



IRF22/675

## Gateway determination report – PP-2022-716

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Rezoning of Thegoa Lagoon Reserve, Lagoon Road,  
Wentworth

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# Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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**Table 1 Reports and plans supporting the proposal**

Relevant reports and plans
Planning Proposal, Thegoa Lagoon Reserve Rezoning, January 2022, prepared by Wentworth Shire Council
Wentworth Shire Council, Ordinary Meeting Agenda, 16 February 2022
Zone comparison for application and protection of Thegoa Lagoon, undated, prepared by Wentworth Shire Council

Management Plan for Thegoa Lagoon Reserve 2003-2006, prepared by Thegoa Lagoon Management Steering Committee

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# 1 Planning proposal

## 1.1 Overview

**Table 2 Planning proposal details**

<b>LGA</b>	<b>Wentworth</b>
<b>PPA</b>	<b>Wentworth Shire Council</b>
<b>NAME</b>	<b>Rezoning of Thegoa Lagoon Reserve</b>
<b>NUMBER</b>	<b>PP-2022-716</b>
<b>LEP TO BE AMENDED</b>	<b>Wentworth Local Environmental Plan 2011</b>
<b>ADDRESS</b>	<b>Lagoon Road, Wentworth</b>
<b>DESCRIPTION</b>	<b>Lot 7323 and 7328 DP1174216 and Crown waterway</b>
<b>RECEIVED</b>	<b>9/03/2022</b>
<b>FILE NO.</b>	<b>IRF22/675</b>
<b>POLITICAL DONATIONS</b>	<b>There are no donations or gifts to disclose and a political donation disclosure is not required</b>
<b>LOBBYIST CODE OF CONDUCT</b>	<b>There have been no meetings or communications with registered lobbyists with respect to this proposal</b>

## 1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to protect and manage the natural environment and cultural heritage values at Thegoa Lagoon Reserve.

The objectives of this planning proposal are clear and adequate.

## 1.3 Explanation of provisions

The planning proposal seeks to amend the Wentworth Local Environmental Plan (LEP) 2011 by amending the Land Use Zone on Sheet LZN\_002B and Sheet LZN\_002D for Lot 7323 and 7328 DP1174216 and a Crown waterway from RU1 Primary Production and RU5 Village zone to C2 Environmental Conservation zone.

The planning proposal does not outline whether an amendment or no amendment to the Minimum Lot Size (MLS) is required. For instance, the RU1 Primary Production zone has an MLS of

10,000ha MLS whilst the RU5 Village zone has no MLS. The planning proposal will need to be updated to outline whether the current MLS will be retained or if the MLS will be amended.

The planning proposal will need to be updated prior to public exhibition as condition of the Gateway determination.

This will be a map only amendment.

## 1.4 Site description and surrounding area

The subject land is known as Thegoa Lagoon Reserve and is described as Lot 7323 and 7328 DP1174216 and includes a Crown waterway located on Lagoon Road, Wentworth. Thegoa Lagoon Reserve covers an area of approximately 404ha, refer to Figure 1.

