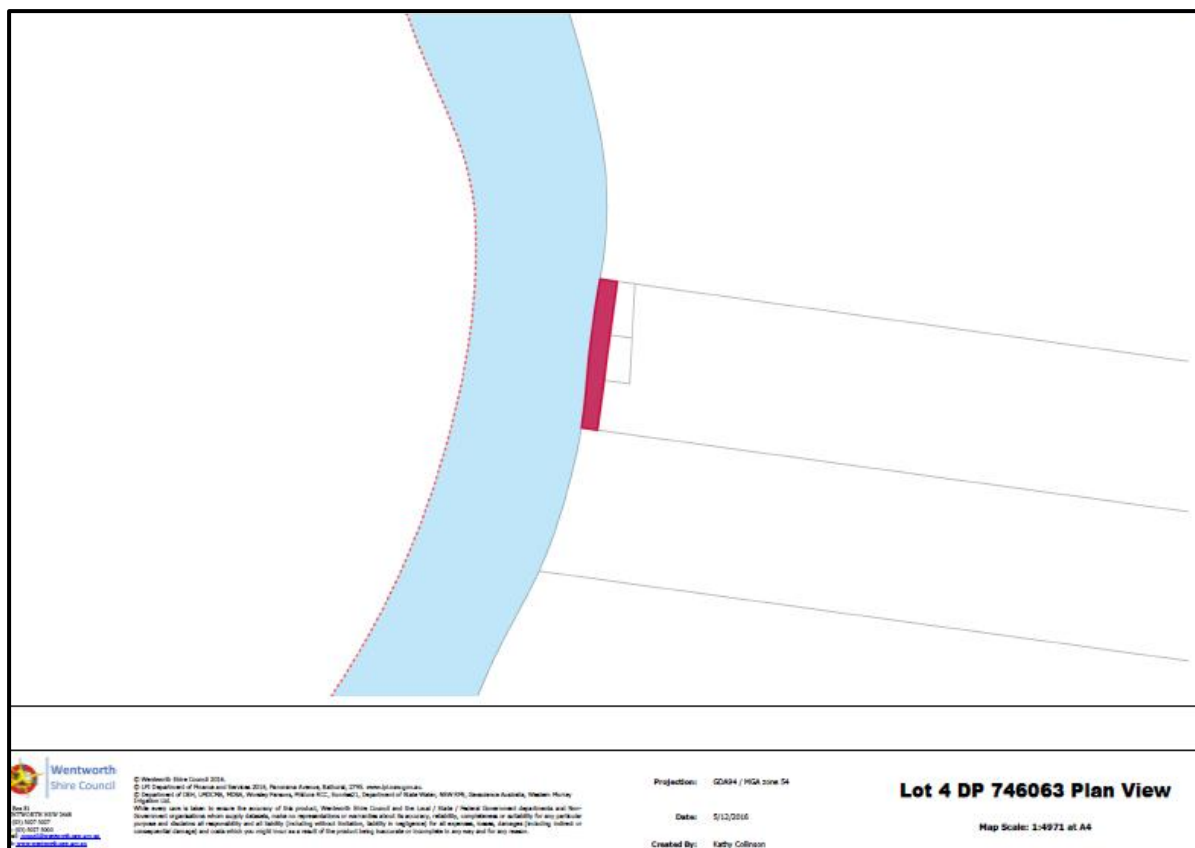


Figure 44: Plan view of Lot 4 DP 746063



Figure 45: Confirming that Lot 4 DP 746063 is within flood prone area

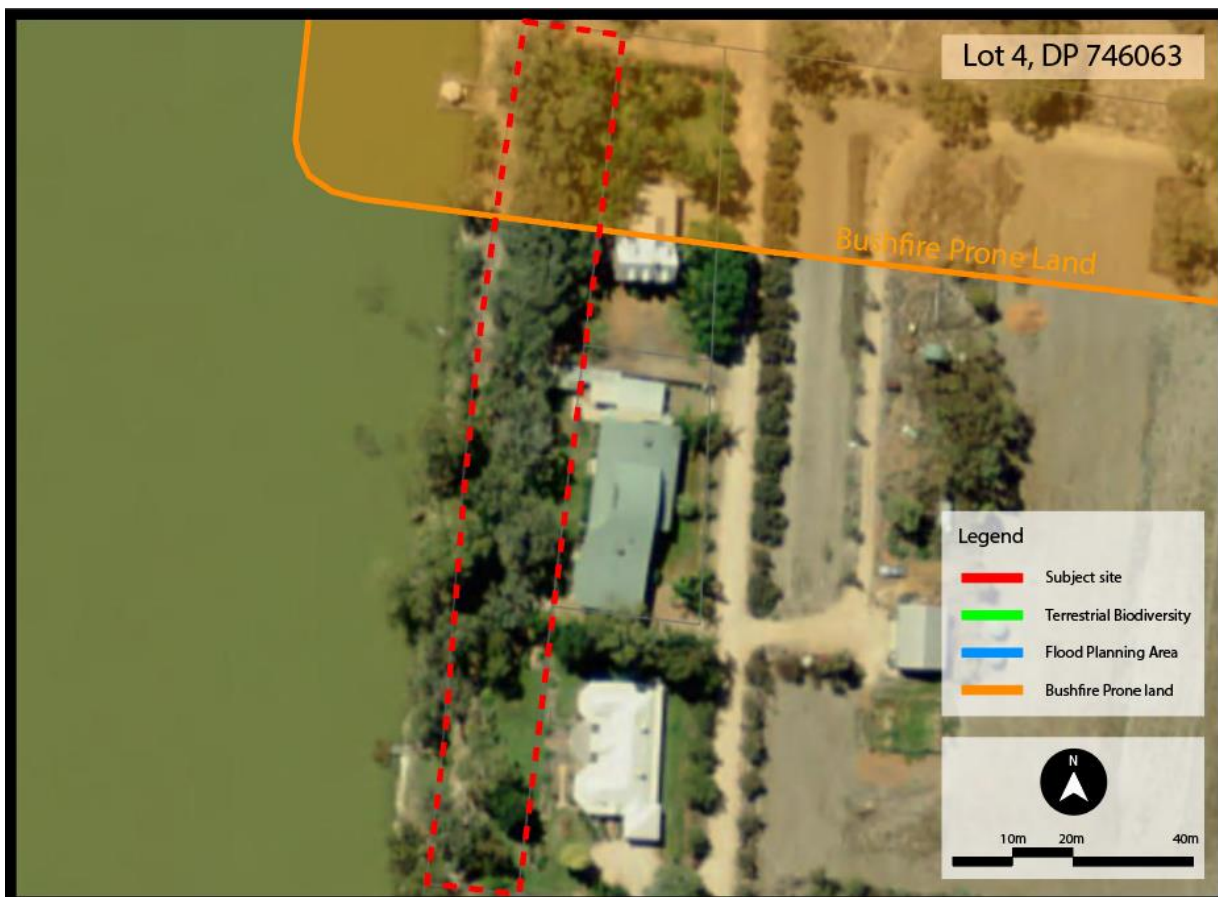


Figure 46: Confirming that bushfire prone land mapping affects Lot 4 DP 746063



Figure 47: Confirming that terrestrial biodiversity mapping affects Lot 4 DP 746063

Table 12: Summary of salient information on Lot 4 DP 746063

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
Zoning	RU 1 – Primary Production
Minimum Lot size	10,000 ha
Area	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	<ul style="list-style-type: none"> Land Grant Vol. 501 Fol.162 Reservations on title

Certificate of title provisions, restrictions on the land	<p>Certificate of title (23/3/1989) states:</p> <ul style="list-style-type: none"> • <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:	<ul style="list-style-type: none"> • 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 Lot 4 DP 746063 to operational land

2.4.13 Lot 4 DP 777861, Boeill Creek Road, Boeill Creek

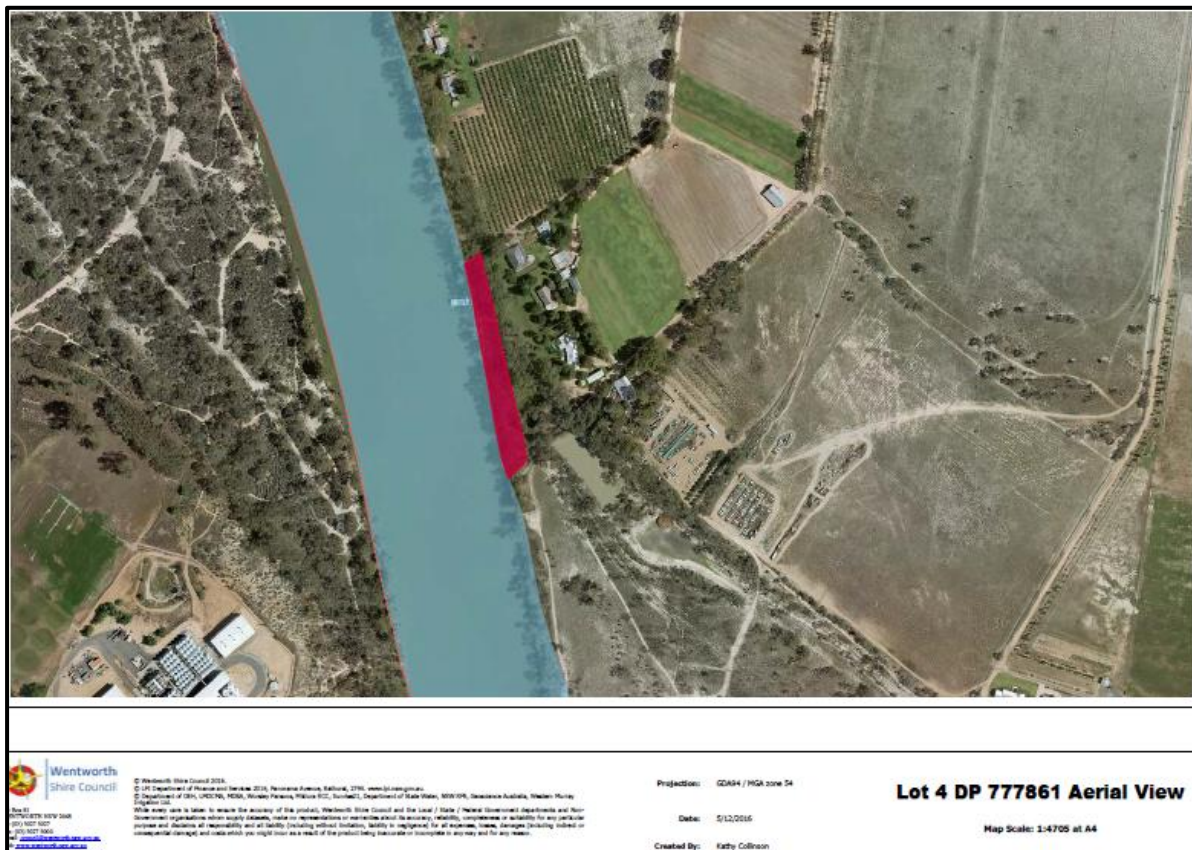


Figure 48: Aerial view of Lot 4 DP 777861

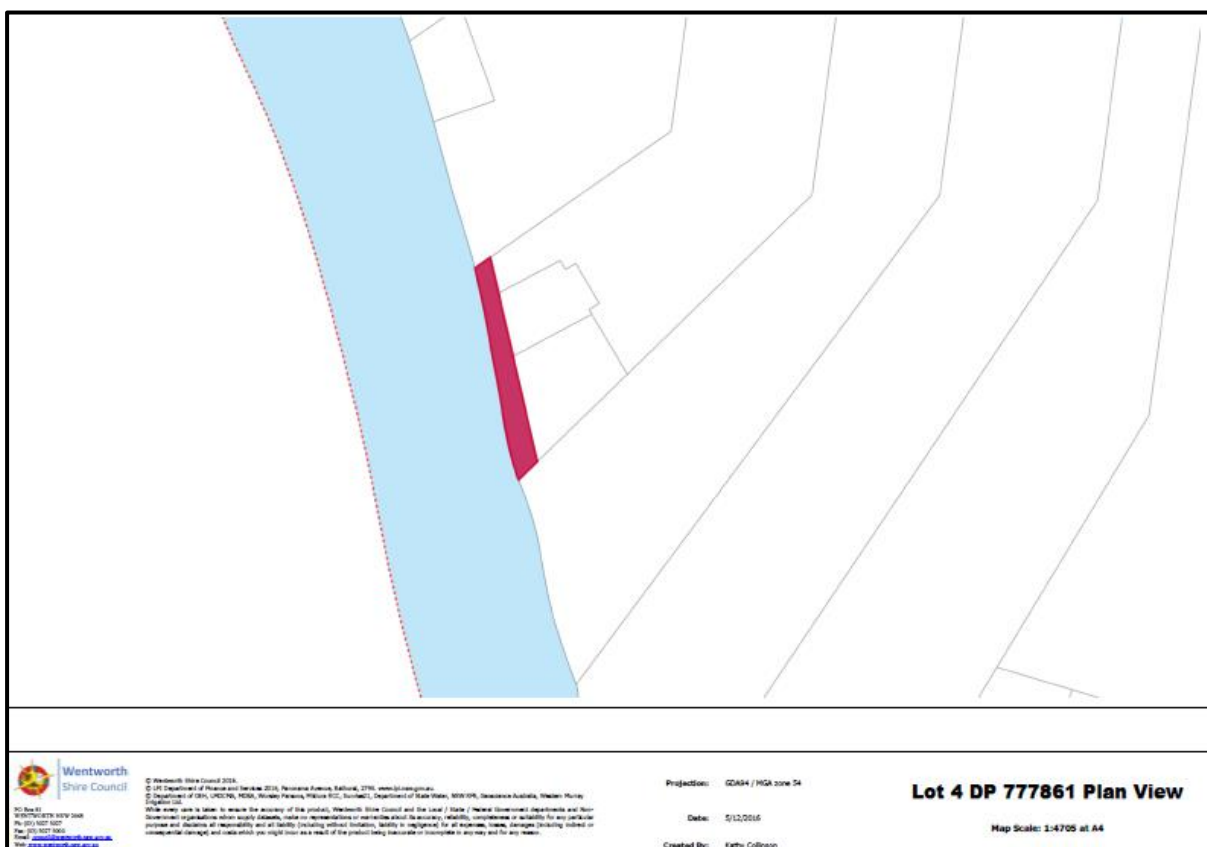


Figure 49: Plan view of Lot 4 DP 777861

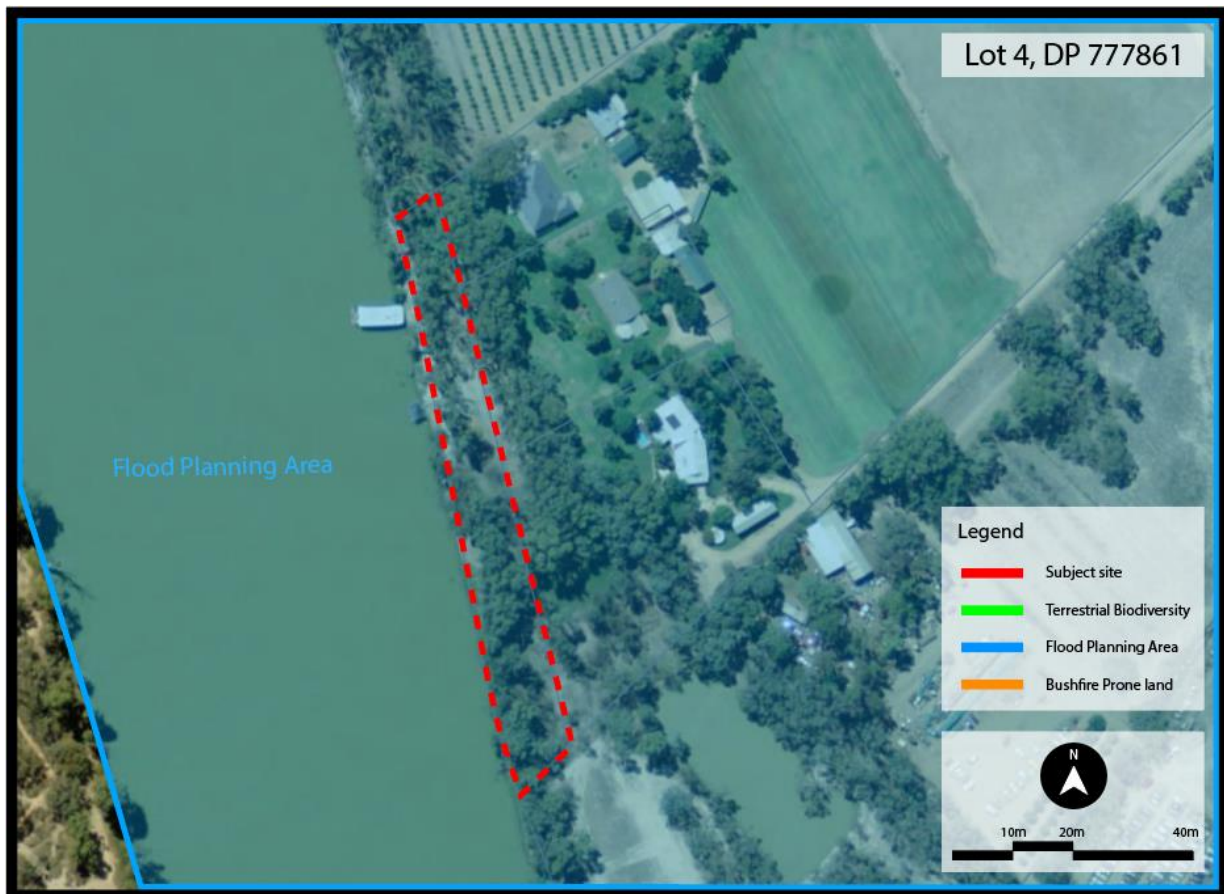


Figure 50: Confirming that Lot 4 DP 777861 is within flood planning area



Figure 51: Confirming that bushfire prone land mapping affects Lot 4 DP 777861



Figure 52: Confirming that terrestrial biodiversity mapping affects Lot 4 DP 777861

Table 13; Summary of salient information on Lot 4 DP 777861

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
Zoning	RU 1 – Primary Production
Minimum Lot size	10,000 ha
Area	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:

	<ul style="list-style-type: none"> • <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>
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:	<ul style="list-style-type: none"> • 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 Lot 4 DP 777861 to operational land

2.4.14 Lot 5 DP 775245, Darling View Road/Kelso Road, Wentworth

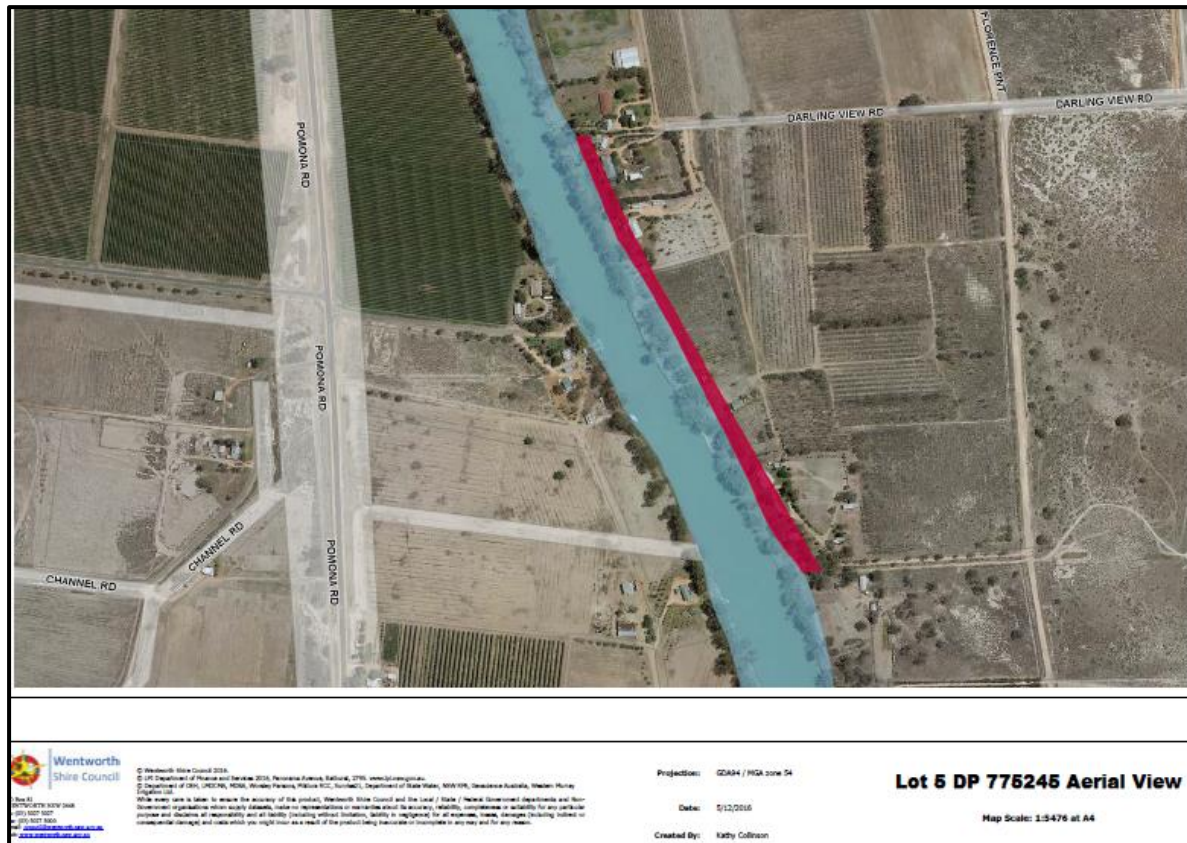


Figure 53: Aerial view of Lot 5 DP 775245

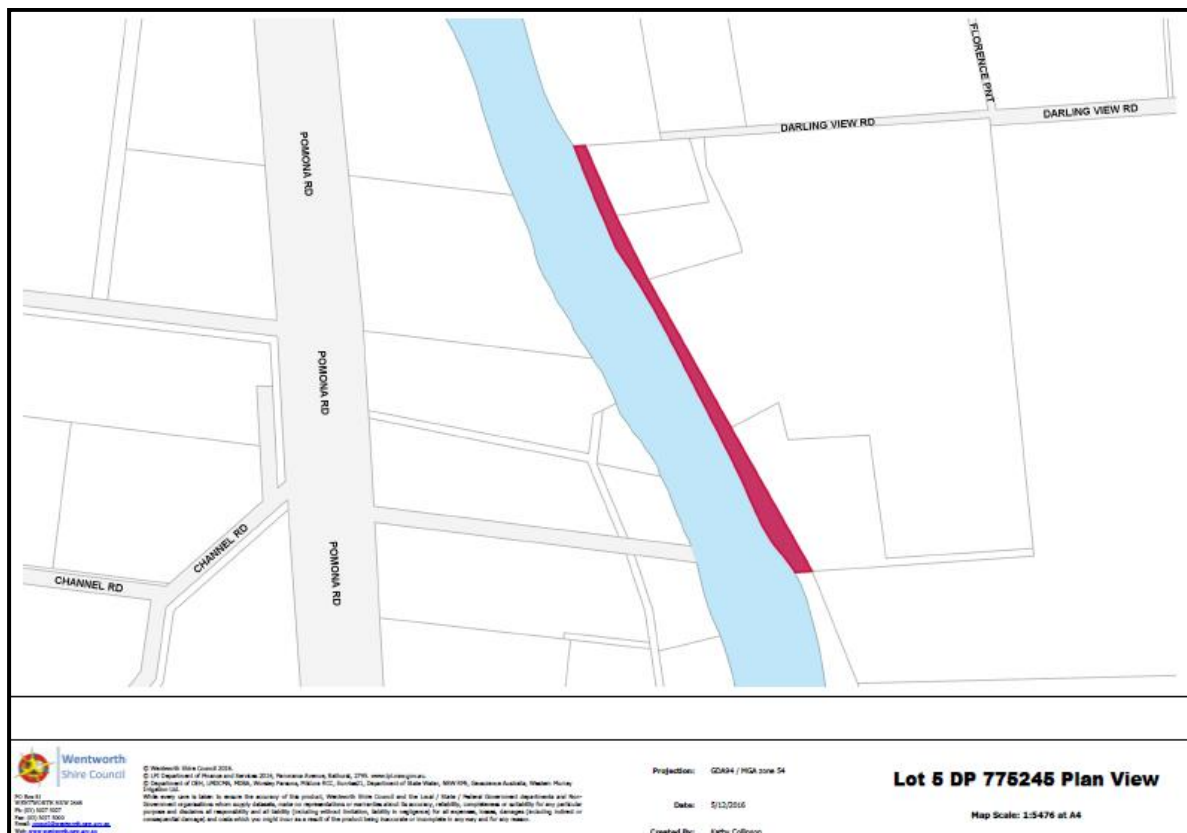


Figure 54: Plan view of Lot 5 DP 775245

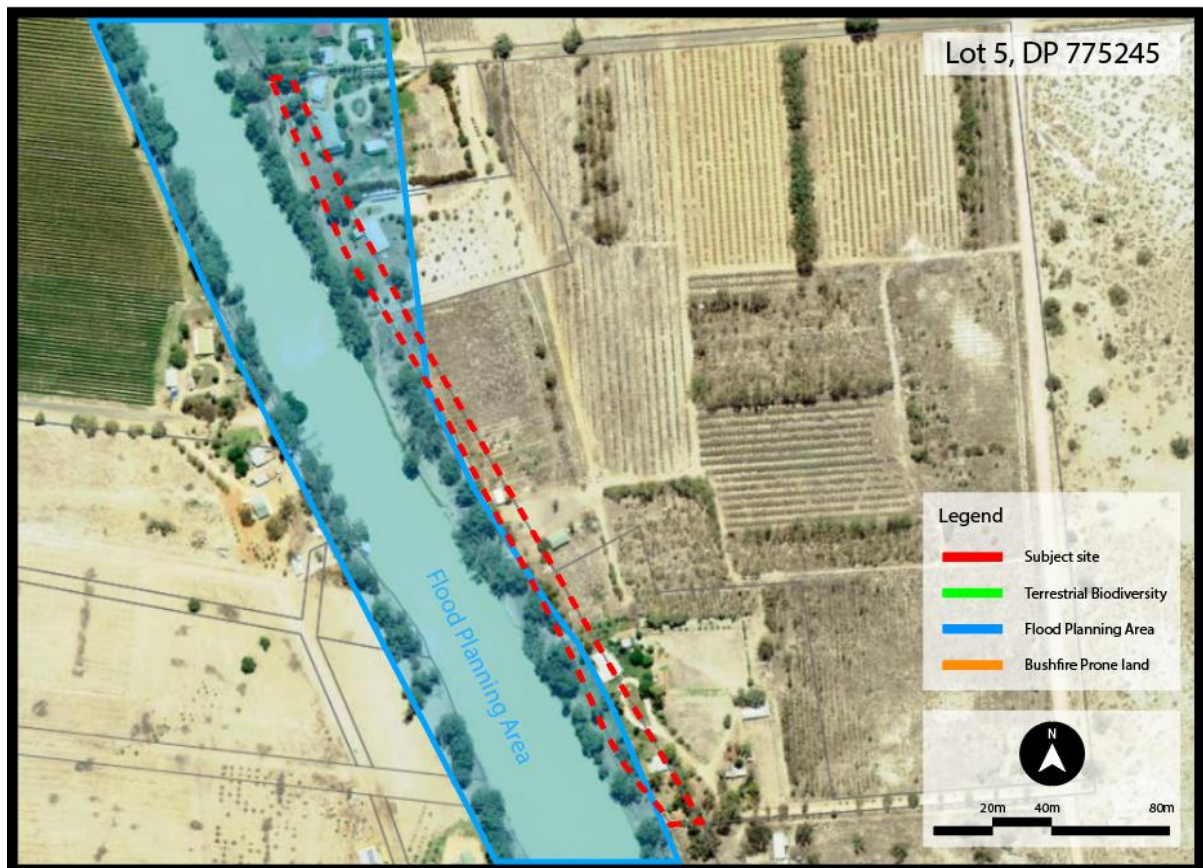


Figure 55: Confirming that flood planning area mapping affects Lot 5 DP 775245

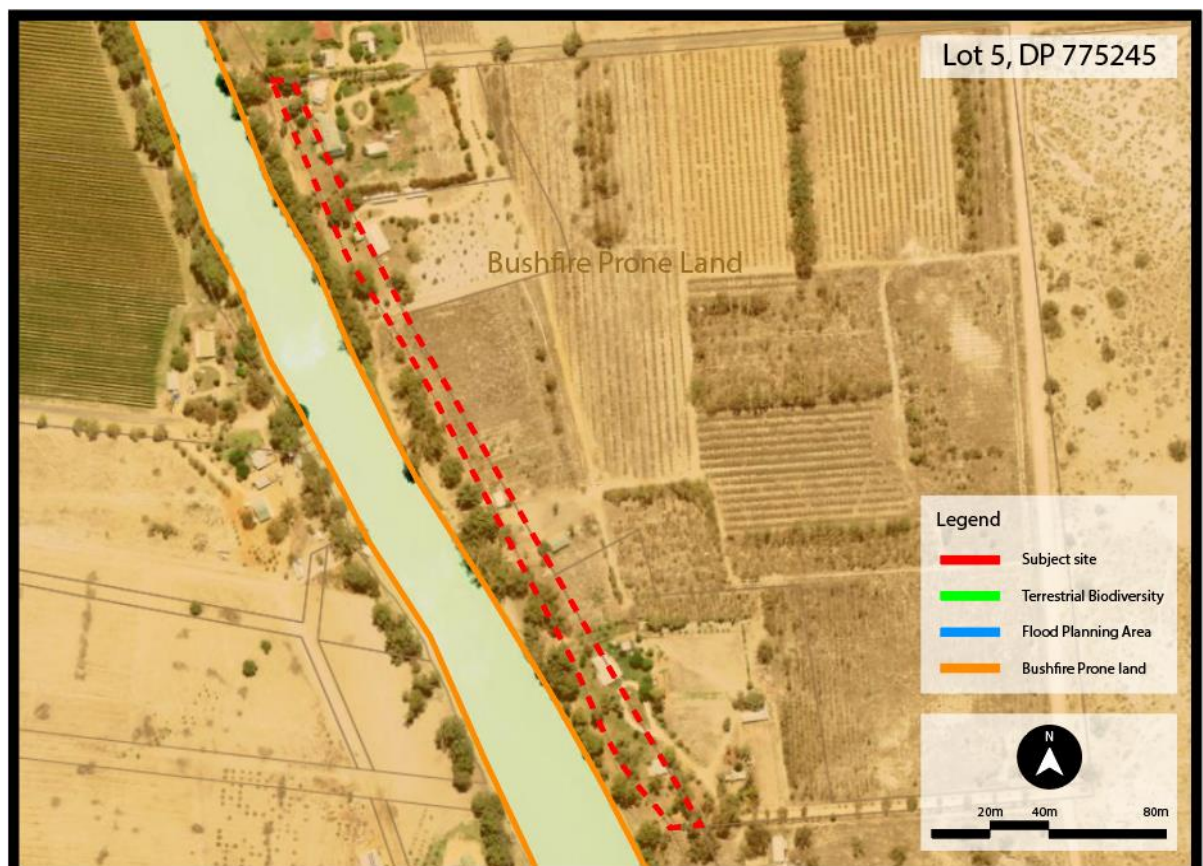


Figure 56: Confirming that bushfire prone land mapping does not affect Lot 5 DP 775245

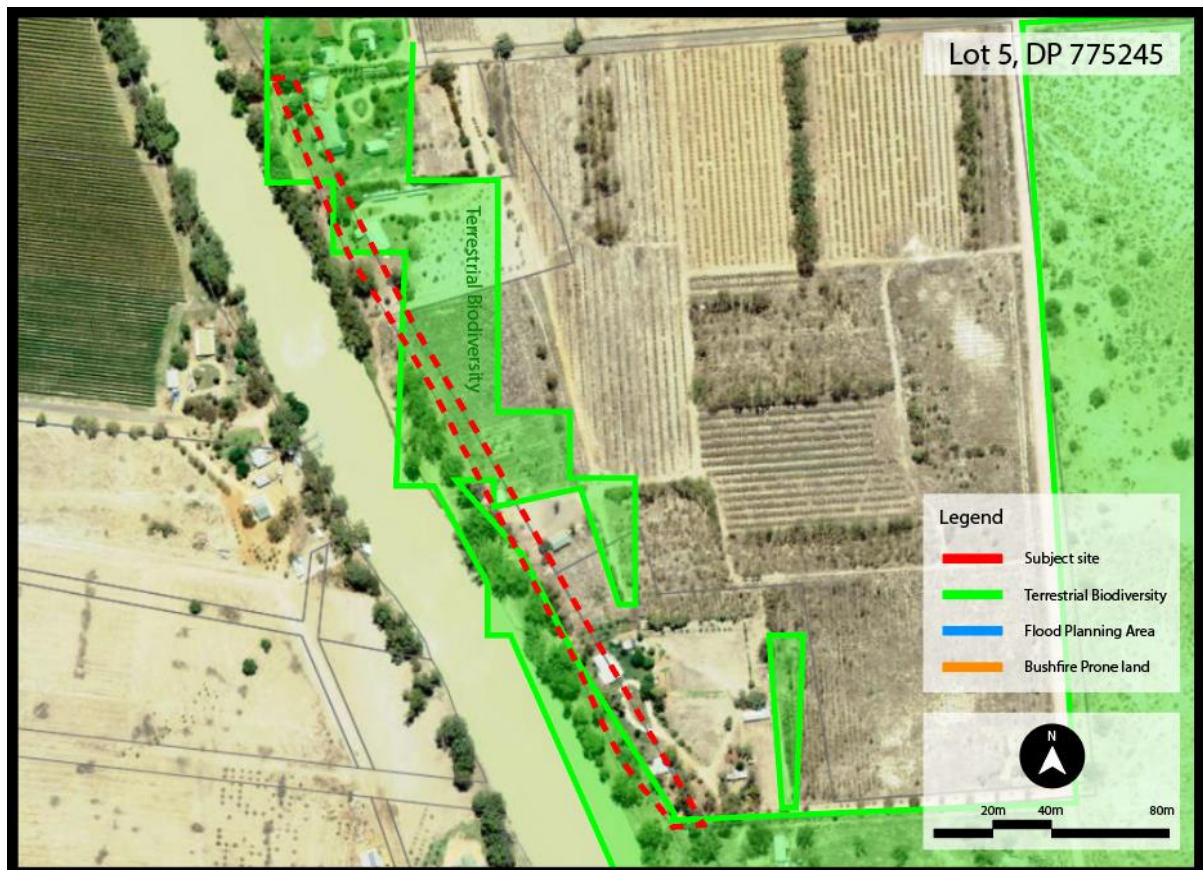


Figure 57: Confirming that terrestrial biodiversity mapping affects Lot 5 DP 775245

Table 14: Summary of salient information on Lot 5 DP 775245

LOT 5 DP 775245	
Property Owner	Wentworth Shire Council;
Number of adjoining owners:	FOUR
Current classification	Community land
Proposed Classification	Operational
Title:	Freehold
Location and Access	
Public Reserve	Yes
Zoning	RU 1 – Primary Production
Minimum Lot size	10 ha
Area	6620m ²
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: <ul style="list-style-type: none"> “Reservations and conditions in the Crown Grant:

	<ul style="list-style-type: none"> • <i>K20000P Caveat by the Registrar General</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:	<ul style="list-style-type: none"> • 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 Lot 5 DP 775245 to operational land