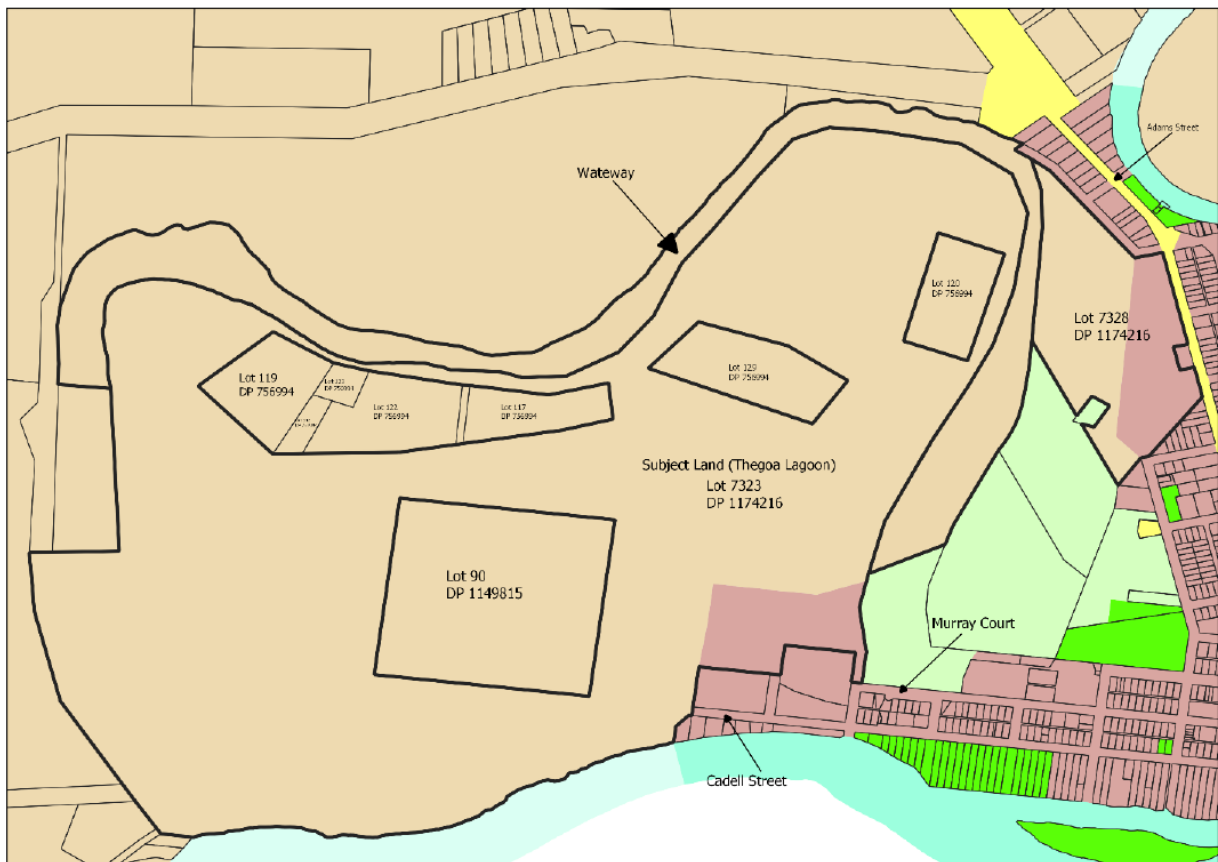


Figure 1: Subject site location

### Figure 1 Subject site (source: Planning proposal report, page 6)

The subject land is currently predominately zoned as RU1 Primary Production with a minimum lot size (MLS) of 10,000ha. There is also approximately 21ha of RU5 Village zone which has no MLS.

The subject land includes three Crown lands reserves:

- Reserve No. 78909 (Gazetted 1956), manager is Wentworth Shire Council for purpose of plantation and public recreation;
- Reserve No. 230004 (Gazetted 1988), manager is Wentworth Shire Council for purpose of public recreation; and
- Crown waterway.

The subject site is situated to the west of the township of Wentworth and is on the northern bank of the Murray River, refer to Figure 2. The site can be accessed through Lagoon Road, Cadell Street, Adams Street, Log Bridge Road and West Street. There are a mixture of land uses and zones around the Thegoa Lagoon Reserve including:

- RU1 Primary Production to the north and west;
- RU5 Village to the east and south-east;
- RE2 Private Recreation to the east;
- W2 Recreational Waterways to the south-east; and
- W1 Natural Waterways to the south.

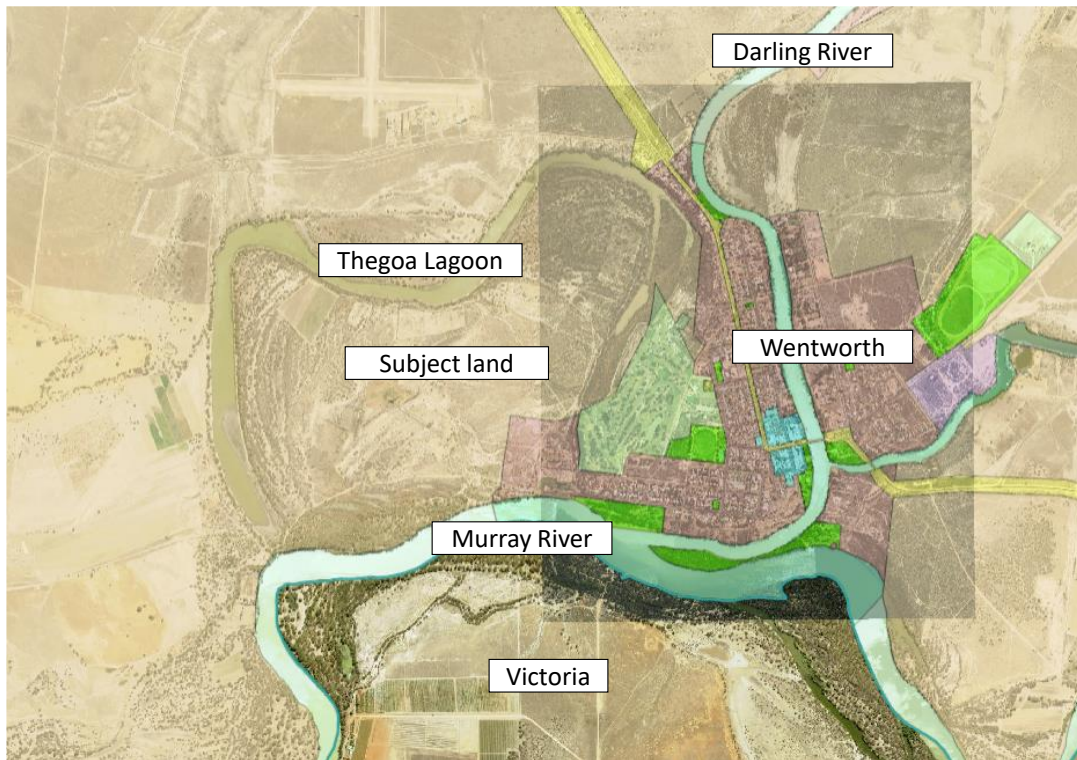
Other defining features of the site include being adjacent to the Wentworth Golf Club, Wentworth Cemetery, Wentworth Sewage Treatment Plant as well as State Water Lock and Weir No. 10. There are also eight lots that are located within the subject land, but they do not form part of the planning proposal for various reasons including being Crown Land leases for agricultural and residential purposes as well as freehold titles.