2.4.15 Lot 5 DP 787557, Boeill Creek Road, Boeill Creek

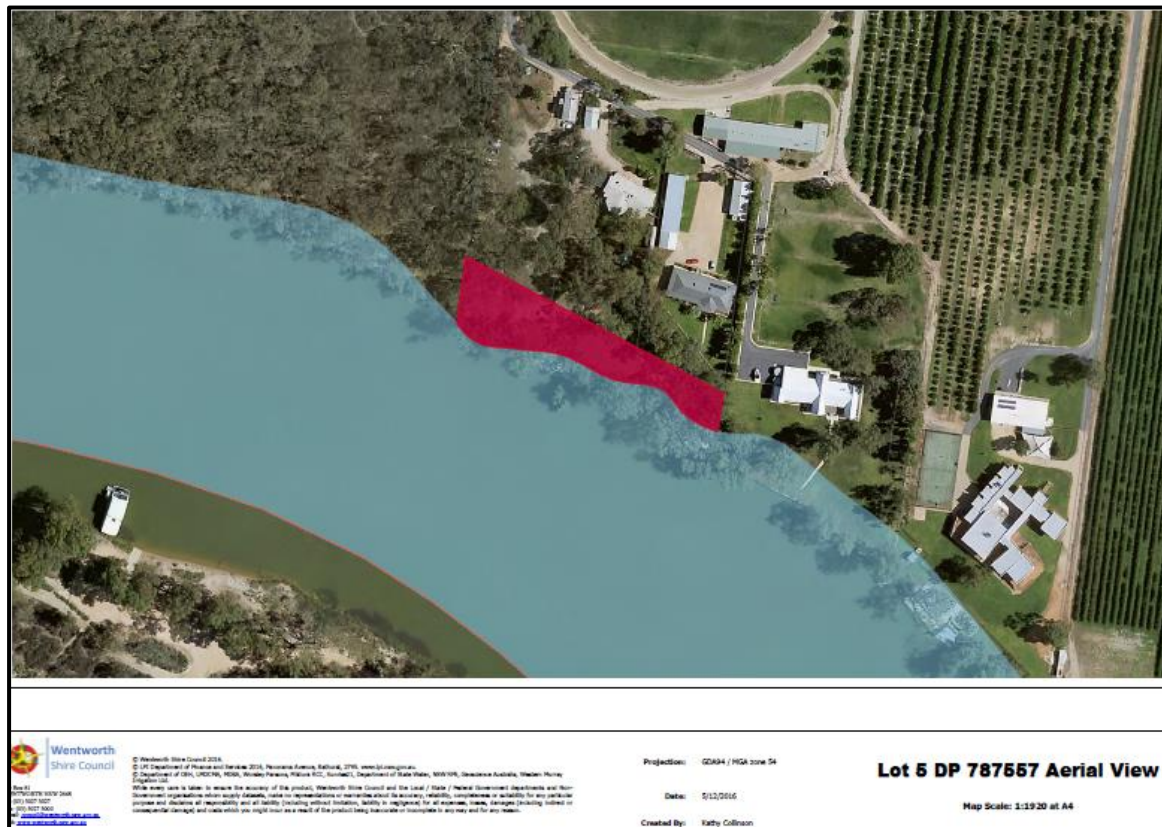


Figure 58: Aerial view of Lot 5 DP 787557

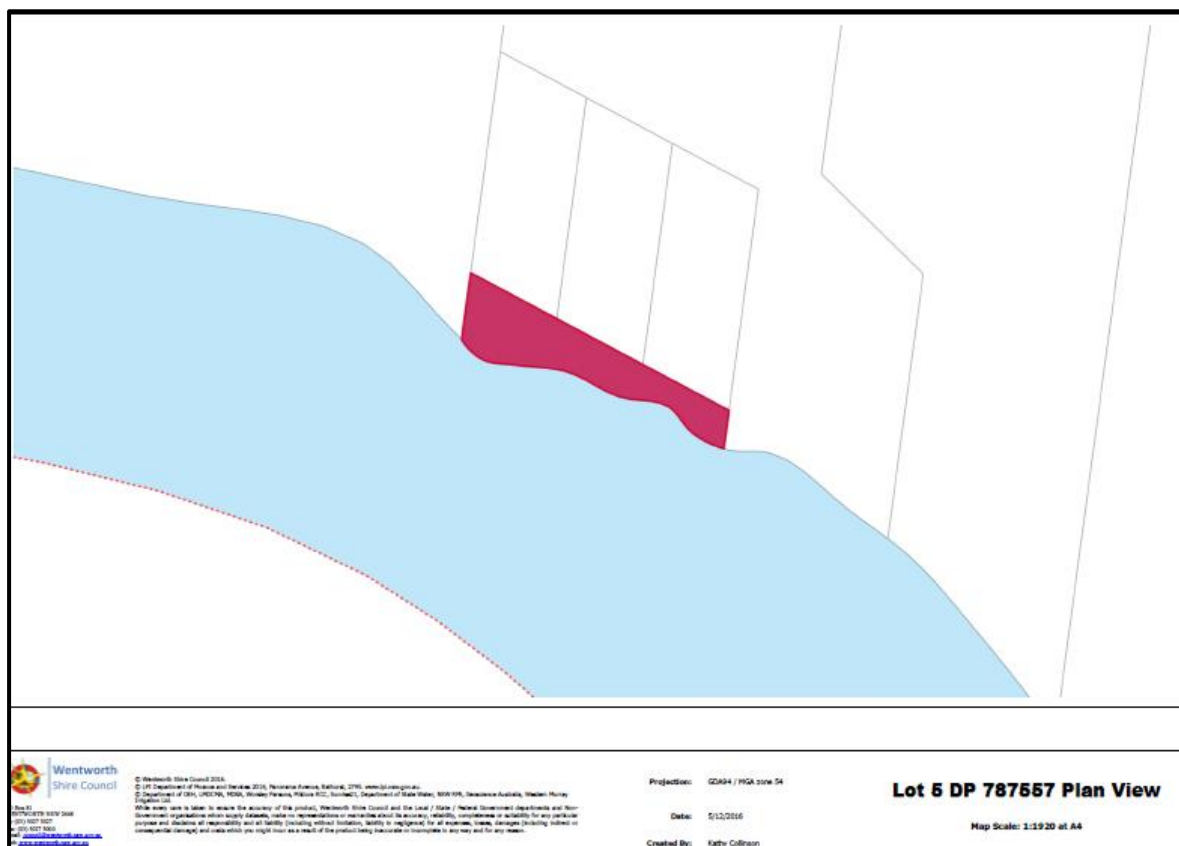


Figure 59: Plan view of Lot 5 DP 787557



Figure 60: Confirming that flood planning area mapping affects Lot 5 DP 787557

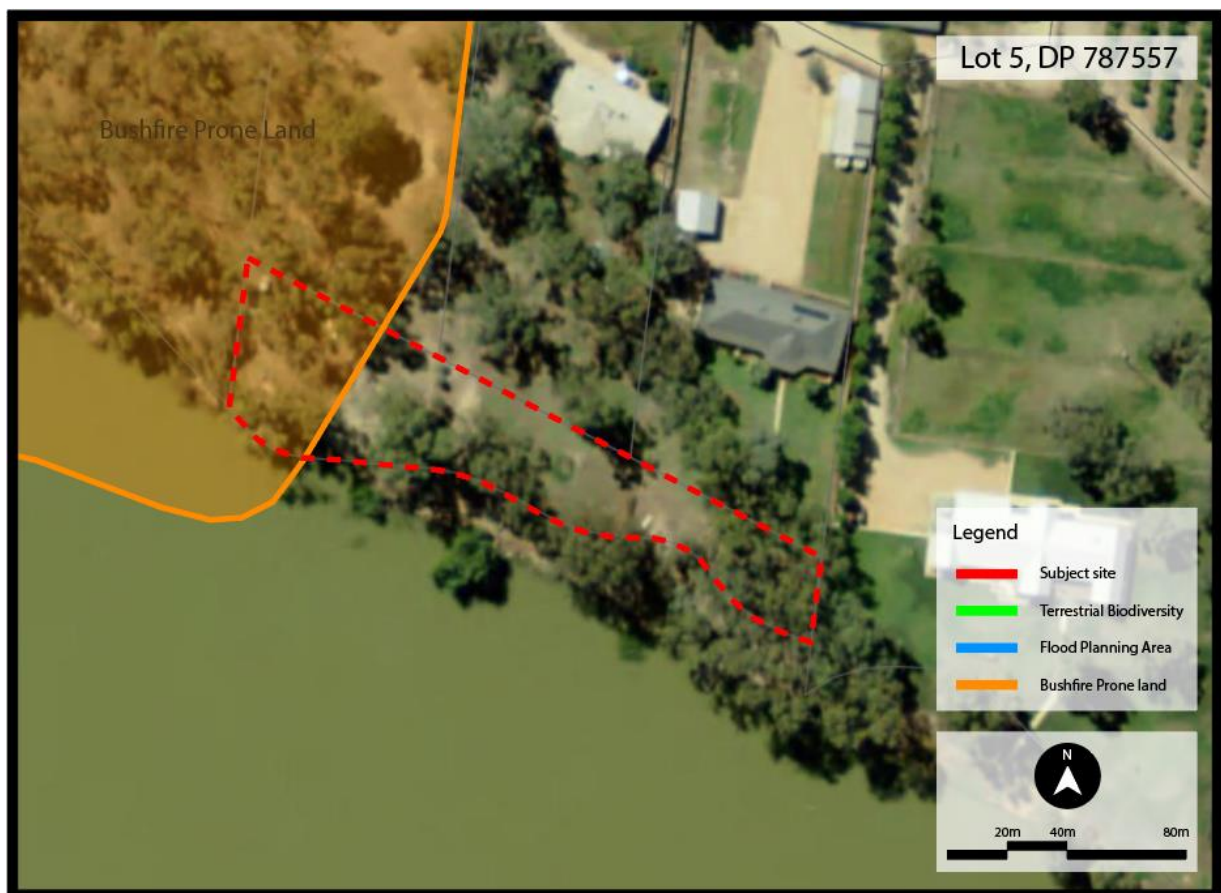


Figure 61: Confirming that bushfire prone land mapping affects Lot 5 DP 787557

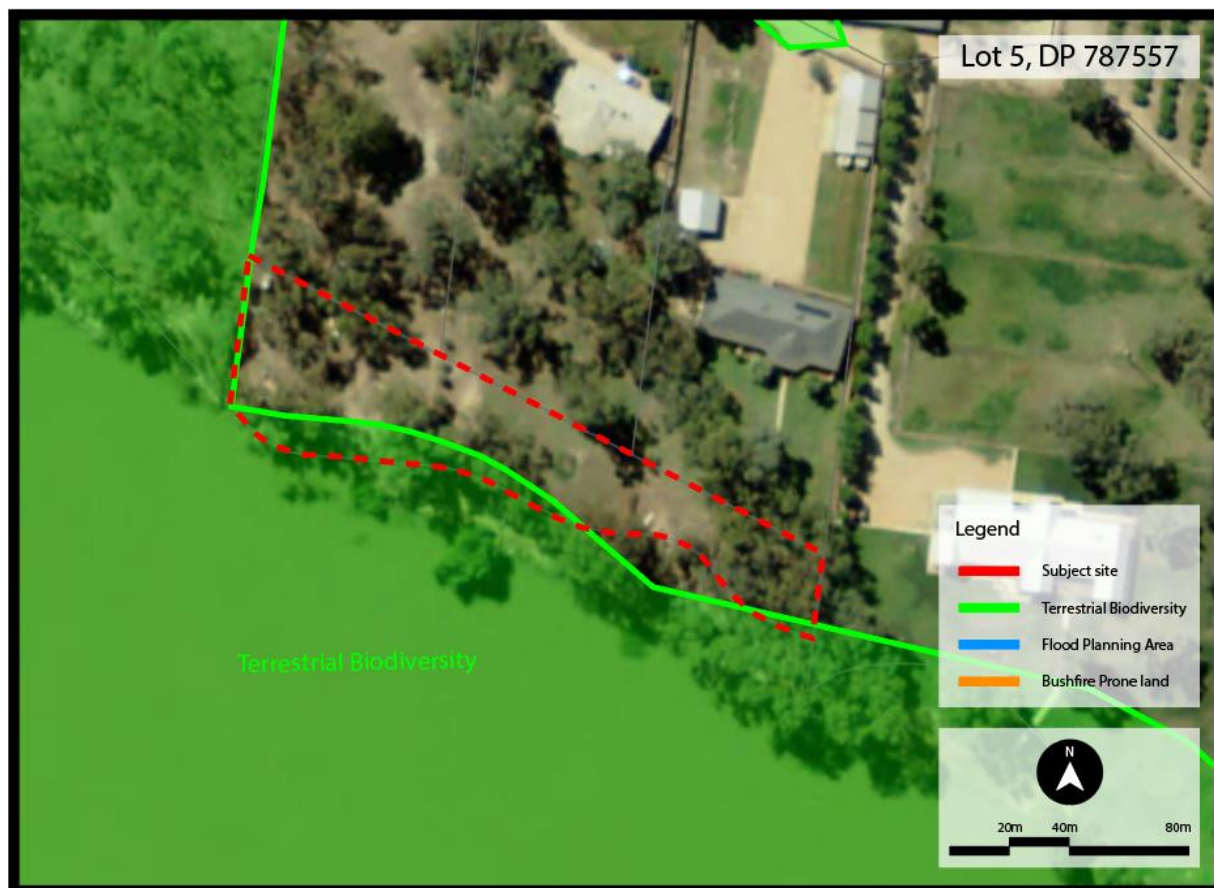


Figure 62: Confirming that terrestrial biodiversity mapping affects Lot 5 DP 787557

Table 15: Summary of salient information on Lot 5 DP 787557

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
Zoning	RU 1 – Primary Production
Minimum Lot size	10,000 ha
Area	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: <ul style="list-style-type: none"> • <i>Easement for water supply;</i> • <i>“Reservations and conditions in the Crown Grant:</i>

	<ul style="list-style-type: none"> • <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:	<ul style="list-style-type: none"> • 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 Lot 5 DP 787557 to operational land

2.4.16 Lot 7 DP 773189, Kelso Road, Wentworth

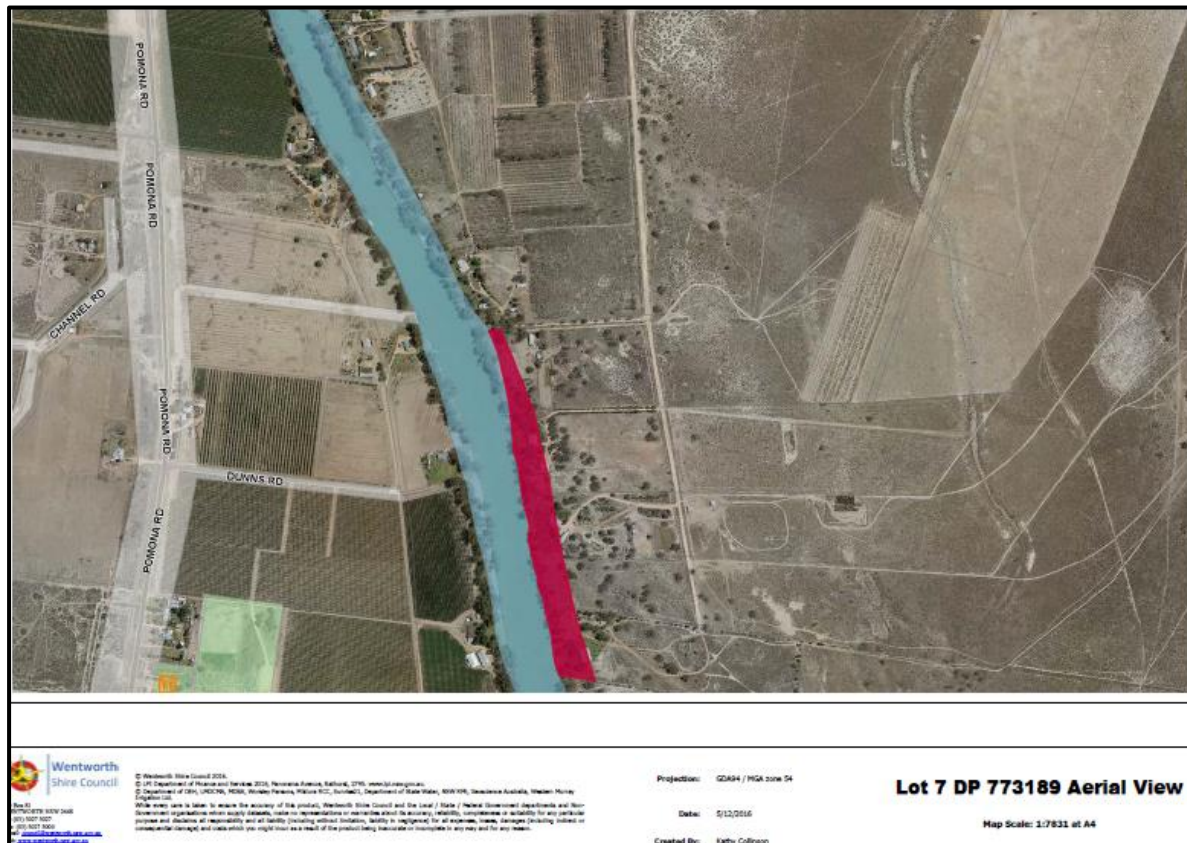


Figure 63: Aerial view of Lot 7 DP 773189

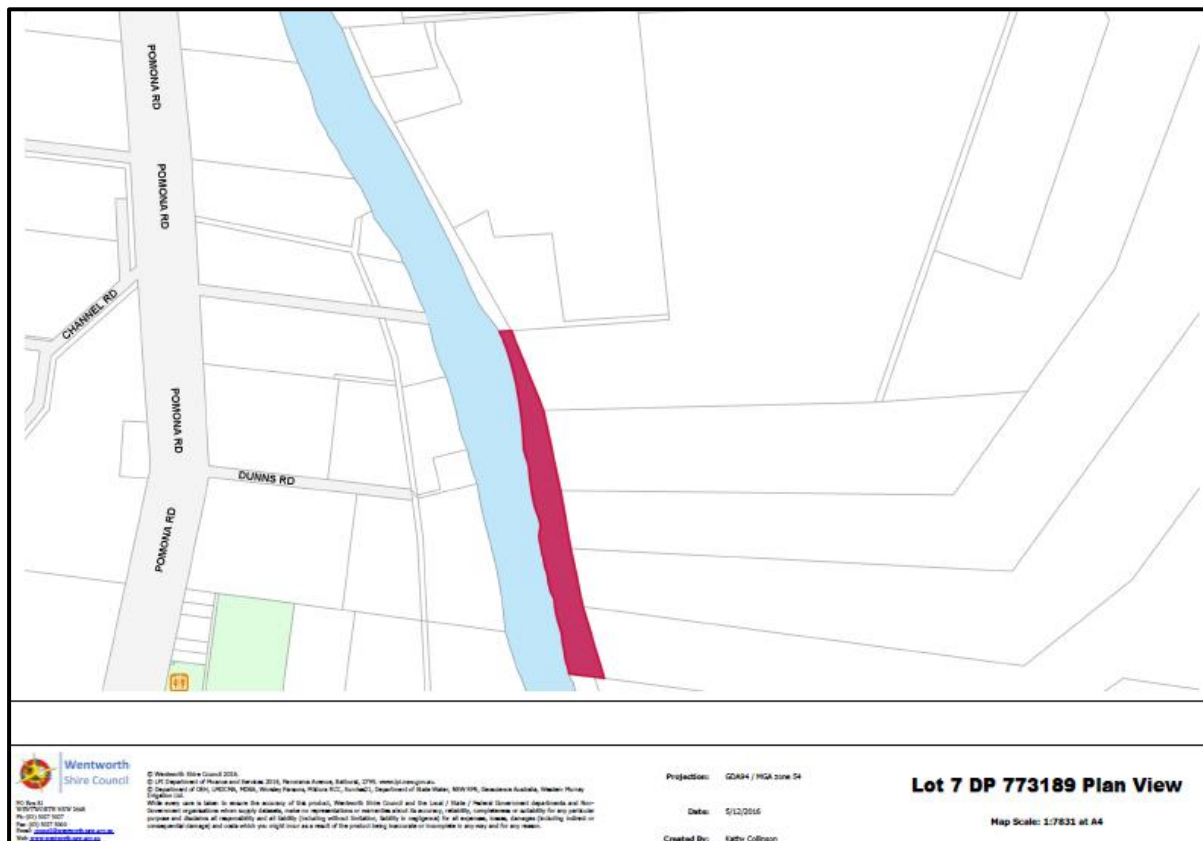


Figure 64: Plan view of Lot 7 DP 773189

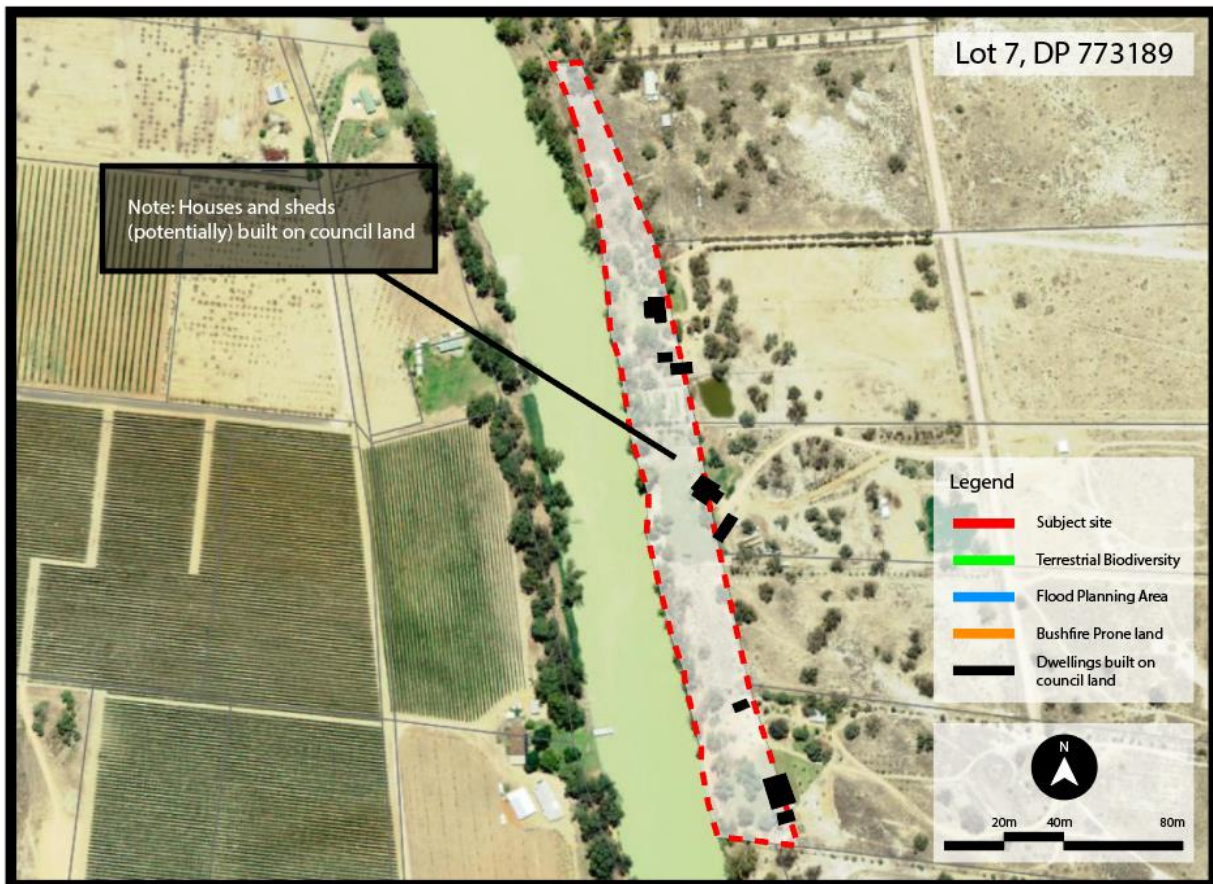


Figure 65: Confirming houses and sheds built on council land Lot 7 DP 773189

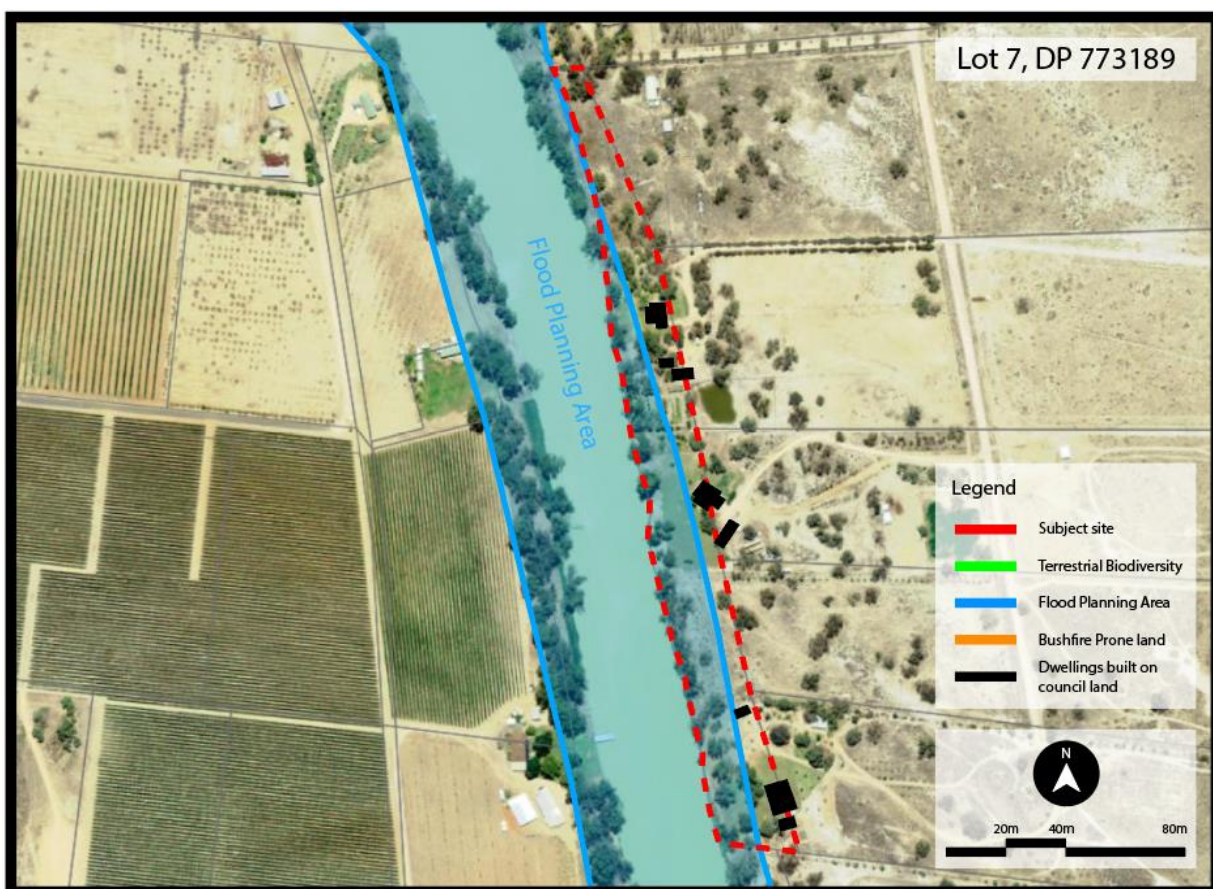


Figure 66: Confirming that flood planning area mapping affects Lot 7 DP 773189

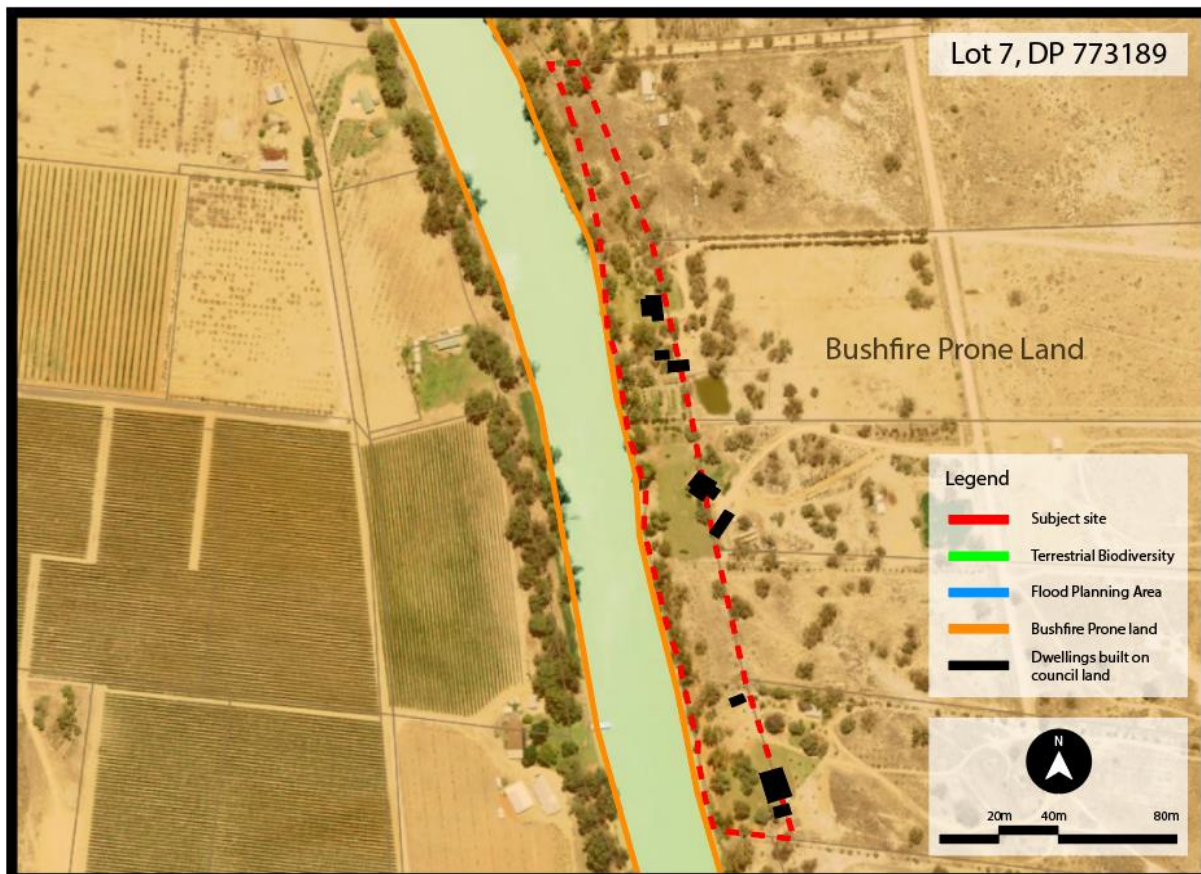


Figure 67: Confirming that bushfire prone land mapping adjoins Lot 7 DP 773189

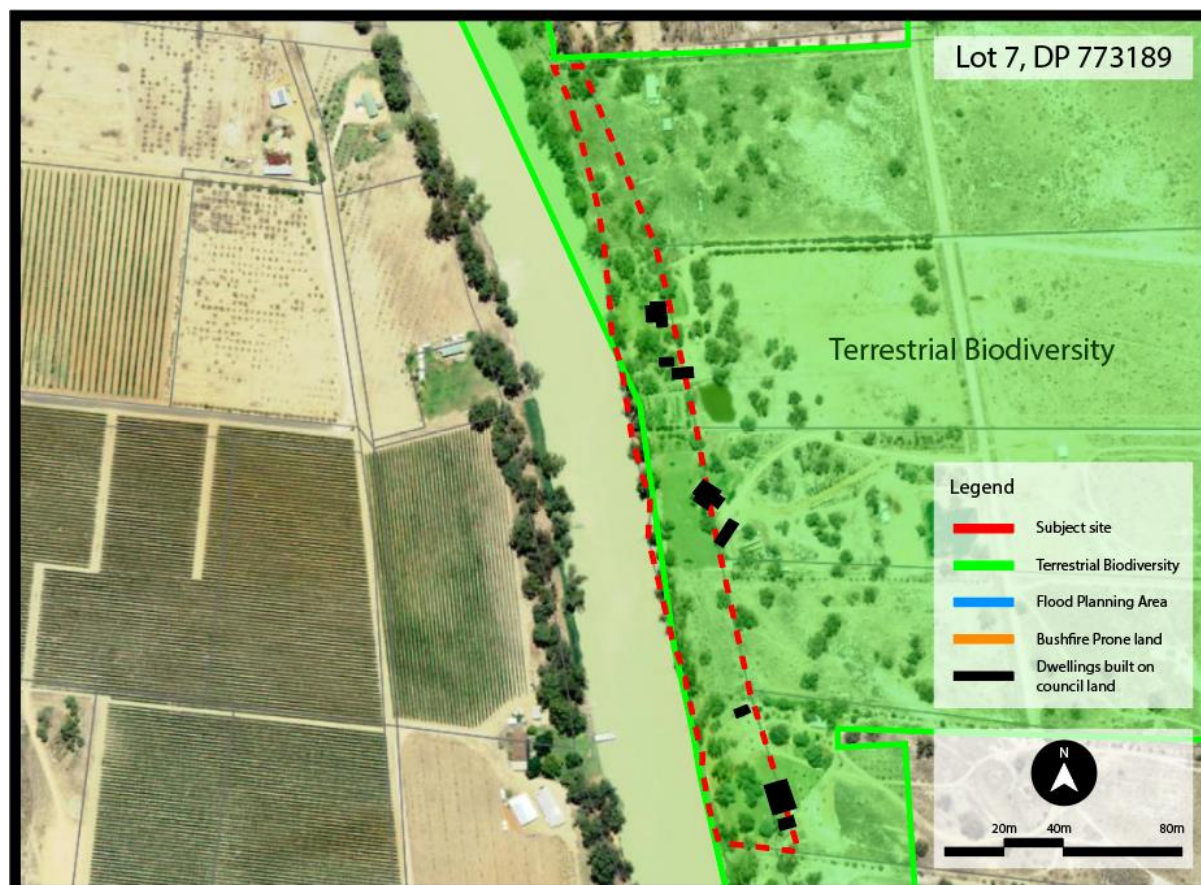


Figure 68: Confirming that terrestrial biodiversity mapping affects Lot 7 DP 773189

Table 16: Summary of salient information on Lot 7 DP 773189

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
Zoning	RU 1 – Primary Production
Minimum Lot size	10,000 ha
Area	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: <ul style="list-style-type: none"> • <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:	<ul style="list-style-type: none"> • 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 Lot 7 DP 773189 to operational land**

2.4.17 Lot 7 DP 827371, Sturt Highway, Monak

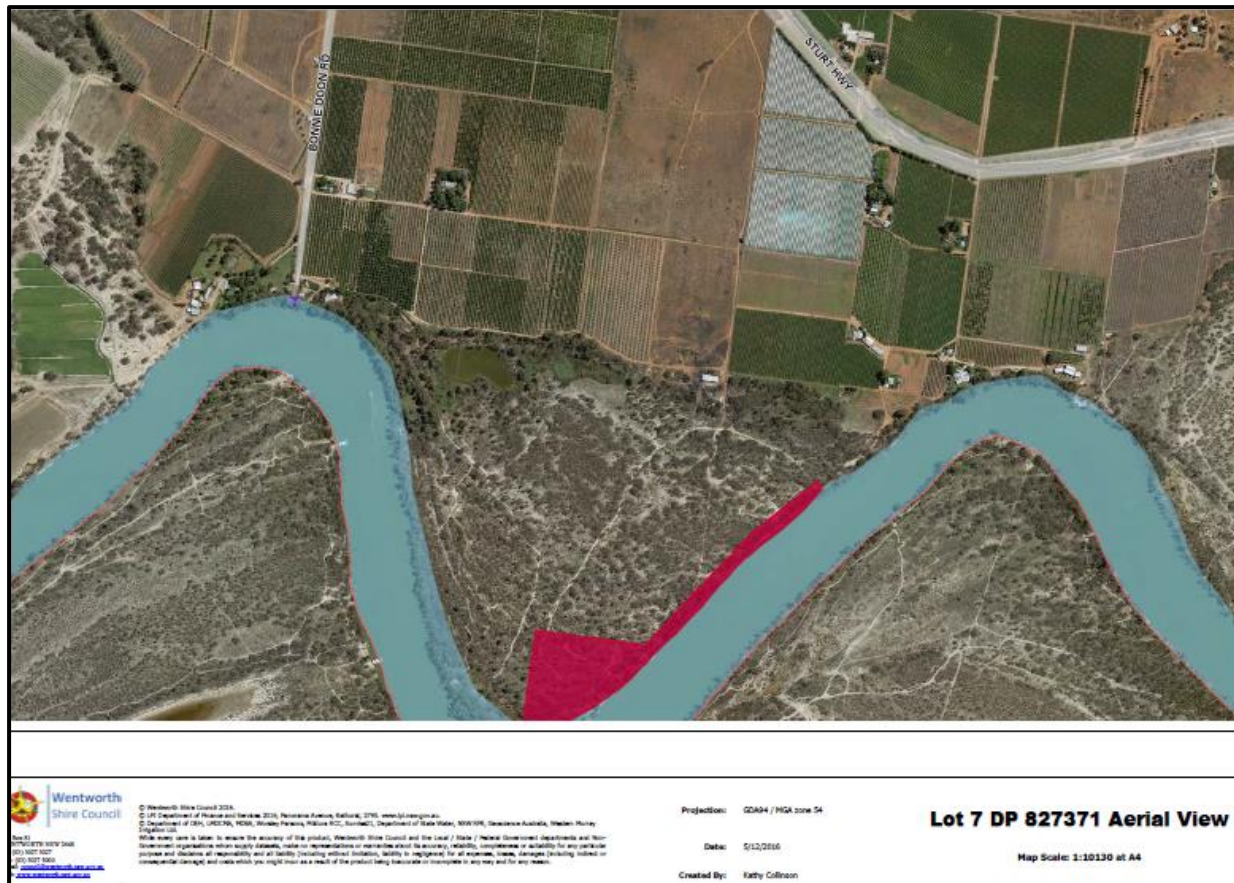


Figure 69: Aerial view of Lot 7 DP 827371

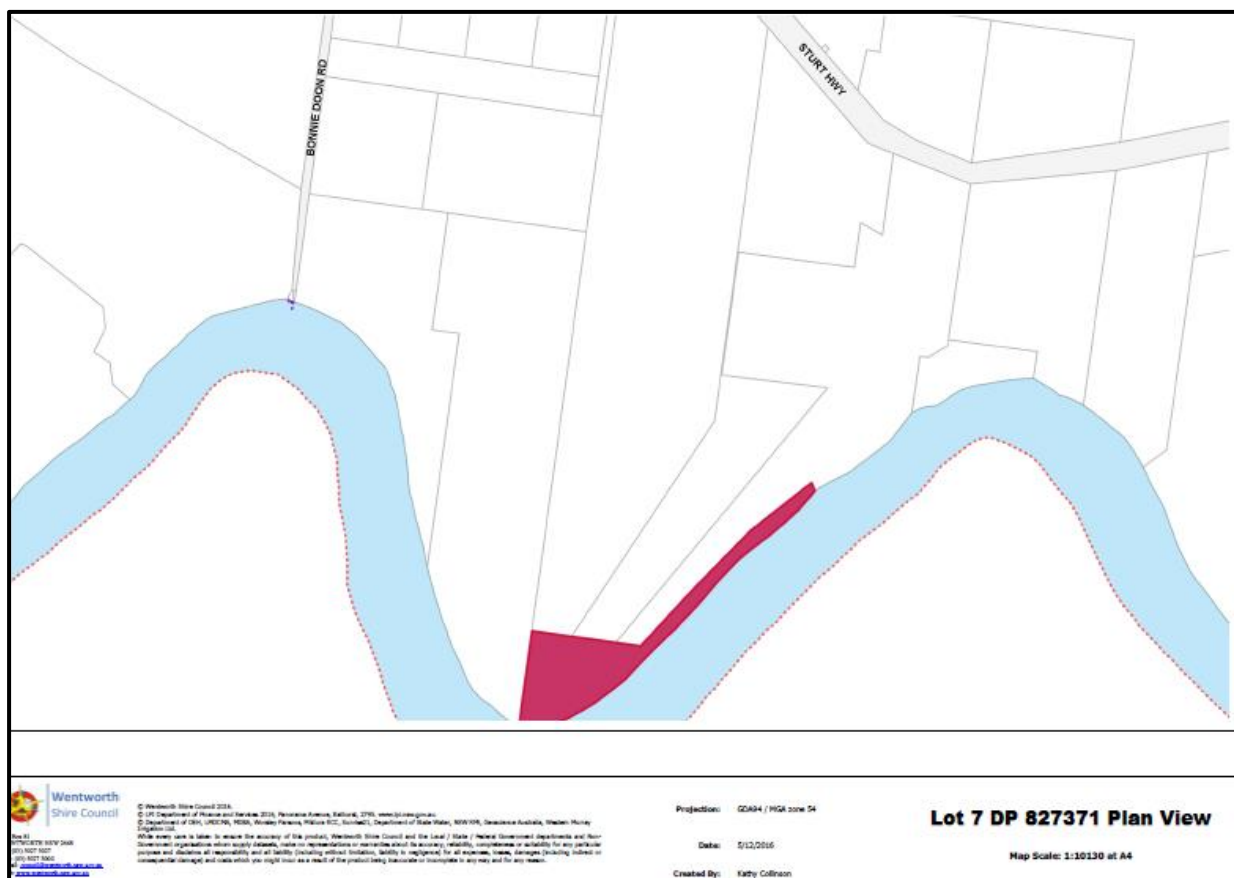


Figure 70: Plan view of Lot 7 DP 827371

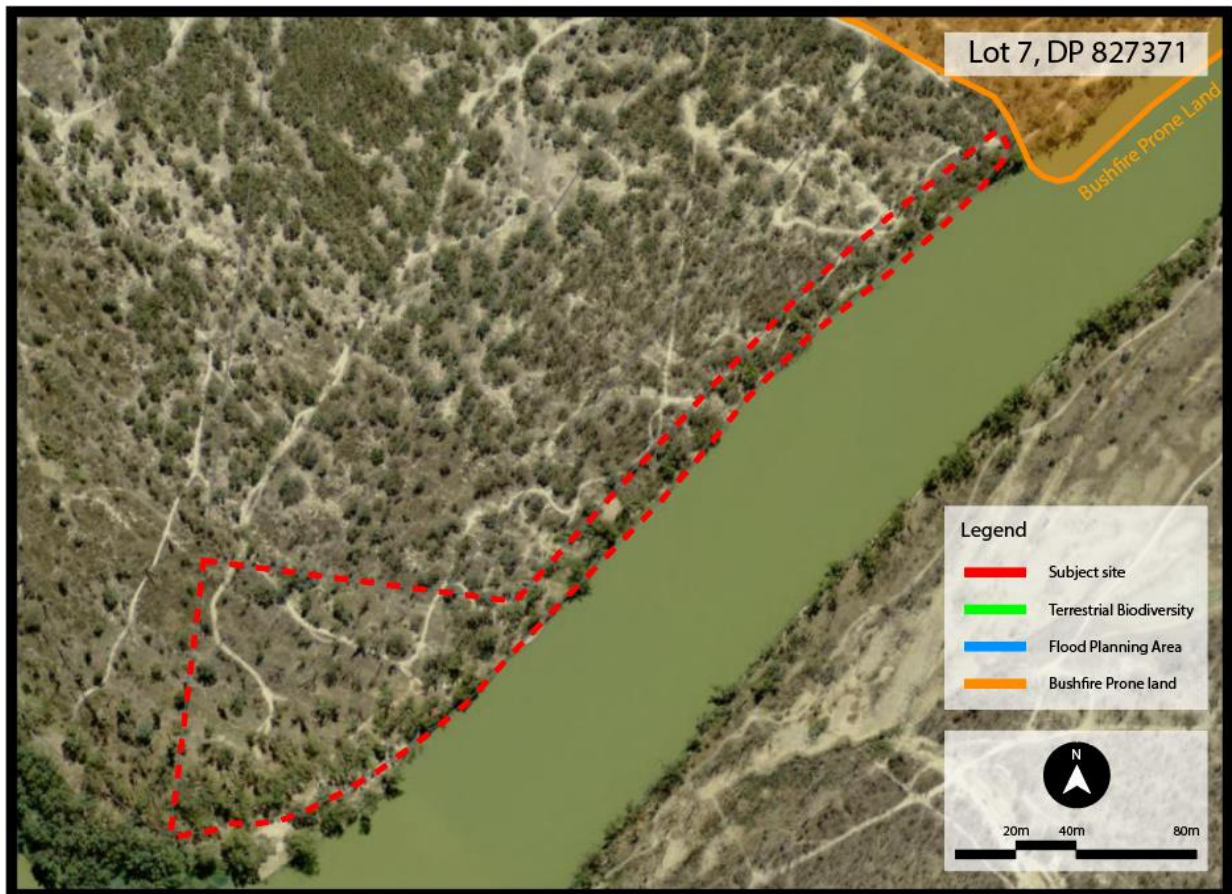


Figure 71: Confirming that bushfire prone land mapping affects Lot 7 DP 827371

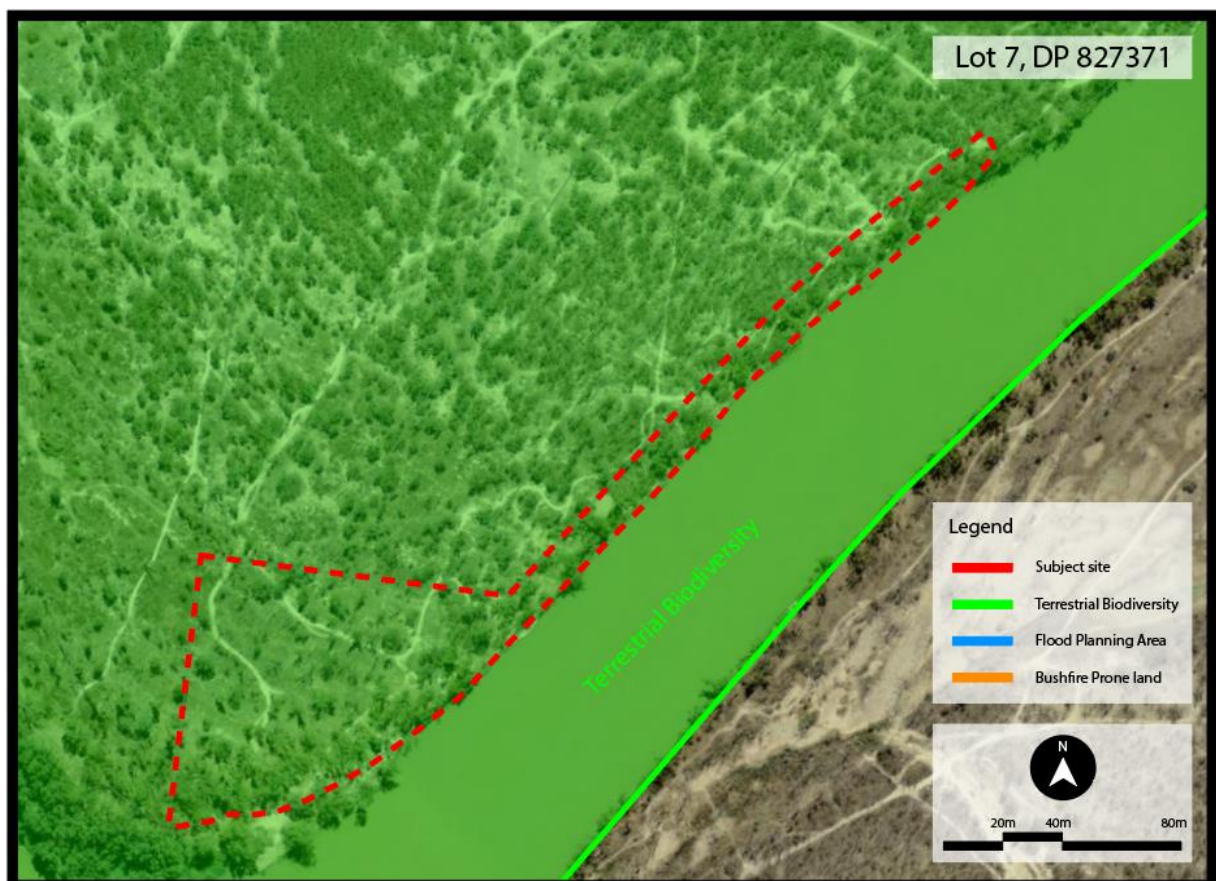


Figure 72: Confirming that terrestrial biodiversity mapping affects Lot 7 DP 827371

Note: No Flood Planning Area mapping exists for Lot 7 DP 827371

Table 17: Summary of salient information on Lot 7 DP 827371

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
Zoning	RU 1 – Primary Production
Minimum Lot size	10,000 ha
Area	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: <ul style="list-style-type: none"> • <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:	<ul style="list-style-type: none"> • 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 Lot 7 DP 827371 to operational land