The subject land is also characterised by high environmental and Aboriginal cultural heritage values as it is situated near the junction of the Darling and Murray Rivers.

The subject land contains significant environmental features such as including an ephemeral wetland (Thegoa Lagoon), riparian lands along Murray River and associated floodplains. Located within the Riverina bioregion, the reserve includes different terrestrial and aquatic vegetation communities including River Red Gum riparian forests, Black Box open woodlands and Chenopod shrublands. The high environmental values of Thegoa Lagoon Reserve area are acknowledged in the Wentworth LEP 2011 as the site is identified and mapped as containing biodiversity, wetland and waterway, refer to Figure 3.

Thegoa Lagoon Reserve is an important cultural heritage area to the local Barkandji people as it contains burials, scar trees, boundary trees and middens. A search of the Aboriginal Heritage Information Management System on 15 March 2022 identified 41 previously recorded Aboriginal sites on Lot 7323 DP1174216. No Aboriginal sites currently identified on Lot 7328 DP1174216.





**Figure 2 Site context (source: ePlanning Spatial Viewer)**



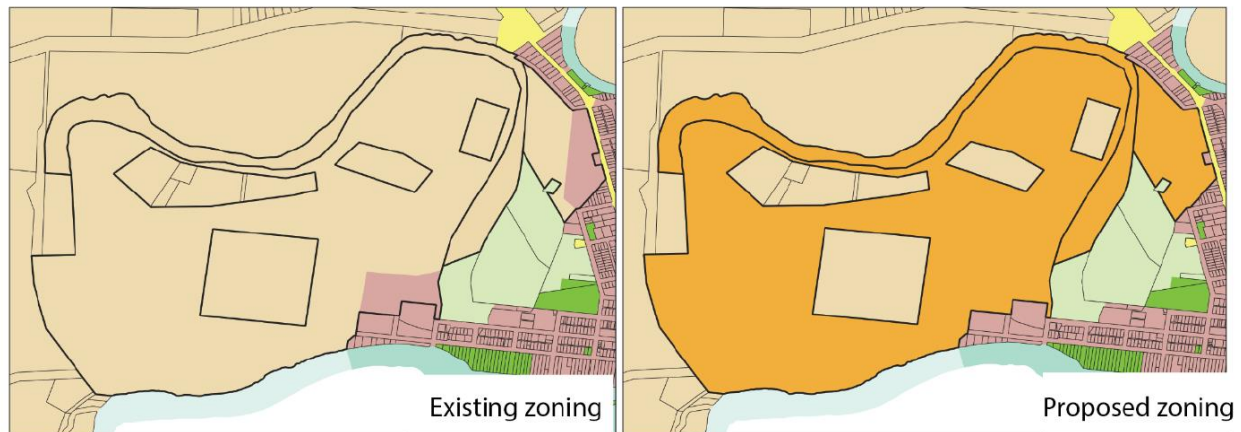
**Figure 3 Environmental mapping of subject land under Wentworth LEP 2011 including biodiversity (left) and wetlands (right)**



## 1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the Land Use Zone maps, which are suitable for community consultation, refer to Figure 4.

Additionally, if the MLS is to be amended as outlined in Section 1.3 of this report, maps outlining the current and proposed MLS will need to be included in the updated planning proposal, refer to Figure 5.



**Figure 4 Current and proposed zoning map (Source: Planning proposal report, page 7)**



**Figure 5 Current minimum lot size (source: ePlanning Spatial Viewer)**

## 1.6 Background

The subject land was first earmarked for rezoning from rural to conservation nearly twenty years ago in the *Management Plan for Thegoa Lagoon Reserve 2003-2006*. Section 4.5.1 (page 19) of the management plan identified the following land management strategies to address the land zoning issues:

*“Objective: Rezone the lagoon reserve to reflect conservation value*

*Action: Rezone the area as a ‘Conservation Zone’ with existing leases remaining as ‘Rural’”*

The *Sustainable Wentworth Strategy* dated August 2016 conducted community consultation on potentially rezoning Thegoa Lagoon Reserve and determined that:

*“Recommendation 2 – Thegoa Lagoon and Reserve: It is recommended that Wentworth Shire Council continue to investigate the most appropriate zone(s) to be applied over Thegoa Lagoon and the Reserve.”*

Council has since completed a zone investigation report which recommended that a C2 Environmental Conservation Zone would be the most appropriate conservation zoning option to protect the sites high environmental and heritage values.