2.4.18 Lot 10 DP 735148, Pooncarie Road, Wentworth



Figure 73: Aerial view of Lot 10 DP 735148

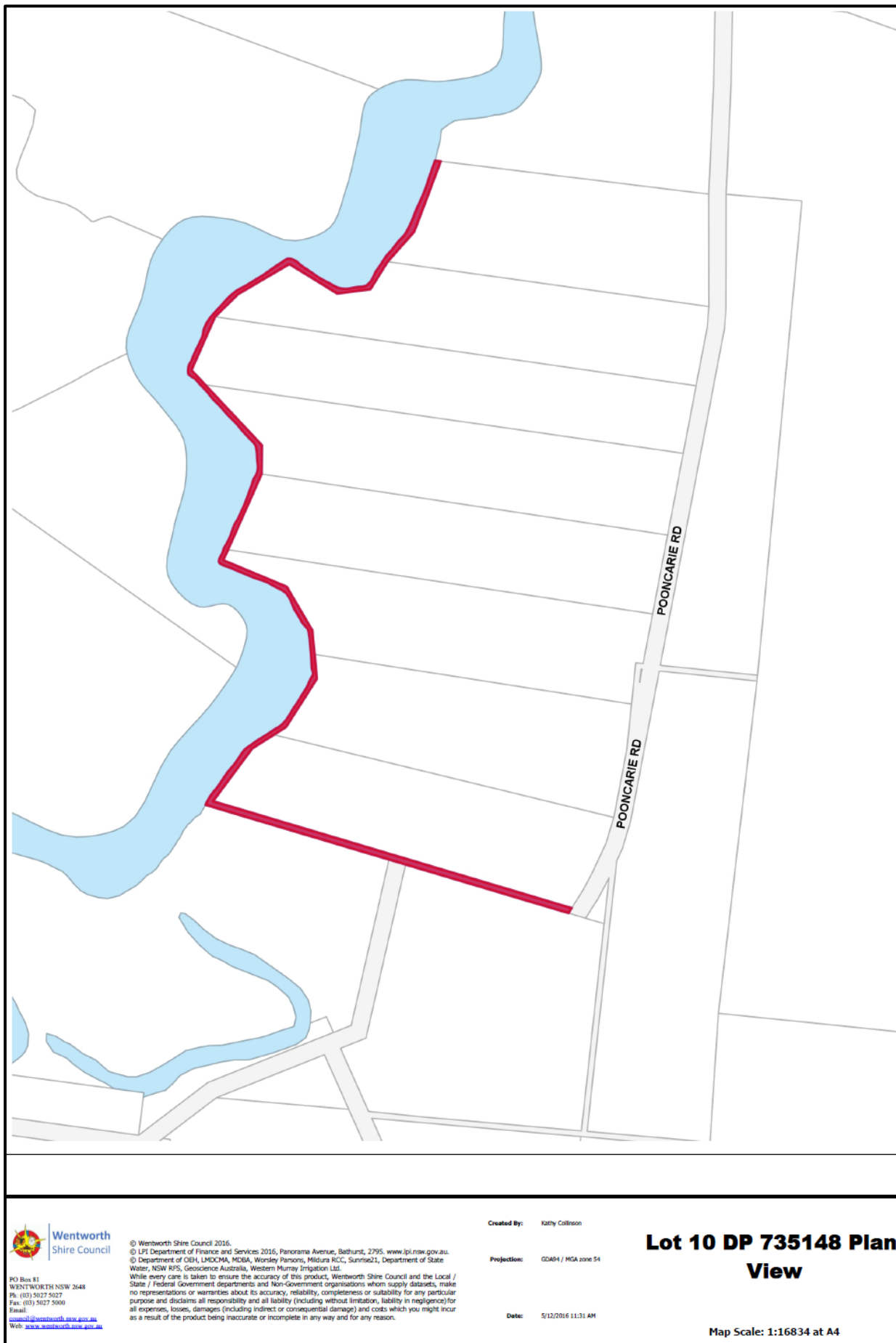


Figure 74: Plan view of Lot 10 DP 735148

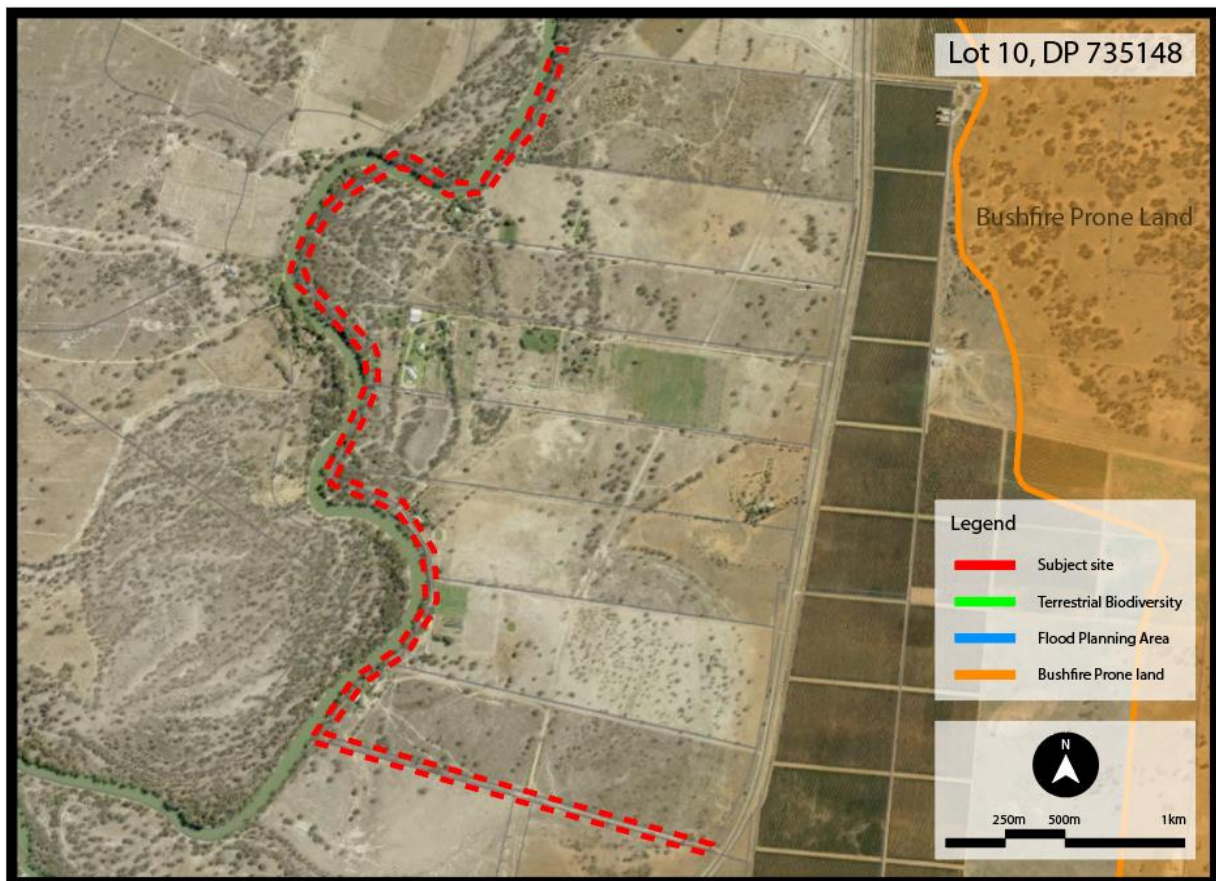


Figure 75: Location of Lot 10 DP 735148 in relation of bushfire prone land

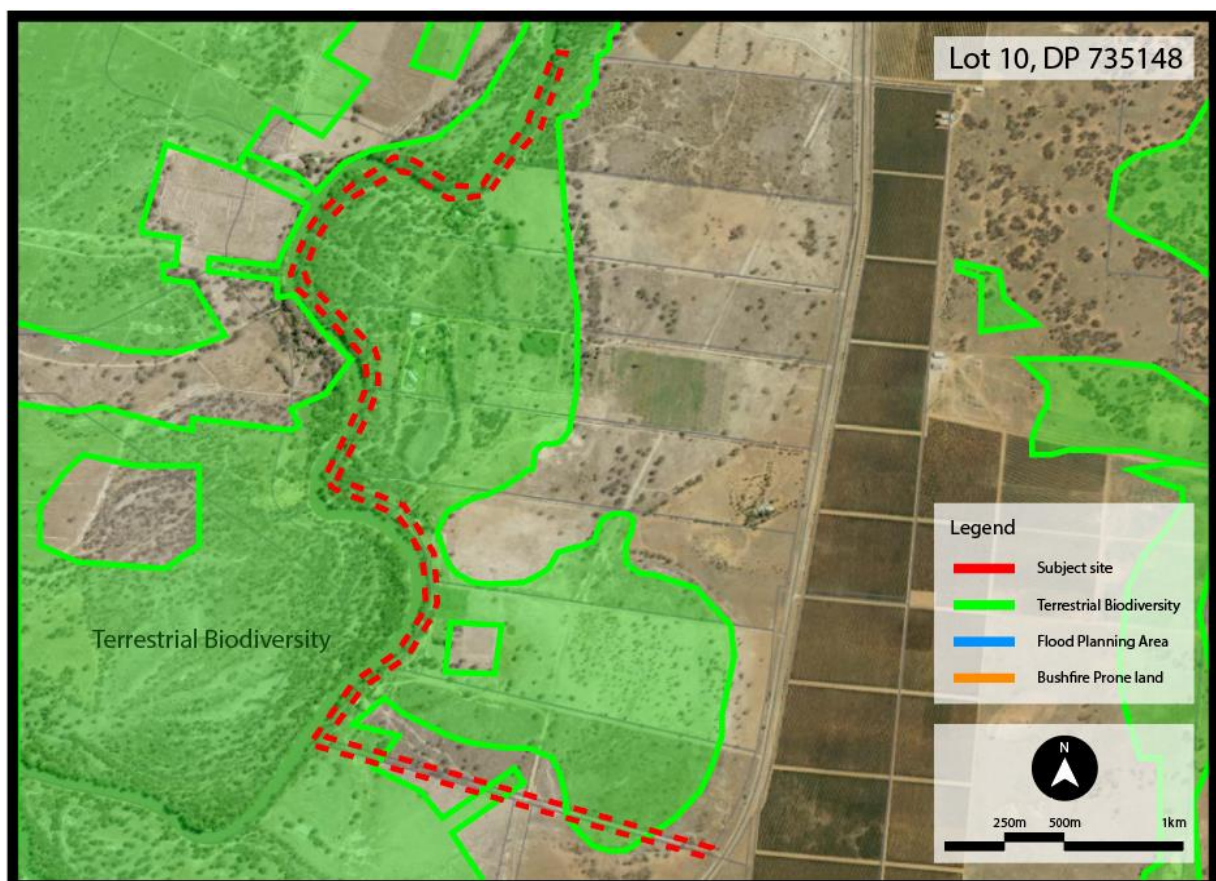


Figure 76: Confirming that terrestrial biodiversity mapping affects Lot 10 DP 735148

Note: No Flood Planning Area mapping exists for Lot 10 DP 735148

Table 18: Summary of salient information on Lot 10 DP 735148

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
Zoning	RU 1 – Primary Production
Minimum Lot size	10,000 ha
Area	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: <ul style="list-style-type: none"> • <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:	<ul style="list-style-type: none"> • 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 Lot 10 DP 735148 to operational land