However, the zone investigation report only compared the existing RU1 Primary Production with a potential C2 Environmental Conservation or C3 Environmental Management Zone. There was no discussion of rationalising the omission of the other conservation zones of C1 National Parks and Nature Reserves as well as C4 Environmental Living from the zone investigation report. Additionally, the removal of the RU5 village zone was not discussed.

## 2 Need for the planning proposal

The planning proposal seeks to rezone the Thegoa Lagoon Reserve to C2 Environmental Conservation Zone to reflect the subject lands high environmental and cultural heritage values. The rezoning was first proposed in the *Management Plan for Thegoa Lagoon Reserve 2003-2006* and raised again in the *Sustainable Wentworth Strategy* dated August 2016. The rezoning is also support by the Crown Land Reserve stated purpose of public recreation.

Amending the land use zone of Thegoa Lagoon Reserve is discussed below:-

- Establishing high environmental and cultural heritage values

The *LEP Practice Note (PN 09-002) on Environment Protection Zones* outlines the varying levels of protection provided by the various conservation zones, including:

*“E2 Environmental Conservation: This zone is for areas with high ecological, scientific, cultural or aesthetic values outside national parks and nature reserves. The zone provides the highest level of protection, management and restoration for such lands whilst allowing uses compatible with those values”*

The Wentworth LEP 2011 also refers to high value status of C2 zoned land in the land use table:

*“Zone C2 Environmental Conservation – Objective: To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.”*

The planning proposal does not clearly provide evidence of the high environmental or cultural heritage value status of the subject land noting the subject land under the Wentworth LEP 2011 is mapped as containing biodiversity, wetland and waterway (refer to Figure 3).

Additionally, whilst the planning proposal does refer to the *Management Plan for Thegoa Lagoon Reserve 2003-2006* as well as the previous studies the specific attributes or features of the site that make it a high ecological or cultural heritage value site should be outlined. There has also been no reference to online databases that reinforce the high value status of the land (e.g., Aboriginal Heritage Information Management System, BioNet, Groundwater Dependent Ecosystems High Environmental Value Aquatic Ecosystems).

While not provided in the planning proposal, Thegoa Lagoon Reserves, from information available and support from Biodiversity and Conservation Division (BCD) and Crown Lands, does demonstrate high ecological and cultural heritage values. For instance, the combination of riparian land, ephemeral wetland and floodplains results in a unique example of varied vegetation communities across the 404ha site including riparian forests, open woodlands, shrublands and

aquatic habitats. The locality is also a significant site to local Barkindji community and it's an important meeting place for Aboriginal people due to the proximity to the Murray and Darling Rivers. Consequently, the site has numerous Aboriginal sites (e.g., burials, scar trees, middens) that have been assessed as having high archaeological significance.

- Appropriate conservation zone

There are four conservation zones in the Wentworth LEP 2011 that provide varying levels of protection for environmentally sensitive lands. The C2 Environmental Conservation Zone is considered the most appropriate for the site rather than other conservation zones as in table outlined below.

**Table 3 Comparison of conservation zones**

Conservation zone	Discussion
C1 National Parks and Nature Reserves	Unsuitable as this zone only applies to areas gazetted under the <i>National Parks and Wildlife Act 1974</i> by the NSW government. Thegoa Lagoon Reserve is not a gazetted area and is comprised of two Crown Land reserves and a Crown waterway.
C2 Environmental Conservation	The objective of this zone is to protect sites with high values and to prevent destructive or damaging development. Development opportunities are highly restrictive and are more sensitive to protecting the natural environment including permitting recreational pursuits (e.g., boat launching ramps, camping grounds, jetties) as well as limited tourism facilities (e.g., community facilities, eco-tourist facilities, information and education facilities). Some of the permissible land uses are appropriate for Crown Reserves with a stated purpose of public recreation. This zone is considered the most appropriate to protect the high environmental and cultural heritage values of the site
C3 Environment Management	The objective of this zone is to protect sites with special values from adverse impacts of development. There are limited development opportunities however the permissible land uses including residences (e.g., dwellings, secondary dwellings, home industries) as well as tourism ventures (e.g., bed and breakfast accommodation, kiosks, farms stay accommodation, charter and tourism boating facilities) which could have an adverse impact on the environmental and cultural heritage values. Additionally, whilst permitted development is more restrictive than the current RU1 Primary Production zone, this zone is still not considered suitable. This is due to the presence of high environmental and cultural heritage values as well as that the permitted land uses are not compatible with the Crown Reserve status of Thegoa Lagoon.
C4 Environmental Living	Unsuitable conservation zone as the objective of the zone is for low-impact residential development. Residential development is unlikely to occur on the subject land as it is Crown Land that is designated for purpose of recreation with long-standing management approach to protect high conservation and heritage values.

In summary, the planning proposal should be updated to outline attributes and provide evidence of the high environmental and cultural heritage value status of the subject land. This could potentially include reference to LEP mapping, outlining vegetation communities and threatened species present

as well as cultural heritage items. The planning proposal is to be updated prior to public exhibition as a condition of the Gateway determination.