2.4.19 Lot 10 DP 740361, Cudmore Road, Wentworth

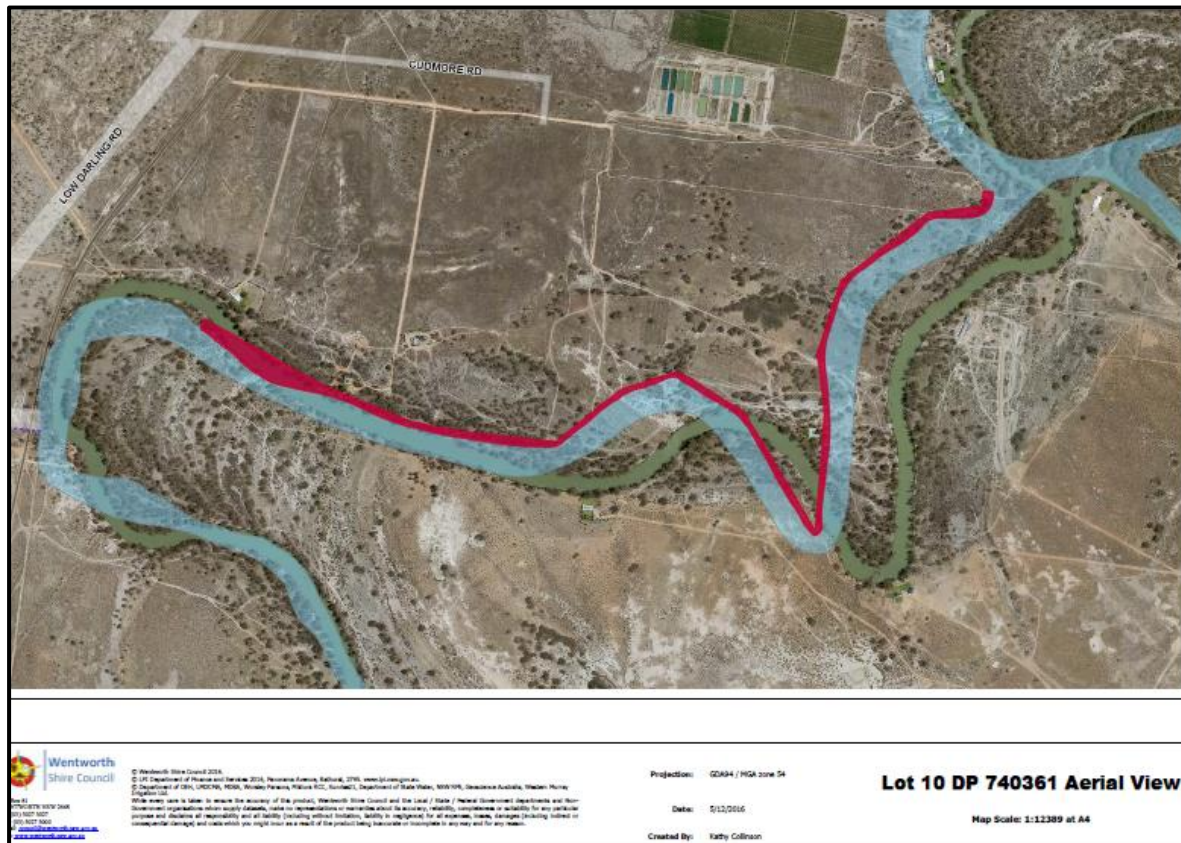


Figure 77: Aerial view of Lot 10 DP 740361

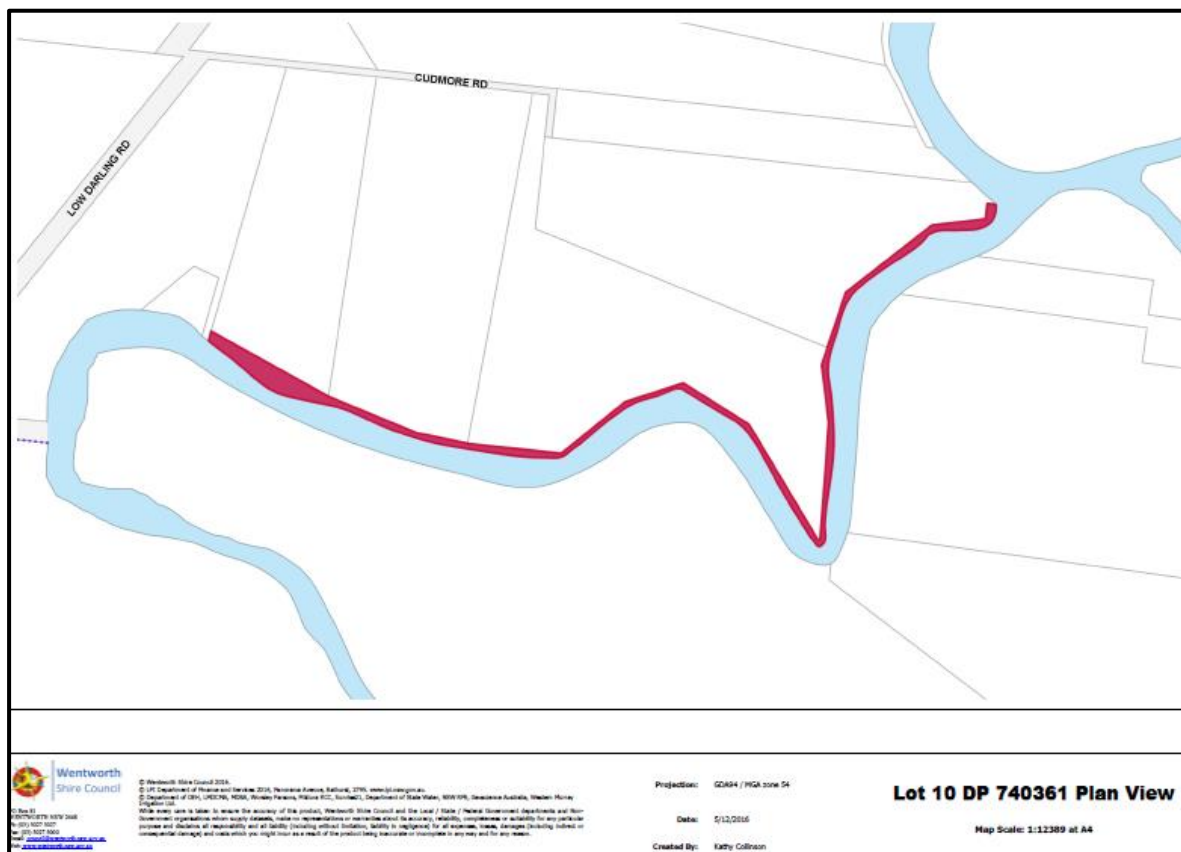


Figure 78: Plan view of Lot 10 DP 740361

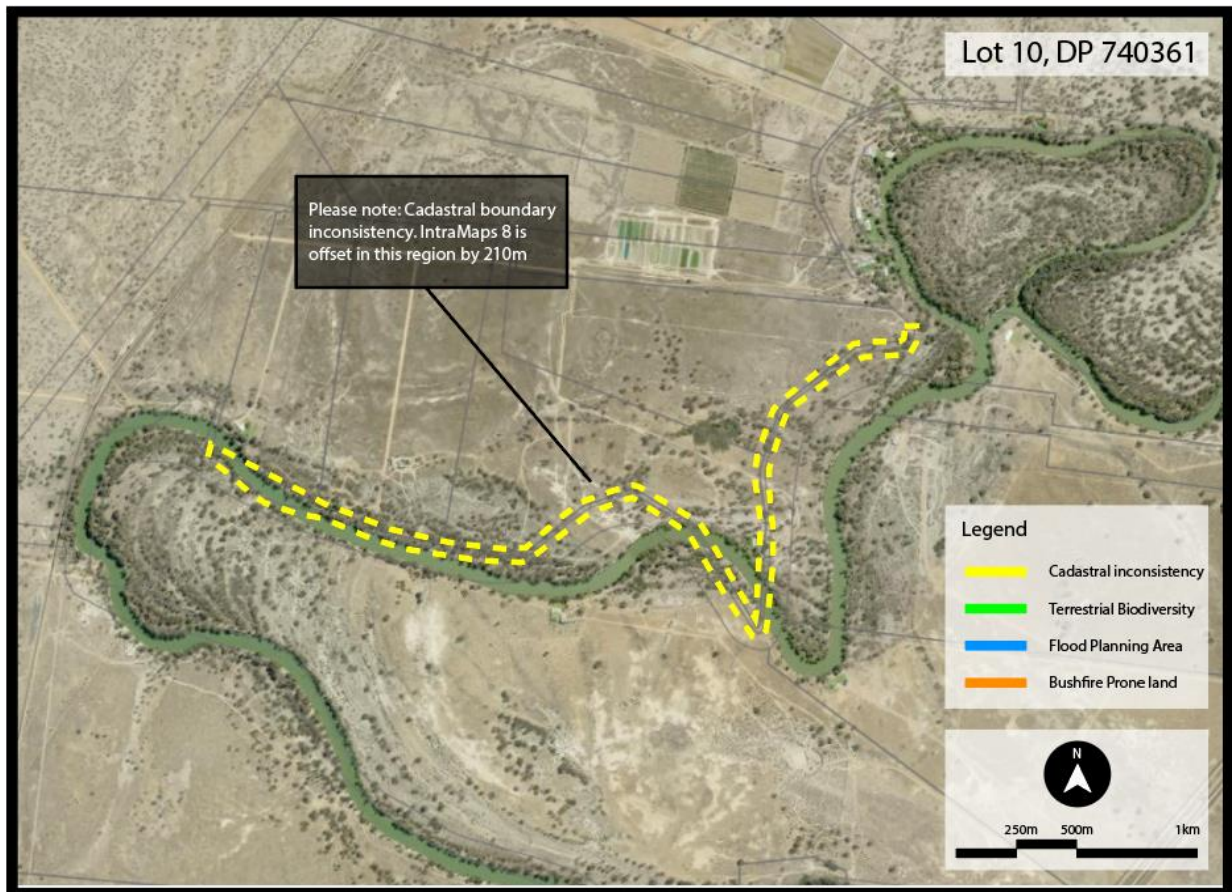


Figure 79: Showing inconsistency in cadastral boundary for Lot 10 DP 740361

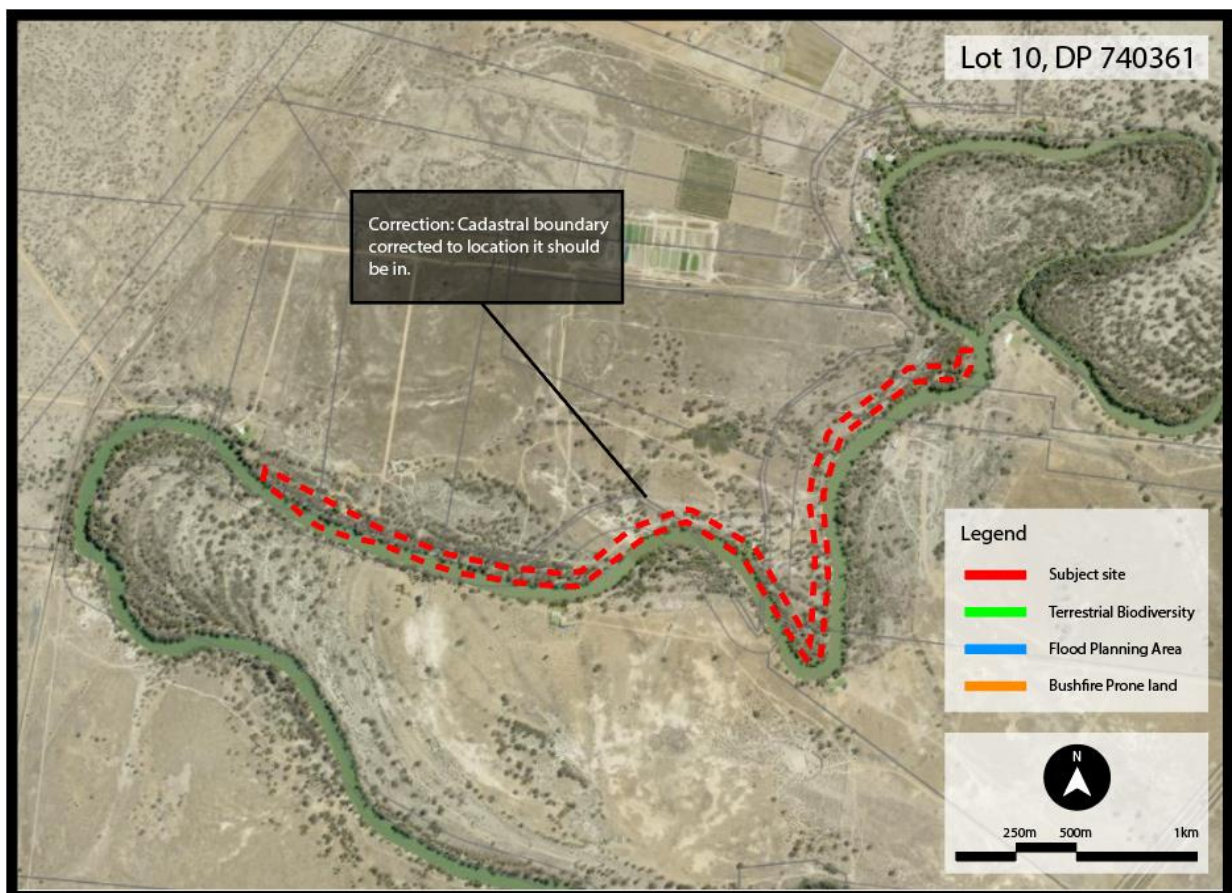


Figure 80: Showing corrected cadastral boundary for Lot 10 DP 740361

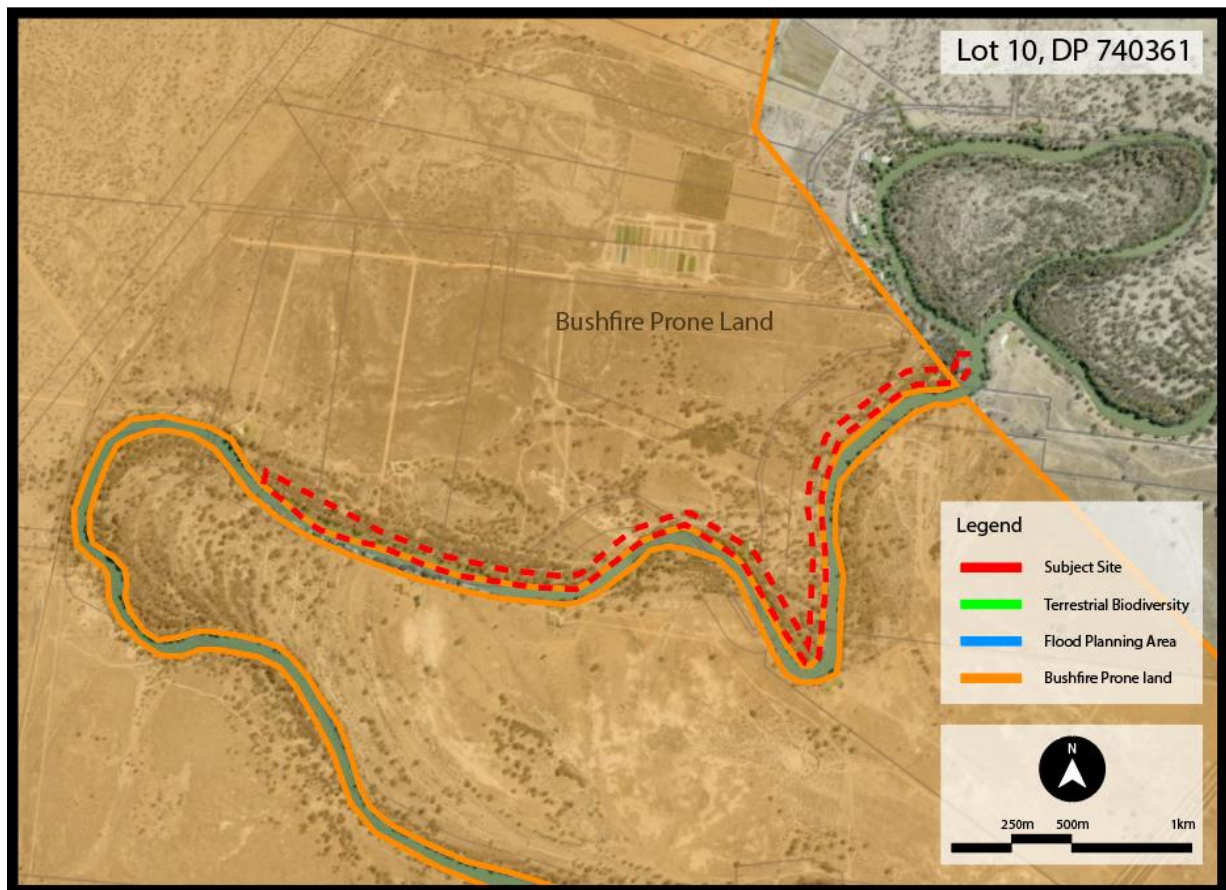


Figure 81: Confirming that bushfire prone land mapping affects Lot 10 DP 740361

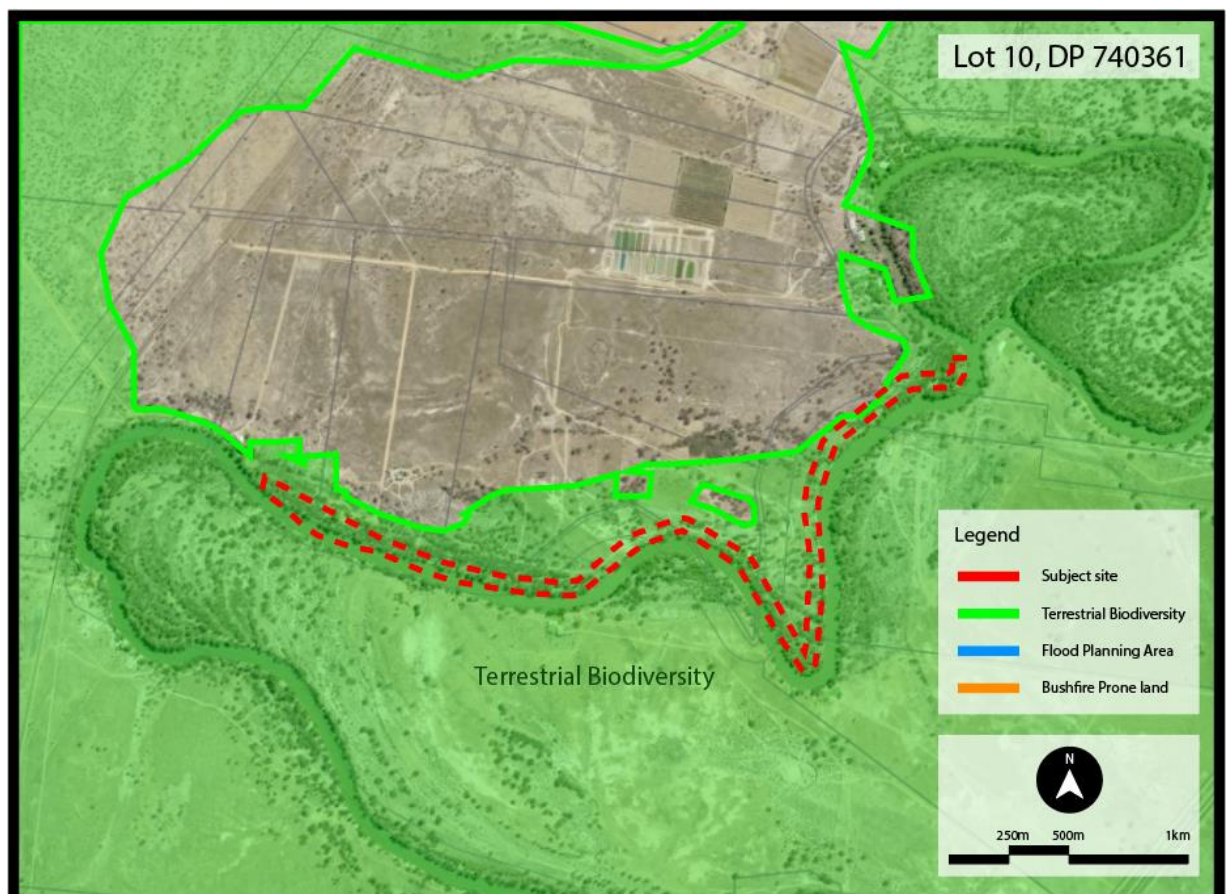


Figure 82: Confirming that terrestrial biodiversity mapping affects Lot 10 DP 740361

Note: No flood planning area mapping exists for Lot 10 DP 740361

Table 19: Summary of salient information on Lot 10 DP 740361

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
Zoning	RU 1 – Primary Production
Minimum Lot size	10,000 ha
Area	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:	<ul style="list-style-type: none"> • 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 Lot 10 DP 740361 to operational land

2.4.20 Lot 11 DP 740361, Low Darling/Cudmore Road, Wentworth

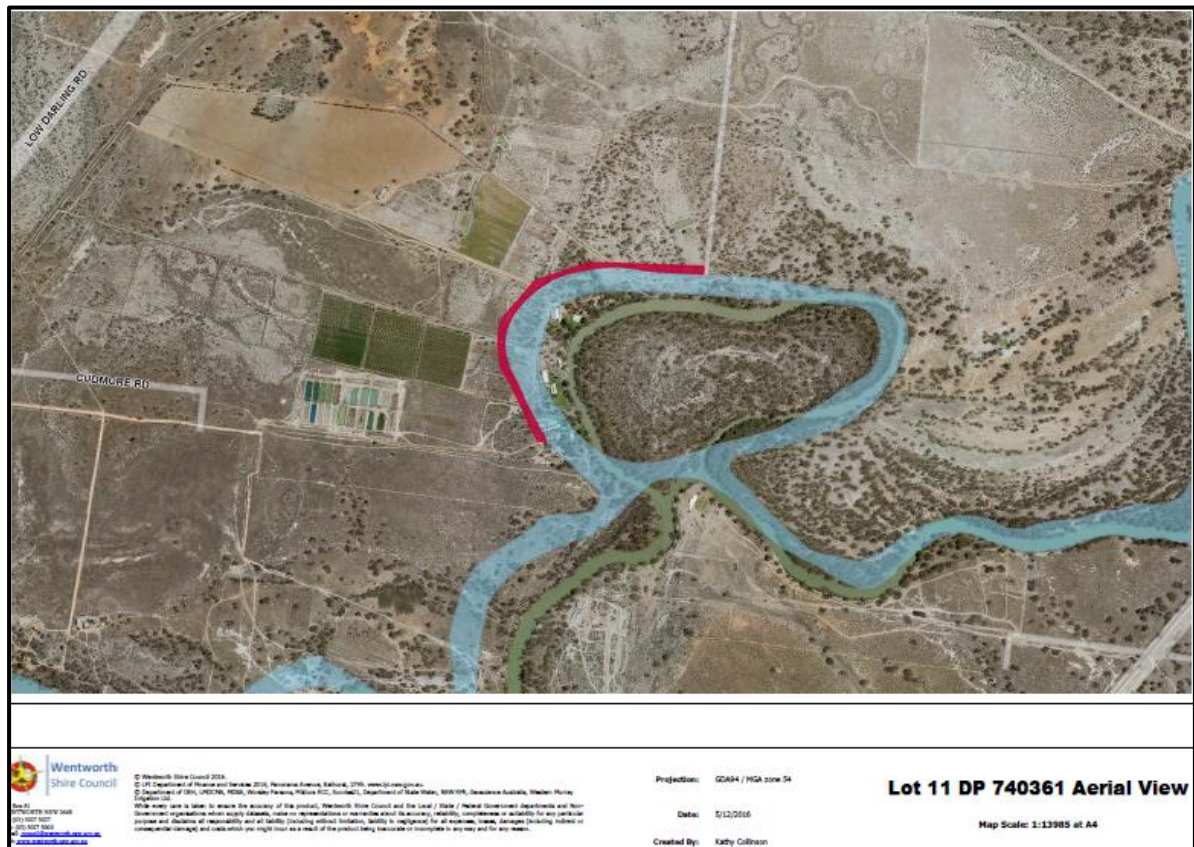


Figure 83: Aerial view of Lot 11 DP 740361

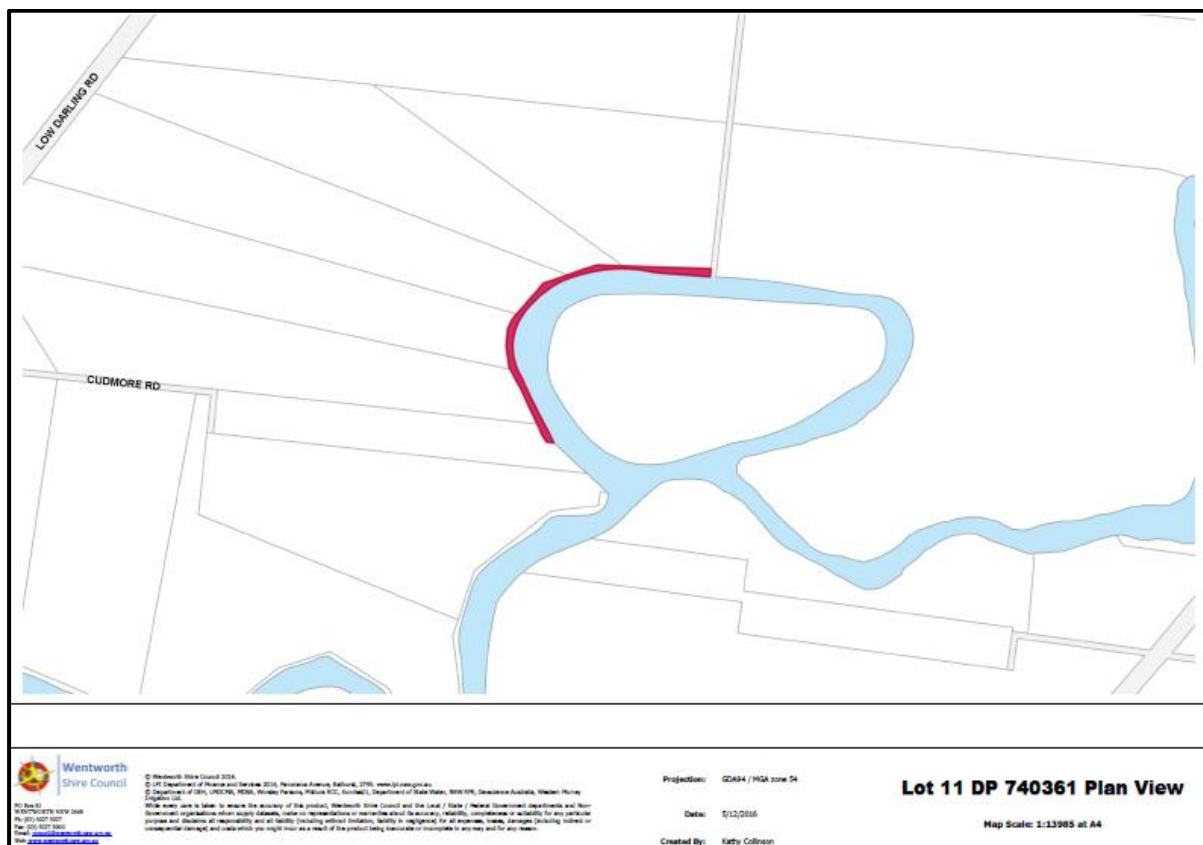


Figure 84: Plan view of Lot 11 DP 740361

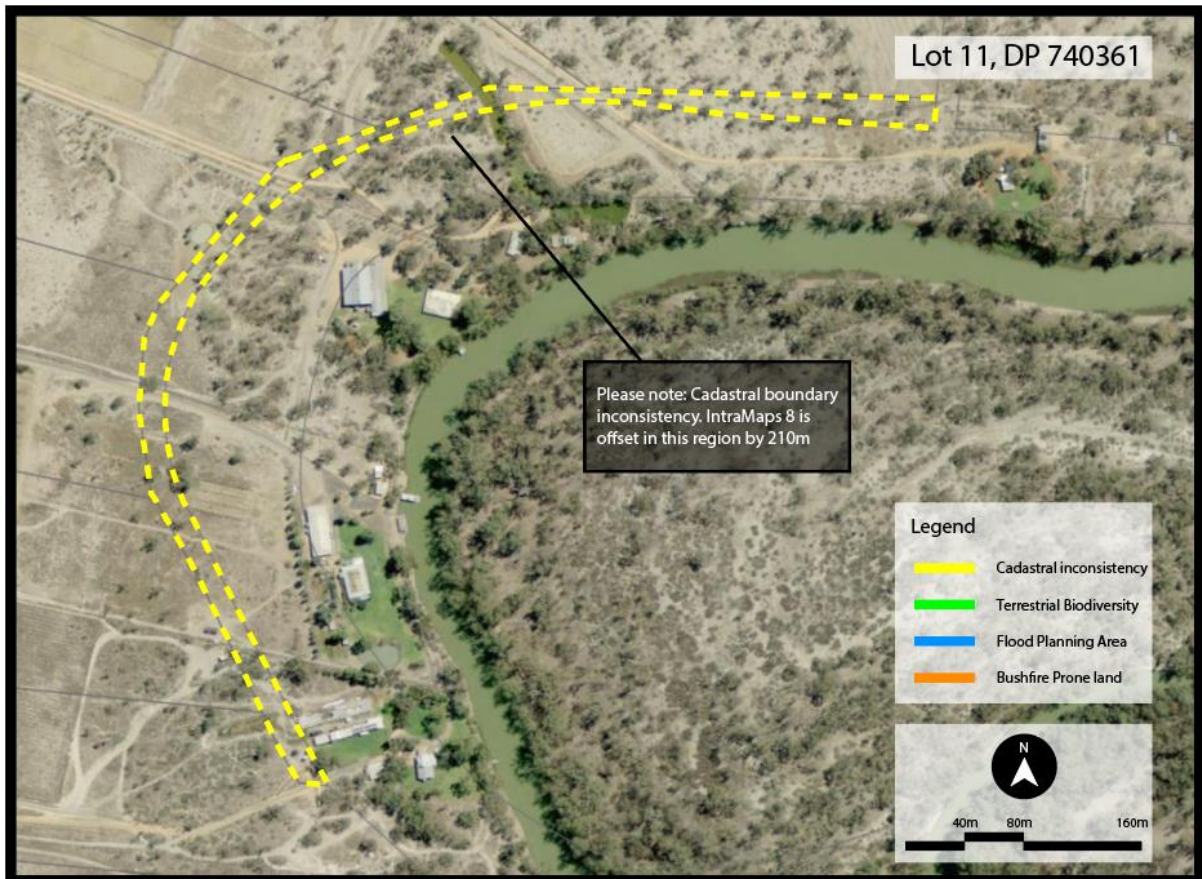


Figure 85: Showing inconsistency in cadastral boundary of Lot 11 DP 740361

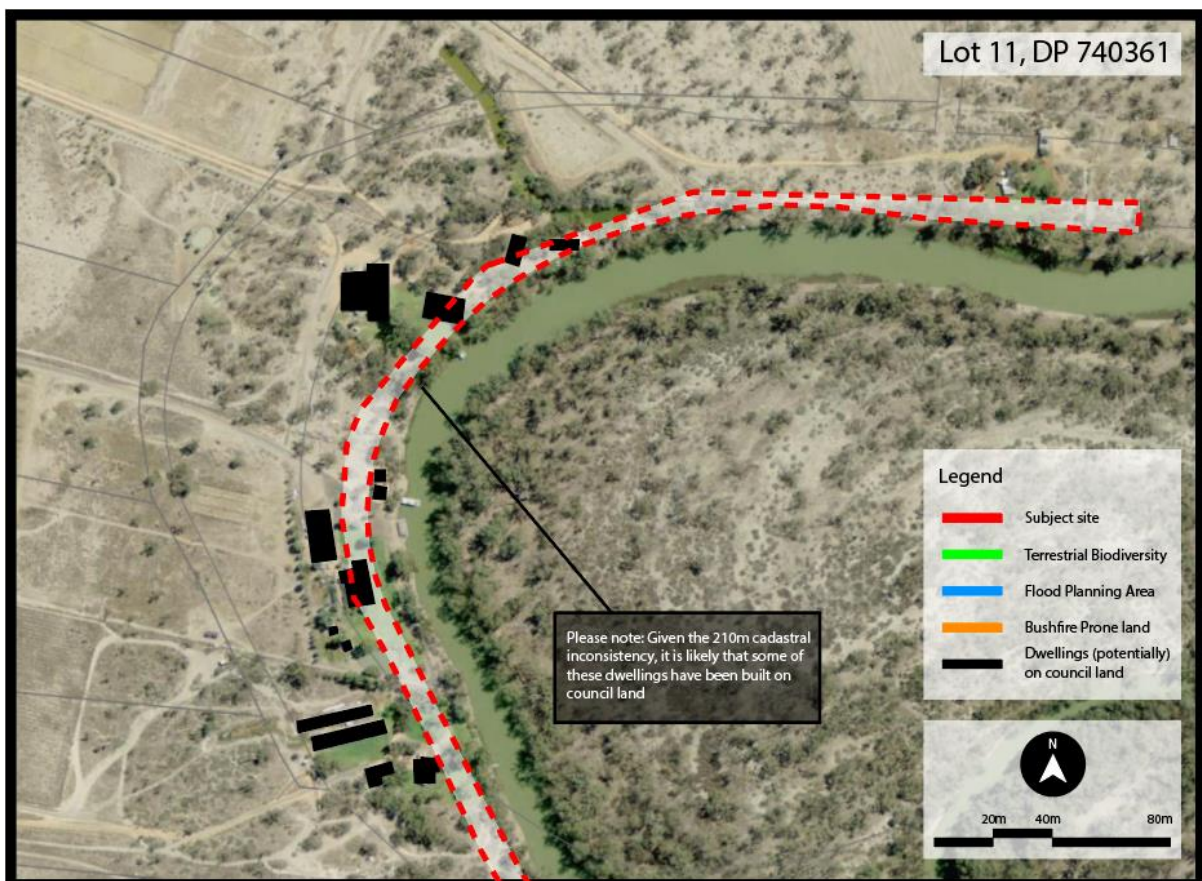


Figure 86: Showing dwellings potentially built on council land (Lot 11 DP 740361)