## 3 Strategic assessment

### 3.1 Regional Plan

The planning proposal report states that it is consistent with Far West Regional Plan 2036, however the relevant Directions and Actions are not outlined or discussed. The following table provides an assessment of the planning proposal against the relevant aspects of the Far West Regional Plan 2036.

**Table 4 Regional Plan assessment**

Regional Plan Objectives	Justification
Direction 13: Protect and manage environmental assets	<p>The Regional Plan outlines the importance of protecting environmental assets such as the Murray River from pressures such as development and climate change.</p> <p>The planning proposal is consistent with Direction 13 as well as implements the following action:</p> <ul style="list-style-type: none"> <li>• Action 13.1: Map potential high environmental value areas and protect these areas through local plans and strategies</li> </ul> <p>Thegoa Lagoon Reserve is a high environmental value area as demonstrated though being mapped under the Wentworth LEP 2011 as including terrestrial biodiversity, wetlands and watercourses. Thegoa Lagoon Reserve is also mapped as having a high ecological value for groundwater dependent ecosystems under the High Ecological Value Aquatic Ecosystem framework.</p> <p>The rezoning of subject land supports the protection of Thegoa Lagoon Reserve through amending the land use to reflect the primary land use purpose of conservation and environmental management. The C2 Environmental Conservation Zone also provides the highest level of protection for Thegoa Lagoon Reserve outside of gazetted national parks and nature reserves through restricting compatible land uses under the Wentworth LEP 2011. Whilst the site is already a Crown Reserve, appropriate conservation zoning under the Wentworth LEP 2011 will provide additional protection through further restricting potential adverse development. Crown Lands and BCD support the rezoning.</p>

Direction 14: Manage and conserve water resources for the environment	<p>The Regional Plan discusses the importance of maintaining healthy freshwater habitats, wetlands and waterways through locating development to reduce negative impacts.</p> <p>The planning proposal is consistent with Direction 14 through providing additional protection of an area of environment significance for freshwater habitats in a key riverine corridor of the Far West region. Key freshwater habitats being protected include:</p> <ul style="list-style-type: none"> <li>• the riverbanks and riparian zone of the Murray River;</li> <li>• Thegoa Lagoon, a natural ephemeral wetland; and</li> <li>• The floodplain between the river and lagoon.</li> </ul> <p>Environmental protection of the freshwater habitats through conservation zoning will then enable leveraging for compatible recreational and eco-tourism opportunities.</p>
Direction 15: Manage land uses along key corridors	<p>The Regional Plan outlines the strategic importance of directing settlement away from riverbank areas, such as along the Murray River. The planning proposal is consistent with Direction 15 as ribbon development will be further restricted along the subject lands 1.4km riverine corridor of the Murray River. Protection of the riverine corridor contributes to facilitating ongoing public access to the river.</p>
Direction 16: Increase resilience to climate change	<p>The Regional Plan outlines the risk of climate change impacting ecosystems and rural communities. The planning proposal is consistent with this Direction as it implements a higher level of protection for a locally significant ecosystem that will facilitate improved landscape habitat connectivity and resilience to climate change impacts.</p>
Direction 17: Manage natural hazards	<p>The Regional Plan outlines the importance of a strategic approach to natural hazards including reducing the impact and risks of flooding. The planning proposal is consistent with this Direction. Whilst the subject land is identified as flood prone land in LEP Flood Planning Area Map, the risk of flooding impacting developments on-site and neighbouring lands will not be increased as a consequence of this planning proposal since the permitted land-uses are more restrictive under the proposed zone.</p>
Direction 18: Respect and protect Aboriginal cultural heritage assets	<p>The Regional Plan discusses the need to identify, protect and co-manage Aboriginal cultural heritage including places and items. The planning proposal is consistent with this Direction as the proposed conservation zone will further restrict development activities that could impact cultural heritage assets. Thegoa Lagoon Reserve is an important cultural heritage area to the local Barkandji people as it contains numerous cultural items such as burials, scar trees, boundary trees and middens.</p>
Direction 30: Create healthy built environments	<p>The Regional Plan outlines the importance of incorporating good urban design and including opportunities for walking and cycling in public places. The planning proposal is consistent with this Direction. Additional protection of the Thegoa Lagoon Reserve ensures ongoing public access for passive recreational uses. The subject land location being adjacent to the Wentworth township underlines the importance of protecting accessible open space for the community and tourists.</p>

The planning proposal should be updated to identify and discuss the specific relevant Directions and Actions from the Far West Regional Plan 2036.



## 3.2 Local

The planning proposal states that it is consistent with the Wentworth Local Strategic Planning Statement 2020, however the relevant planning priorities are not directly outlined or discussed. The following table provides an assessment of the planning proposal against the relevant local plans and endorsed strategies.

**Table 5 Local strategic planning assessment**

Local Strategies	Justification
Wentworth Local Strategic Planning Statement 2020	<p>The planning proposal report outlines consistency with Wentworth Local Strategic Planning Statement (LSPS) 2020. However, the specific planning priorities within the LSPS are not mentioned. A review of the planning proposal indicates that the planning proposal supports the implementation of the following planning priorities:</p> <ul style="list-style-type: none"> <li>• Planning Priority 2 – Grow tourism</li> <li>• Planning Priority 8 – Preserve and promote heritage</li> <li>• Planning Priority 9 – Sustainable river systems</li> <li>• Planning Priority 10 – Manage natural hazards and climate change risks</li> <li>• Planning Priority 11 – Protect areas of environmental value               <ul style="list-style-type: none"> <li>○ Action 3 – Review Wentworth LEP 2011 controls (e.g., biodiversity mapping and appropriate zoning of high value environmental areas, adopting a clause to permit undersized lot subdivision for environmental conservation) to protect biodiversity</li> </ul> </li> </ul> <p>The proposed conservation zone for Thegoa Lagoon Reserve will not only enable additional protection for biodiversity and cultural heritage for a high value area but will also enable sympathetic eco-tourism opportunities.</p> <p>Overall, the planning proposal is consistent with the Wentworth LSPS and directly implements one action. However, the planning proposal will need to be updated to identify and discuss the specific LSPS planning priorities.</p>
Sustainable Wentworth Strategy 2016	<p>The Sustainable Wentworth Strategy (SWS) 2016 (not Department endorsed), was developed by Council to guide future development in the Wentworth township. The draft SWS recommended that Thegoa Lagoon Reserve be rezoned to E1 National Parks and Nature Reserve, however Council received several objections during the community consultation process. The final SWS recommended the following:</p> <ul style="list-style-type: none"> <li>• Recommendation 2 – Thegoa Lagoon and Reserve: It is recommended that Wentworth Shire Council continue to investigate the most appropriate zone(s) to be applied over Thegoa Lagoon and the Reserve.</li> </ul> <p>Council has implemented the SWS recommendation through continuing the zone investigation and preparing a planning proposal to rezone the site to C2 Environmental Conservation.</p>

Management Plan  
for Thegoa Lagoon  
Reserve 2003-2006

The Management Plan was developed by the Thegoa Lagoon Management Steering Committee to provide integrated management of the natural and cultural features of the lagoon and reserve. The planning proposal implements the following land management objective and action under section 4.5.1 Zoning:

- Objective: Re-zone the lagoon reserve to reflect conservation value
- Action: Rezone the area as a “Conservation Zone” with existing leases remaining as “Rural”

Overall, the planning proposal is consistent and implements the recommendations of the Management Plan.

### 3.3 Section 9.1 Ministerial Directions

The planning proposal’s consistency with relevant section 9.1 Directions is discussed below. The planning proposal does not specifically identify and discuss the consistency with relevant s9.1 Directions. The planning proposal should be updated prior to public exhibition.

New s9.1 Directions commenced on 1 March 2022. The planning proposal was lodged with the Department on 3 March 2022 therefore the current s9.1 Directions apply at the date in which the proposal was lodged with the Department. It is noted that the planning proposal was prepared prior to 1 March 2022 and addresses the Directions current at that time. The difference between the superseded and current s9.1 Directions is considered minimal and insignificant for the purposes of this planning proposal.

**Table 6 9.1 Ministerial Direction assessment**

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
9.1 Rural zones (former 1.2 Rural Zones)	Yes	<p>The aim of this Direction is to protect the agricultural production value of rural land. This Direction applies to the planning proposal as it will remove the existing rural zone. However, the planning proposal report does not adequately discuss and justify consistency with this Direction.</p> <p>A review of the planning proposal determined that it is consistent with this Direction as it does not rezone the rural land to a residential, business, industrial, village or tourist zone as per Direction subclause 4(a). Additionally, whilst there is a loss of approximately 380ha of agricultural zoned land, this is considered to be of minor significance. This is due to that the subject area is crown land and has been primarily managed for an extended period of time to conserve its natural and cultural heritage values rather than be utilised for agricultural production. Secondly, rezoning from rural to conservation zone was first flagged nearly twenty years ago in the Management Plan.</p>