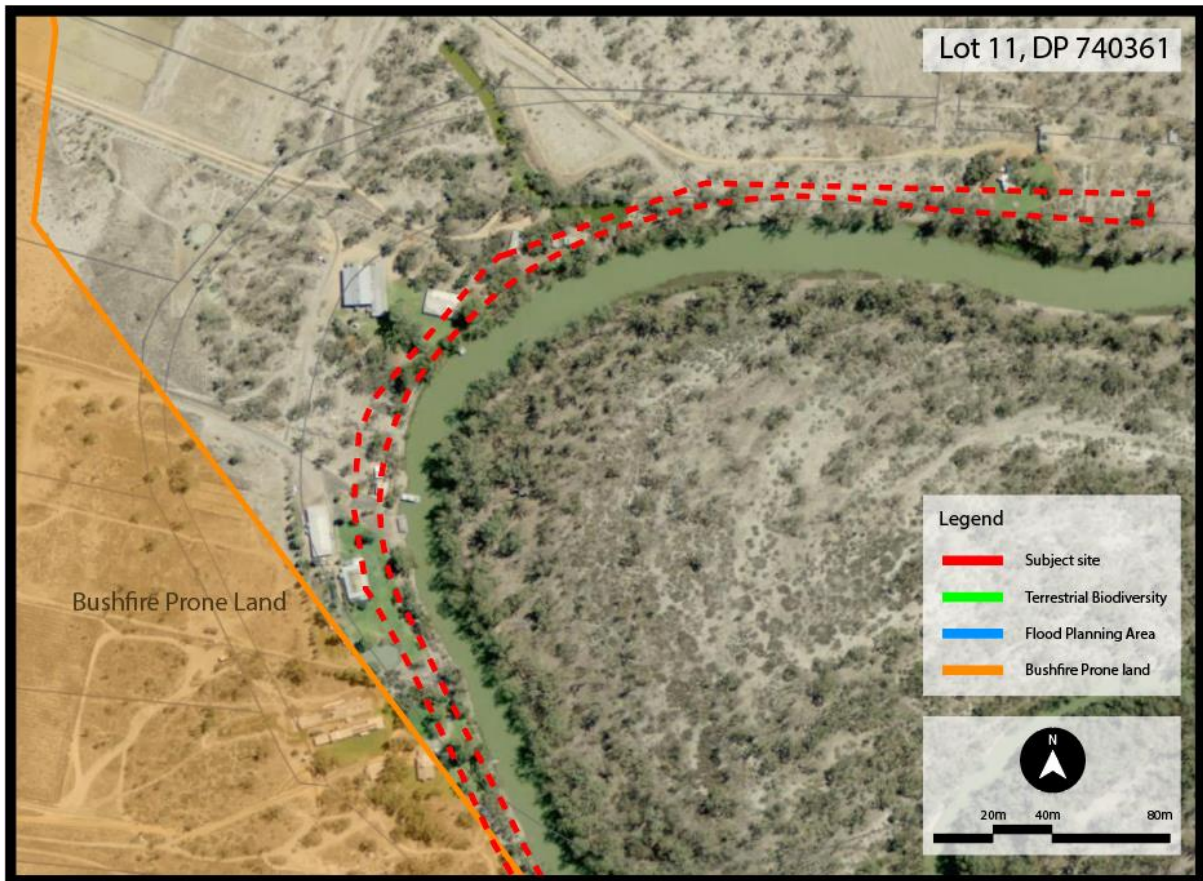


Figure 87: Confirming that bushfire prone land adjoins Lot 11 DP 740361

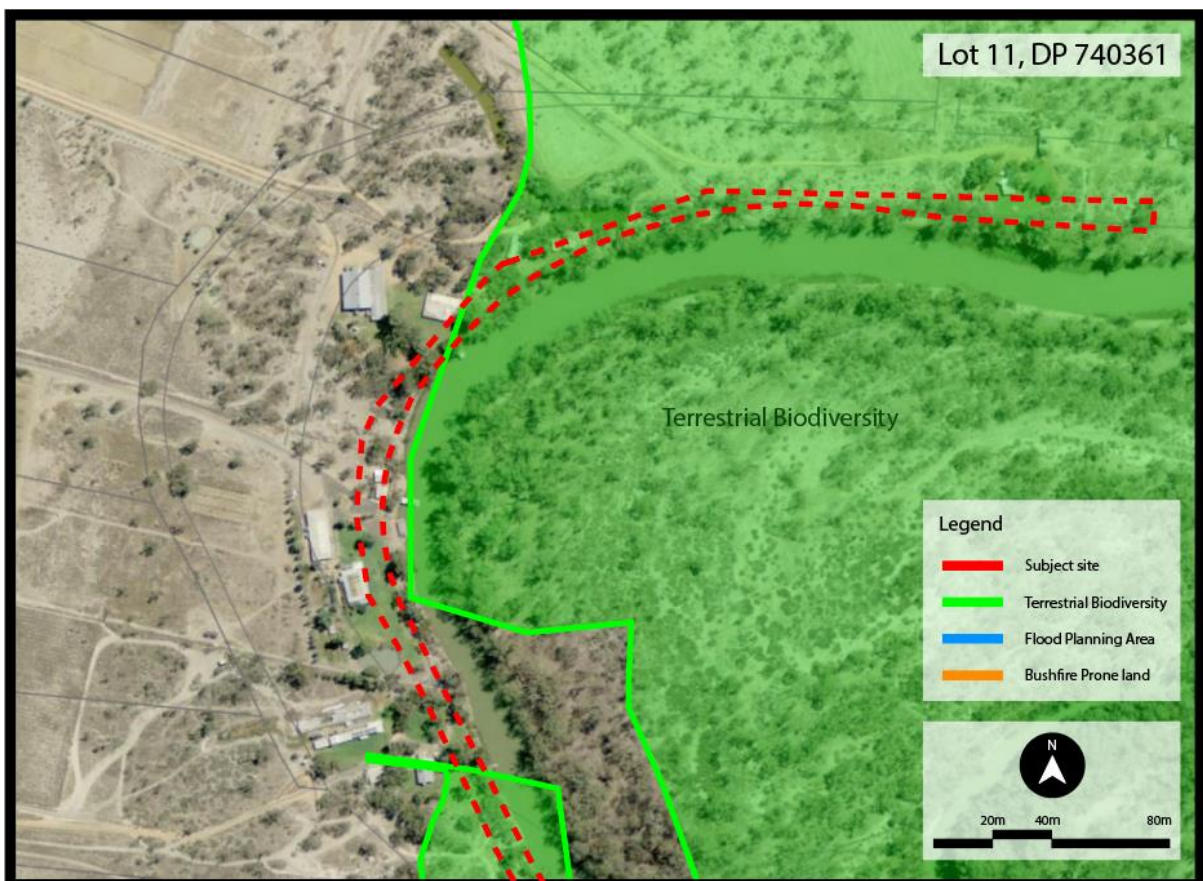


Figure 88: Confirming that terrestrial biodiversity mapping affects Lot 11 DP 740361

Note: No flood planning area mapping exists for Lot 11 DP 740361

Table 20: Summary of salient information on Lot 11 DP 740361

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
Zoning	RU 1 – Primary Production
Minimum Lot size	10,000 ha
Area	
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: <ul style="list-style-type: none"> • <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:	<ul style="list-style-type: none"> • 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 Lot 11 DP 740361 to operational land

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

3.1.1 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.*

3.1.2 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 are not compatible with subdivision and enabling 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.

3.1.3 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

3.2.1 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.

Clause 10 of the Murray Regional Environmental Plan No. 2–Riverine Land (2009) states specific principles to apply for planning and development assessment regarding access to the River Murray as follows:

“Specific principles

When this Part applies, the following must be taken into account:

Access

- * The waterway and much of the foreshore of the River Murray is a public resource. Alienation or obstruction of this resource by or for private purposes should not be supported.*
- * Development along the main channel of the River Murray should be for public purposes. Moorings in the main channel should be for the purposes of short stay occupation only.*
- * Human and stock access to the River Murray should be managed to minimise the adverse impacts of uncontrolled access on the stability of the bank and vegetation growth.*

This Planning Proposal is consistent with the policies in the Murray Regional Environmental Plan No. 2–Riverine Land (2009) regarding public access to the river as all lots recommended for reclassification are currently not accessible from other public land or public road and/or have no evident public use..”

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:

	<ol style="list-style-type: none"> 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.
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<p><i>Buffers, Setbacks and overlays</i></p>	<p>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.</p> <p>9. Investigate the options for revocation of council’s assumed concurrence delegations in relation to the variation of riverfront setbacks.</p> <p>10. Prepare practice notes or similar that detail the various elements of river management including:</p> <ul style="list-style-type: none"> • changing context of the Murray River; • the definition of inside and outside bend; • application of ‘high bank’ and ‘top of bank’ definitions including: <ul style="list-style-type: none"> 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.
<p><i>Waterfront Management</i></p>	<p>11. Develop a multi-agency Waterfront Management Strategy – led by DPE, in conjunction with other state agencies for the River Murray.</p> <p>12. Align existing local tourism and recreation strategies with the Murray Tourist Destination Management Plan.</p> <p>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.</p> <p>14. Support the actions in the Regional Boating Plan Murray-Riverina Region – including partnering on implementation if appropriate.</p> <p>15. Streamline approval process for moorings – through development of supporting guidelines to expedite approvals process and investigating single authority/single approval process.</p>

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).

3.2.2 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 “.

3.2.3 Consistency with State Environmental Planning Policies

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

Table 21: 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 proposed use because of contamination	Not applicable.
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	Nothing in this planning proposal affects the aims and provisions of this SEPP.

	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.	
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 protecting public safety and local amenity.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
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	<p>The SEPP aims to facilitate economic use and development of rural lands, reduce land use conflicts and provides development principles.</p> <p>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.</p> <p>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</p>	<p>This planning proposal proposes the reclassification of a number of lots which are zoned RU1 - Primary Production.</p> <p>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 adjoining lots – thereby enlarging areas of the existing adjoining lots.</p> <p>It is concluded that there are no inconsistencies with this SEPP.</p>

	<p>principles listed in Clause 7 of this SEPP.</p> <p>The most relevant principles for this Planning Proposal are:</p> <ul style="list-style-type: none"> • 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 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

3.2.4 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 22: 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 adjoining lots – thereby enlarging areas of the existing adjoining 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 issues that must be addressed when rezoning land adjacent to an existing shooting range.	Not applicable
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	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

	flood impacts both on and off the subject land.	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	All of the subject lots were transferred to Council ownership as contributions to public and environmental benefit and were integral to

	<p>public purposes where the land is no longer required for acquisition.</p> <p>The objectives of this direction are:</p> <p>(a) to facilitate the provision of public services and facilities by reserving land for public purposes, and</p> <p>(b) to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.</p> <p>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).</p> <p>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:</p> <p>(a) reserve the land in accordance with the request, and</p> <p>(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</p> <p>(c) identify the relevant acquiring authority for the land.</p> <p>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</p>	<p>consents for the subdivision of adjoining land.</p> <p>None of the lots were concurrently or subsequently rezoned to 6(a) Public Open Space.</p> <p>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.</p> <p>The Planning Proposal recommends amendments to the Lot Size map in Wentworth LEP 2011 as relevant to subject lots on the bases that:</p> <ul style="list-style-type: none"> • 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. <p>Hence, there are no inconsistencies with this Direction.</p>
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	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

3.3.1 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:

3.3.2 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.

3.3.3 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.

3.3.4 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.

3.3.5 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.

Pre-Gateway consultation was initiated with relevant government agencies in the preparation of this Planning Proposal. The Gateway Determination subsequently required that Council consult with specific government agencies and receive their feedback as part of the exhibition phase..

3.3.6 Pre-Gateway Consultation

Pre-Gateway consultation was conducted with the Department of Planning and Environment (DPE), Office of Environment and Heritage (OEH) and Water NSW during February 2017 with the following feedback:

Department of Planning and Environment (DPE):

The key points of feedback from DPE were:

- *“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”.*

Office of Environment and Heritage (OEH):

“Key points from OEH were:

- *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:

The key points from Water NSW were:

- *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.

3.3.7 Post Gateway Determination

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

Included in the Gateway Determination of 31 August 2017 were:

- a) Requirements to amend the Planning Proposal to the effect that:
 - No minimum lot size changes are made for the subject riverfront lots; and
 - Consistency with the Murray REP No 2 is addressed in terms of access principles. and
- b) Requirements for consultation with the following State agencies:
 - NSW Office of Environment and Heritage;
 - PDI – Water and Fisheries;
 - The Murray Darling Basin Authority; and
 - Crown Lands.

NSW Office of Environment and Heritage

The response from OEH (9 January 2018) was as follows:

I refer to your email dated 22 December 2017 seeking comment from the Office of Environment and Heritage (OEH) on the above Planning Proposal (PP_2017_WENT_002_00). We understand that the Planning Proposal seeks to reclassify 20 predominantly riverfront land parcels from

Community to Operational Land. OEH has reviewed the information provided with this planning proposal and detailed comments are provided below.

It is noted that there will be no change in the zoning of any lots. In addition, the Department of Planning & Environment's Gateway Determination states that minimum lot size is not to be changed. From this we understand that reclassified lots will be consolidated with adjoining lots, rather than subdivided.

We have provided comments on each of the lots being considered for reclassification. Most of these relate to the Gateway Determination requirement that 'Council is to carefully consider the interests on each parcel and clearly determine which interests are to be extinguished and what are to be retained'.

Any future development on the reclassified lots will need to consider potential impacts on biodiversity, Aboriginal cultural heritage (ACH) and flooding.

We recommend that Council prepare a package of information to be made available to potential purchasers of the reclassified lots. This would include the OEH requirements for future development:

- An assessment of impacts on biodiversity, consistent with the requirements of the Biodiversity Conservation Act 2016. Proponents for future developments on these lots will need to determine whether the Biodiversity Offset Scheme applies to their proposed activity.*
- An ACH assessment in accordance with the Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW.*

Detailed comments on Planning Proposal to amend Wentworth LEP 2011 – Reclassification of Riverfront Land

Reclassification of lots

This Planning Proposal seeks to reclassify 20 lots from Community to Operational Land, to enable Council to sell these lots to adjoining landholders.

It is noted that there will be no change in the zoning of any lots. In addition, the Gateway Determination states that minimum lot size (MLS) is not to be changed. This means that subdivision of the reclassified lots is not permitted, rather the reclassified lots will be consolidated with adjoining lots.

We note that in the Gateway Determination letter, the Department of Planning & Environment (DPE) states that 'Council is to carefully consider the interests on each parcel and clearly determine which interests are to be extinguished and what are to be retained'. This is relevant for many of the lots as identified in the table below. The comments in this table are in relation to the reclassification of these lots from Community to Operational Land. Additional comments relating to future development on these lots with respect to OEH's legislative responsibilities are provided.

Considerations for future development on reclassified lots

We recommend that Council prepare a package of information to be made available to potential purchasers of the reclassified lots. This would cover OEH requirements for future development regarding biodiversity and Aboriginal cultural heritage (ACH) and could include information from other agencies.

We note that DPE is coordinating the preparation of a Waterfront Management Strategy that will address, among other things, the matter of setbacks along the Murray River. In the meantime, the existing provisions in the Wentworth LEP 2011 continue to apply.

Biodiversity

Many of the lots proposed for reclassification to Operational Land contain native vegetation. For most lots this includes River Red Gums. These trees may contain hollows that provide roosting and breeding habitat for fauna, including threatened species. Any future development on the

reclassified lots will need to consider potential impacts on biodiversity, consistent with the requirements of the Biodiversity Conservation Act 2016. Proponents for future developments (submitted after 25 February 2018) on these lots will need to determine whether the Biodiversity Offset Scheme (BOS) applies to their proposed activity. The BOS Threshold is a test used to determine when the Biodiversity Assessment Method (BAM) is required to assess the impacts of a proposal. Depending on the nature of the development, the area clearing threshold may be triggered. It is likely that for most of these lots the Biodiversity Values Map threshold would be triggered, because these sites include protected riparian land. If these two elements of the threshold test are not triggered, proponents would also be required to carry out a 'test of significance'. This will determine whether impacts other than those associated with clearing of native vegetation will have a significant impact on biodiversity (particularly threatened species).

The environmental impact of development proposals that do not exceed the BOS Threshold and will not otherwise have a significant impact on biodiversity values as assessed by the 'test of significance' continue to be assessed under s 79C of the Environmental Planning and Assessment Act 1979.

If the proposed development is impacting on a species or community listed under the Federal Environment Protection and Biodiversity Conservation Act 1999 then separate approval from the Department of Environment and Energy may be required.

For further information:

Biodiversity Conservation Act 2016 -
www.legislation.nsw.gov.au/#/view/act/2016/63

Overview of the Biodiversity Offsets Scheme -
www.environment.nsw.gov.au/biodiversity/offsetsscheme.htm

Biodiversity Offset Scheme Threshold -
www.environment.nsw.gov.au/biodiversity/entryrequirements.htm (this also has a link to the Biodiversity Values Map Viewer)

Aboriginal cultural heritage

OEH has a statutory role under the National Parks and Wildlife Act 1974 (NPW Act) in the protection and preservation of Aboriginal sites in NSW. It is an offence to do any of the following things without an exemption or defence provided for under the NPW Act and penalties apply:

- Knowingly harm or desecrate an Aboriginal object (the 'knowing' offence)
- Harm or desecrate an Aboriginal object or Aboriginal place (the 'strict liability' offence).

Any future development of the reclassified lots will need to consider potential impacts on ACH. This is particularly important as all lots being considered for reclassification are considered to have the potential for the occurrence of ACH, given their proximity 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 for future development undertake an assessment in accordance with the Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW (DECCW 2010), including a visual inspection undertaken by a person/s with expertise in locating and identifying Aboriginal sites and objects:

1. To identify whether or not Aboriginal objects are, or are likely to be, present in the proposed development area;
2. To determine whether or not the proposed activities are likely to harm Aboriginal objects (if present); and

3. 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.

Flooding

Many of the reclassified lots are within the Flood Planning Area of the Wentworth LEP 2011. Consequently, any future development on the reclassified lots will need to consider flooding impacts.”

Comments were made for individual parcels as relevant to specific lots and these are fully included in the summary table below which combines comments from OEH and Crown Lands.

Department of Industry, Crown Lands and Water (Far West Region) – (9 February 2018)

This Department reaffirms that all of the subject parcels are freehold land and has no objections to the proposed re-classifications. Comments were made for individual parcels as relevant to specific lots and these are fully included in the summary table below which combines comments from OEH and Crown Lands.