<p>9.2 Rural Lands</p> <p>(former 1.5 Rural Lands)</p>	<p>Yes</p>	<p>The aim of this Direction is to protect and minimise fragmentation of rural land as well as facilitate the economic development and viability of rural lands. This Direction applies to the planning proposal as it will affect land within an existing rural zone and a proposed environmental zone. However, the planning proposal report does not adequately discuss and justify consistency with this Direction.</p> <p>A review of the planning proposal determined that it is consistent with this Direction as whilst it is removing agricultural zone from the subject land, it is being replaced by a conservation zone. The planning proposal is also consistent with the following Direction subclause:</p> <p style="padding-left: 40px;">1(c) identify and protect environmental values, including but not limited to, maintaining biodiversity, the protection of native vegetation, cultural heritage, and importance of water resources.</p> <p>Additionally, the significance of the land for agricultural production is considered to be negligible due to its Crown Land reserve status and the planning proposal will not result in any fragmented agricultural lands. Extensive agriculture can be undertaken as such use will remain permissible without consent. The subject land incorporating Thegoa Lagoon as well as the Murray River form a natural buffer between residential land uses in west Wentworth and surrounding agricultural activities.</p>
<p>3.1 Environment Protection Zones</p> <p>(former 2.1 Conservation Zones)</p>	<p>Yes</p>	<p>The aim of this Direction is to protect environmentally sensitive areas. This Direction applies to the planning proposal as the subject land is identified as an environmentally sensitive area and environmental protection standards are being increased. The planning proposal report does not adequately discuss and justify consistency with this Direction.</p> <p>The planning proposal is consistent with this Direction as 404ha of environmentally sensitive area incorporating ephemeral wetlands, riparian land and floodplains is being protected through the proposed C2 Environmental Conservation zone. The proposed zone provides a high level of protection for environmentally sensitive areas through restricting the potential permissible land-uses and reducing adverse development impacts compared to the existing RU1 Primary Production zone.</p>
<p>3.2 Heritage conservation</p> <p>(New 2.3 Heritage Conservation)</p>	<p>Yes</p>	<p>The aim of this Direction is to conserve items of heritage significance. This Direction applies to the planning proposal as the subject land contains numerous Aboriginal objects as well as being an area with very cultural heritage value.</p> <p>The planning proposal is consistent with this Direction as the proposed C2 Conservation Zone will improve protection of Aboriginal heritage items. The proposed zone will facilitate the conservation of Aboriginal items through reducing the risk of irreparable harm from incompatible development activities and restricting the permissible land uses.</p>

4.4 Remediation of Contaminated Land  (former 2.6 Remediation of Contaminated Land)	Yes	<p>The aim of this Direction is to ensure that planning proposals consider contamination and remediation of land to reduce the risk of harm to human health and the environment.</p> <p>The planning proposal report specifies that this Direction is not applicable. However, this Direction does apply as the subject land contains a historical landfill on the south-eastern portion of the subject land. Landfilling sites (i.e., waste disposal activities) are identified as a land contaminating activity in Table 1 of the contaminated land planning guidelines. The risk of contamination is considered minimal as the historic landfill has since been revegetated and rehabilitated. Additionally, the proposed conservation zone will assist prevent future disturbance and development of the landfilling site as the zone is focused on conservation outcomes and does not permit sensitive land uses such as residences, hospitals, childcare centres etc.</p> <p>Overall, the planning proposal is consistent with this Direction. However, the planning proposal report should be updated to address consistency with this Direction.</p>
6.1 Residential Zones  (Former 3.1 Residential Zones)	No – but of minor significance	<p>The aim of this Direction is to encourage variety of housing types and minimise the impact of residential development. This Direction applies to the planning proposal as it will remove residential land uses within the RU5 Village zone that is being rezoned on the subject land. This includes approximately 10ha on Adams Street on the eastern portion and approximately 11ha on West and Wilmont Street in the south-eastern corner of the site.</p> <p>The planning proposal report does not assess consistency with this Direction. A review of the planning proposal determined that since the subject land is part of a Crown Reserve, it is unlikely that the land would be developed or historically intended for residential and dwelling purposes. Additionally, the Sustainable Wentworth Strategy 2016 (not Department endorsed) recommended conservation zoning for Thegoa Lagoon Reserve as well as determined that there was 10-20 years residential land supply. While there is a net loss of residential zoned land for the Wentworth township with the impacts on housing supply unlikely to create an impact because of the land being lost would not be available because of environmental considerations.</p> <p>Overall, while the planning proposal is inconsistent with this Direction as the loss of residential zoned land is considered to be of minor significance.</p>

4.1 Flooding (former 4.3 Flooding)	Yes	<p>The aim of this Direction is to ensure that development of flood prone land is undertaken in an appropriate manner.</p> <p>This Direction is applicable as the subject land is mapped as flood prone land. However, rezoning the subject land from a rural and village zone to a conservation zone significantly reduces the risk of negative flood impacts. This is due to that the permissible land uses under the C2 Environmental Conservation Zone more restrictive than the current zones.</p> <p>The planning proposal supports the objectives of this direction and is consistent.</p>
1.1 Implementation of Regional Plans (former 5.10 Implementation of Regional Plans)	Yes	<p>The aim of Direction 5.10 is to give legal effect to the goals and directions contained in the Regional Plans. The planning proposal is consistent with this Direction as it implements seven directions in the Far West Regional Plan 2036 as previously outlined in this report in Section 3.1.</p>

### 3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below. However, the planning proposal will need to be updated to adequately discuss the consistency with relevant SEPPs.