Table 23: Combined specific comments on the lots proposed for re-classification by OEH and Crown Lands

Lot details	OEH	DPI – CROWN LANDS AND WATER
Lot 1 DP 803099 River Rd, Mourquong	No issues	Listed under Schedule 5 of Barkandji Consent Determination – Extinguished area
Lot 2 DP 583614 Nevill St, Wentworth	No issues (note that MLS is not required to be applied consistent with RU5 Rural Living zoning)	Listed under Schedule 5 of Barkandji Consent Determination – Extinguished area
Lot 2 DP 789452 River Rd, Pomona	No issues	Listed under Schedule 5 of Barkandji Consent Determination – Extinguished area
Lot 3 DP 576696 Sturt Hwy, Trentham Cliffs	No issues	Not listed in Barkandji Consent Determination
Lot 3 DP 616182 Boeill Ck Rd, Boeill Ck	No issues	<ul style="list-style-type: none"> Listed under Schedule 5 of Barkandji Consent Determination – Extinguished area; Licence 430845 to Mildura Rural City Council for concrete ramp – being concrete ramp opposite Lot 3 DP

		616182 on the southern bank of the Murray River
Lot 3 DP 631732 Pooncarie Rd, Wentworth	Adjoins Lot 4 DP 631732 (below). Page 28 of the Planning Proposal states that current single adjoining landowner is not interested in purchasing. It is further stated that reclassification to Operational Land would enable potential subdivision and offer for sale. This is irrelevant until there is a change in ownership of the adjoining land.	Listed under Schedule 5 of Barkandji Consent Determination – Extinguished area
Lot 4 DP 631732 Pooncarie Rd, Wentworth	Adjoins Lot 3 DP 631732 (above). Page 32 of the Planning Proposal states that the current single adjoining landowner is not interested in purchasing. It is further stated that reclassification to Operational Land would enable potential subdivision and offer for sale. This is irrelevant until there is a change in ownership of the adjoining land.	Listed under Schedule 5 of Barkandji Consent Determination – Extinguished area
Lot 3 DP 776526 Sturt Hwy, Trentham Cliffs	On page 38 of the Planning Proposal the 'Proposed Classification' is stated as 'Retain as Community Land' but the recommendation is to reclassify this to Operational Land. It is assumed that the intention is to reclassify this lot to Operational Land consistent with the remainder of the discussion about this lot. 2 adjoining landowners are interested in purchasing. Given this it must be clarified which interests are to be extinguished and which retained.	<ul style="list-style-type: none"> • Not listed in Barkandji Consent Determination; • Licence 349754 to Bradley Ronald Woods & Gail Woods for mooring piles, pipeline, pump site, steps – on the bank of the Murray River and fronting Lot 3 DP 776526
Lot 3, DP 786951 Pitman Rd West, Buronga	No issues	Listed under Schedule 5 of Barkandji Consent Determination – Extinguished area
Lot 3 DP 788830 Florence Rd, Wentworth	No issues	Listed under Schedule 5 of Barkandji Consent Determination – Extinguished area
Lot 4 DP 733472 Sturt Hwy, Gol Gol	OEH datasets indicate that the two adjoining lots to the south fronting the	Not listed in Barkandji Consent Determination

	<p><i>Murray River may also be Crown Land. If these adjoining lots are</i></p> <p><i>Community Land this may have implications for the reclassification decision regarding this lot. This should be clarified before proceeding.</i></p>	
<p><i>Lot 4 DP 746063</i></p> <p><i>Boeill Creek Rd, Boeill Creek</i></p>	<p><i>2 of 3 adjoining landowners are interested in purchasing.</i></p> <p><i>Given this it must be clarified which interests are to be extinguished and which retained.</i></p>	<ul style="list-style-type: none"> • <i>Listed under Schedule 5 of Barkandji Consent Determination – Extinguished area;</i> • <i>Licence 383535 to BA and SE Patterson for Jetty – on the Murray River fronting Lot 4, DP 746063;</i> • <i>Unapproved licence 401232 to HJ and SM Ferry for pontoon and steps – attached to the bank of the Murray River and steps on the bank adjacent to Lot 4 DP 746063;</i>
<p><i>Lot 4 DP 777861</i></p> <p><i>Boeill Creek Rd, Boeill Creek</i></p>	<p><i>2 of 3 adjoining landowners are interested in purchasing.</i></p> <p><i>Given this it must be clarified which interests are to be extinguished and which retained.</i></p>	<ul style="list-style-type: none"> • <i>Listed under Schedule 5 of Barkandji Consent Determination – Extinguished area;</i> • <i>Licence 561358 to PA and PR Thomas for concrete ramp, pipeline and pontoon – Crown land being bed and bank of the Murray River adjacent to Lot 4 DP 777861 (part reserve 1011268 for future public requirements, notified 3 Feb 2006 and part Reserve 84334 from sale or lease, notified 22 Mar 1963</i>

Lot 5 DP 775245 Darling View Rd/Kelso Rd, Wentworth	2 of 4 adjoining landowners are interested in purchasing. Given this it must be clarified which interests are to be extinguished and which retained.	Listed under Schedule 5 of Barkandji Consent Determination – Extinguished area
Lot 5, DP 787557 Boeill Creek Rd, Boeill Creek	2 of 4 adjoining landowners are interested in purchasing. Given this it must be clarified which interests are to be extinguished and which retained.	Listed under Schedule 5 of Barkandji Consent Determination – Extinguished area
Lot 7, DP 773189 Kelso Rd, Wentworth	The section adjoining Lot 1 DP1049485 has 1 dwelling completely within this lot, a shed overlapping the boundary, lawns & a boat ramp. The section adjoining Lot 3 DP773189 has half of a dwelling and lawns within this lot. The section adjoining Lot 5 DP 773189 has half of a dwelling, a small shed and lawns within this lot. 1 of 5 adjoining landowners is interested in purchasing. Given this it must be clarified which interests are to be extinguished and which retained.	Listed under Schedule 5 of Barkandji Consent Determination – Extinguished area
Lot 7, DP 827371 Sturt Hwy, Monak	No issues	Listed under Schedule 5 of Barkandji Consent Determination – Extinguished area
Lot 10, DP 735148 Pooncarie Rd, Wentworth	No issues	Listed under Schedule 5 of Barkandji Consent Determination – Extinguished area
Lot 10, DP 740361 Cudmore Rd, Wentworth	No issues	Listed under Schedule 5 of Barkandji Consent Determination – Extinguished area
Lot 11, DP 740361 Rd, Low Darling, Cudmore Wentworth	It appears that up to 4 buildings have been built on this lot. This is due to the cadastre error that has been noted in the Planning Proposal. 3 of 5 adjoining landowners are interested in purchasing. Given this it must be clarified which interests are to be extinguished and which retained	Listed under Schedule 5 of Barkandji Consent Determination – Extinguished area

Department of Industry – Water (DoI Water) – (30 January 2018)

DoI – Water proposed re-classifications of land parcels in terms of application of “Guidelines for Controlled Activities on Waterfront Land (DPI 2012) and the potential for water extraction under the Water Management Act 2000. The key consequent comments are:

- *Landholders with direct frontage to the Murray River will have the ability to pump water for stock and domestic use without a licence. Potential demand for additional water access and associated impacts on existing water users and the environment should be considered. Where an impact is identified, it is recommended that water demands be clearly defined and a sustainable source confirmed.*
- *Uses for recreational and agricultural purposes may increase and have the potential to degrade the riparian corridor. This may include proposed riverfront structures. Such proliferation of such structures should be avoided to reduce cumulative impacts on bed and bank stability and ecological values; and*
- *Where erosion problems are identified, measures by Council as part of purchase arrangements are recommended to rehabilitate the erosion consistent with DoI Water policy.*

DPI – Fisheries (9 February 2018)

DPI Fisheries have made the most significant objection to the proposed reclassifications as is explained in the quoted letter below.

“DPI Fisheries administers the Fisheries Management Act 1994 (FM Act) and associated Regulations (FM Regulations). The objectives of the FM Act are to conserve, develop and share the fishery resources of NSW for the benefit of present and future generations, and in particular:

- a) to conserve fish stocks and key fish habitats, and*
 - b) to conserve threatened species, populations and ecological communities of fish and marine vegetation, and*
 - c) to promote ecologically sustainable development, including the conservation of biological diversity,*
- and, consistently with these objectives:*
- d) to promote viable commercial fishing and aquaculture industries,*
 - e) to promote quality recreational fishing opportunities,*
 - f) to appropriately share fisheries resources between the users of those resources, and*
 - g) to provide social and economic benefits for the wider community of NSW, and*
 - h) to recognise the spiritual, social and customary significance to Aboriginal persons of fisheries resources and to protect, and promote the continuation of, Aboriginal cultural fishing.*

To achieve this, the Department ensures that developments comply with the requirements of the Fisheries Management Act 1994 (namely the aquatic habitat protection and threatened species conservation provisions in Parts 7 and 7A of the Act respectively) and the associated Policy and Guidelines for Aquatic Habitat Management and Fish Conservation (1999).

DPI Fisheries has reviewed the proposed reclassification of the proposed lots from community to operational lands with regard to the above provisions and DPI Fisheries objects to the proposed reclassification for the following reasons:

1. *A key objective under the Fisheries Management Act 1994, Sect 3 is to promote quality recreational fishing opportunities and to provide social and economic benefits for the wider*

community of New South Wales. Both Anglers and DPI Fisheries have identified loss of angler access and limitations on use as a major concern in the delivery of these key objectives. The proposed reclassification of land is viewed by the department as a loss of angler access and amenity, these sites are currently accessible via the river and some via crown roads and therefore provide access and amenity to recreational anglers which will be lost should the reclassification occur.

2. The Murray and Darling Rivers are highly valued and iconic angling destinations and they are stocked annually for the community by DPI Fisheries under the Departments stocking programs. Given the importance of this existing perpetual and legal access to the rivers for anglers through these lands, DPI Fisheries asks that council, as manager of the land retains the legal right of unobstructed passage and use of the land for the public.
3. The current classification of community lands affords these lands greater environmental protection, with the reclassification of these lands to operational and the subsequent sale of the land to adjacent landowners would reduce the protection the environmental and ecological aspects of the lands. Activities that potentially impact on the aquatic environment and key fish habitat such as clearing or riparian vegetation, construction of retaining walls, boat ramps, jetties, de-snagging and other such activities as have been seen on other similar riverside freehold lands.
4. The degradation of riparian vegetation and the removal of large woody debris are both listed as Key Threatening Processes under the Fisheries Management Act 1994, this imposes certain requirements upon authorities when authorising and activity or development that may involve instream woody habitat removal or the degradation of riparian vegetation. For further information see the departments website; <https://www.dpi.nsw.gov.au/fishing/species-protection/conservation/what-current>.

As a consequence of the DPI- Fisheries objection, Council's Director of Health and Planning had direct discussions with the Fisheries Manager, Aquatic Ecosystems Department of Primary Industries. This was followed up by the following letter of 23 February 2018 from Council to DPI Fisheries which specifically requested a meeting and response by 16 March 2018. A response from DPI – Fisheries has not been received.

Riverfront Parcels recommended for re-classification which have, or potentially have, public road or unmade crown road access are:

- Lot 2, DP 583614, Nevill Street, Wentworth;
- Lot 3, DP 616182; Boeill Creek Road, Boeill Creek;
- Lot 10, 735148, Pooncarie Road (land dedicated with subdivision for access but unmade and high cost to construct);

Table 24: Analysis of Riverfront Public Open Spaces in Wentworth

Site (see numerical references on map below)	Length	Area (m ²)
3	253.2	9157.98
6	586.5	59900
7	1248.5	128400
8	240.4	14200
9	165.4	4387
10	332.6	26300
15		1072

Total	2826.6	243416.98
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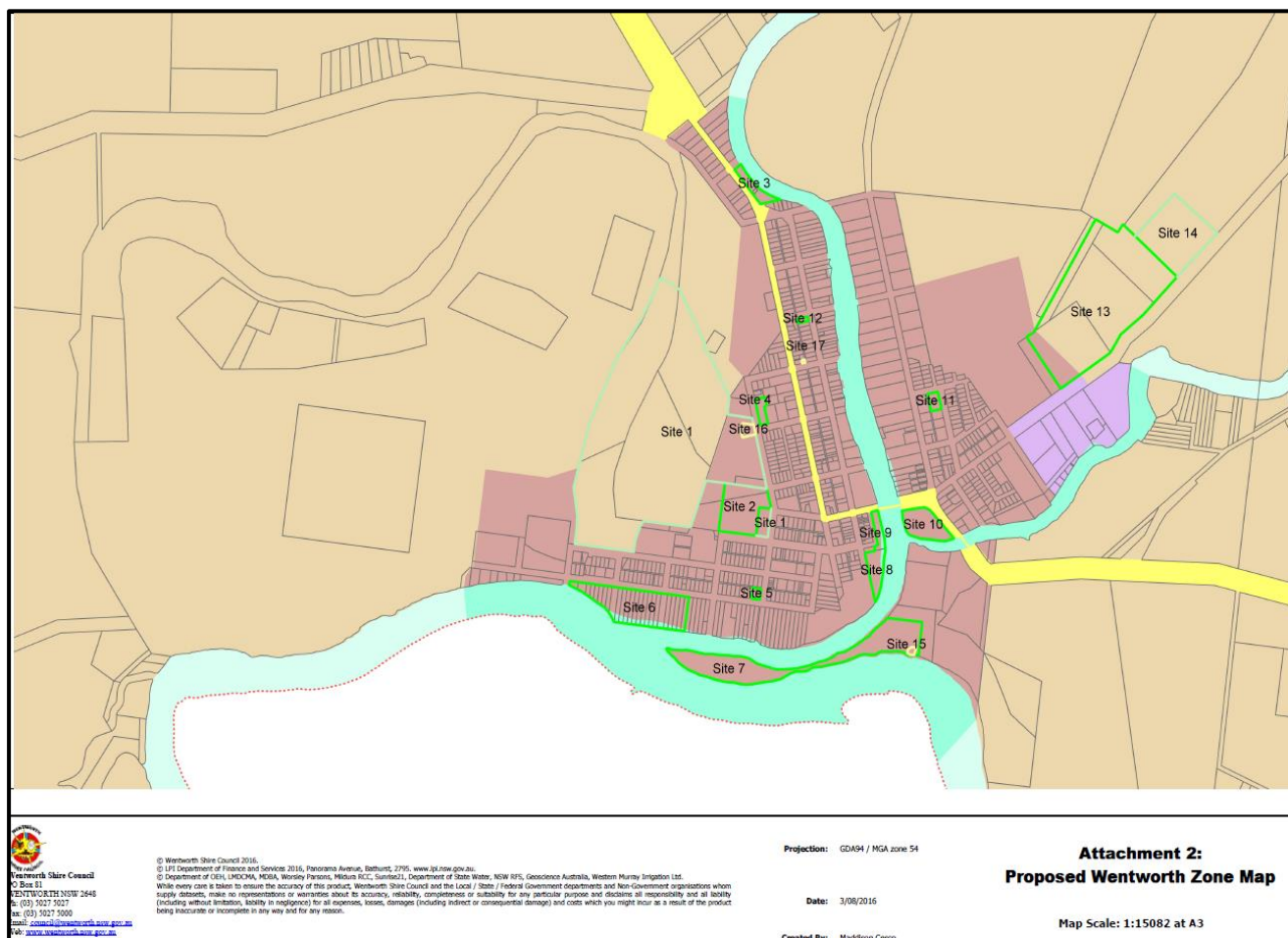


Figure 89: Riverfront Public Open Spaces in Wentworth

It is concluded that for the following reasons, the proposed re-classifications of the twenty parcels should proceed;

Respecting loss of angler access and limitations on what is now riverfront public land as important and valid issues, a “bigger picture” perspective on the planning and public interest is taken and:

- 2 of the 20 riverfront lots recommended for re-classification have a current public road enabling direct access being:
 - Lot 2, DP 583614, Nevill Street, Wentworth;
 - Lot 3, DP 616182; Boeill Creek Road, Boeill Creek;
- A third parcel: Lot 10, 735148, Pooncarie Road (land dedicated with subdivision for access but unmade) would mean very high public cost for road construction with limited public gain;
- 17 of the 20 riverfront parcels are land locked - only accessible through adjoining privately owned land and therefore not accessible by land by anglers or the general public;
- While acknowledging that these sites are accessible via the river, none of the 20 riverfront parcels are signposted as public reserve and all of the riverfront parcels which are public reserves/ Council owned parcels are indistinguishable from the rest of the riverfront land adjoining – most of which will be private land;

- These riverfront lots are not able to be maintained (because of being land-locked) to be acceptable for landing sites for boats or to have the amenity and/or safety features appropriate for use by anglers and members of the public;
- In addition to the impediment of these riverfront parcels being land-locked, Council has very limited resources (financial and human) for proper maintenance of these parcels. Also, costs are relatively high because of the geographic diverse locations of these parcels.
- By reclassifying the parcels and (potentially) conditionally selling them to adjoining owners, Council will use any consequent income for embellishment and maintenance of other more accessible riverfront public reserves – so net public and planning benefits will be achieved in the context of Council's limited resources.
- The legal protection – as embodied in State legislation the Wentworth LEP 2011 - for environmental assets and values of the riverfront remain unchanged by the proposed re-classifications. Indeed, because Council cannot access 17 of these parcels. Council Policy and conditions of sale – and package of information including OEH requirements (as proposed by OEH in their submission) - will legally embody that protection and higher levels of committed maintenance.

PART 4 COMMUNITY CONSULTATION

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

The Gateway Determination of 31 August 2017 required that the Planning Proposal and accompanying reports be placed on exhibition for a period of 28 days.

A Public Hearing was conducted on 14 February 2018 – the report of which is Attachment A to this Planning Proposal. It was made clear at the Public Hearing that the DPI – Fisheries' objection needed appropriate resolution and that re-exhibition of the Planning Proposal and another Public Hearing were necessary for due process.

PART 5 PROJECT TIMELINE

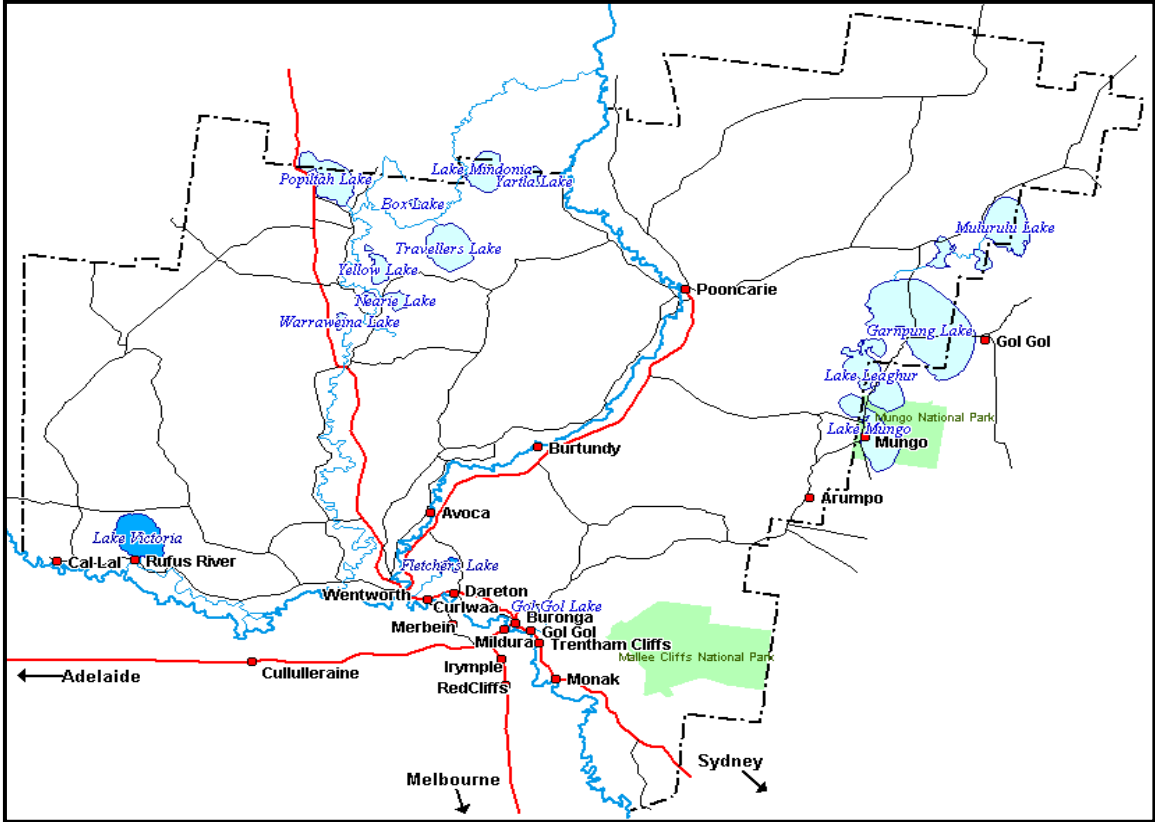
Table 25: Proposed project timeframe

Task	Timeframe
Commencement Date – Gateway Determination	Week ending 31 August 2017
Timeframe for completion of technical information	Week ending 27 October 2017
Government Agency Consultation <ul style="list-style-type: none"> – During Report Preparation – Following Report Completion 	Week ending 31 March 2017 Week ending 13 April 2018
Commencement and Completion Dates for Public Exhibition Period	10 November to 8 December 2017 End June 2018
Dates for Public Hearing	14 February 2018 25 July 2018

Timeframe for Consideration of Submissions from the public and State Agencies	Week ending 13 April 2018 Week ending 6 July 2018
Timeframe for the consideration of a proposal post (second) exhibition	31 July 2018
Submission to DoPI to finalise LEP	31 August 2018
Anticipated date RPA will forward to DoPI for notification	31 October 2018

APPENDICES

Appendix 1: Location Plan (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