**Table 7 Assessment of planning proposal against relevant SEPPs**

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Vegetation in Non-Rural Areas) 2017  (note this was repealed by the SEPP (Biodiversity and Conservation) 2021 on 1 March 2022)	Protect biodiversity values of trees in non-rural areas	Yes	<p>The planning proposal report specified that this SEPP was not applicable.</p> <p>However, this SEPP is relevant to the planning proposal as the proposed C2 Conservation Zone changes the regulation of native vegetation clearing for a portion of the subject land. Currently, clearing activities within the existing RU1 Primary Production zone is regulated under the <i>Local Land Services Act 2013</i>. However, clearing activities under the current RU5 Village zone and the proposed C2 zone would be regulated under this SEPP.</p> <p>The planning proposal will result in the LLS Act no longer applying to the subject land which would make Council the regulator for the whole site through its Development Control Plan (DCP). However, at present Council does not have local clearing controls in their DCP.</p> <p>Overall, the planning proposal is consistent with this SEPP. However, the planning proposal should be updated to discuss the implications of the application of this SEPP to the subject land.</p>
SEPP (Koala Habitat Protection) 2021)  (note this was repealed by the SEPP (Biodiversity and Conservation) 2021 on 1 March 2022)	Conservation and protection of koala habitat	Yes	<p>This SEPP is relevant to the planning proposal as Schedule 1 identifies Wentworth Shire Council. If there are koalas present on the subject land, they are receiving additional development protection under the proposed E2 Conservation zone.</p> <p>Overall, the planning proposal is consistent with this SEPP.</p>

<p>Murray Regional Environmental Plan No. 2 – Riverine Land</p> <p>(note this was repealed by the SEPP (Biodiversity and Conservation) 2021 on 1 March 2022)</p>	<p>Conserve and enhance riverine environment of the Murray River</p>	<p>Yes</p>	<p>This SEPP is relevant to the planning proposal as the subject land is within the land application area of Wentworth Shire Council. The planning proposal facilitates the improved protection of a 1.4km portion of the Murray River riparian zone as well as the subject lands associated floodplains and wetlands.</p> <p>The planning proposal is consistent with this SEPP.</p>
<p>SEPP Infrastructure 2007</p> <p>(Note this was repealed by the SEPP (Transport and Infrastructure) 2021 on 1 March 2022)</p>	<p>Facilitate effective delivery of infrastructure</p>	<p>Yes</p>	<p>This SEPP is relevant to the planning proposal as the rezoning has permissibility implications for any future upgrades to sewage reticulation system under Division 18 Sewage Systems.</p> <p>The subject land completely surrounds the Wentworth Sewage Treatment Plant located on Lot 90 DP1149815, resulting in the reticulation system traversing the subject land. Currently under this SEPP, development for the reticulation system can occur without consent on the RU1 Primary Production zoned land since it's a prescribed zone under subclause 2.124. However, C2 Environmental Conservation zone is not a prescribed zone resulting in consent being required for any development under subclause 2.125.</p> <p>Overall, the planning proposal is consistent with this SEPP. However, the planning proposal will need to be updated to discuss the implications of the application of this SEPP to the subject land.</p>
<p>SEPP No. 55 – Remediation of Land</p> <p>(Note this was repealed by the SEPP (Resilience and hazards) 2021 on 1 March 2022)</p>	<p>Reducing risk of harm to human health and environment</p>	<p>Yes</p>	<p>The planning proposal report specified that the site has not been historically used for contaminating activities.</p> <p>This SEPP is relevant to the planning proposal as any future development applications in the reserve will need to consider the potential contamination from the historical landfill.</p> <p>Overall, the planning proposal is consistent with this SEPP.</p>

## 4 Site-specific assessment

### 4.1 Environmental

The potential for negative environmental impacts associated with the planning proposal are minimal as greater protection measures are being introduced for 404ha of environmentally sensitive lands. Under the C2 Environmental Conservation zone there is limited land use permissibility, and any development must be sympathetic and not harm the sites high environmental and cultural heritage values.

Overall, the C2 Environmental Conservation zone is positive outcome for the environment. Nevertheless, several agencies and organisations that have an interest or statutory role in environmental and cultural heritage matters is required, including the following:

- Crown Lands – already consulted
- Department of Planning and Environment – Biodiversity and Conservation Division (already consulted)
- Department of Primary Industries – Fisheries
- Heritage NSW
- Dareton Local Aboriginal Land Council
- Western Zone Aboriginal Land Council
- NTSCorp (legal representatives for Barkandji Prescribed Body Corp) – Native Title claimants
- Water NSW

### 4.2 Social and economic

The planning proposal has the potential to facilitate positive social and economic impacts through eco-tourism opportunities. The following groups may have an interest in the proposal Dareton Local Aboriginal Land Council, Western Zone Aboriginal Land Council and NTSCorp (legal representatives for Barkandji Prescribed Body Corp) – Native Title claimants.

### 4.3 Infrastructure

The planning proposal report states that there is no additional demand for public infrastructure.

The existing road and walking track network within the reserve is adequate for continued purposes of environmental and cultural heritage conservation under the proposed zone.

As previously outlined in Section 3.4, the proposed rezoning does have implications under the SEPP (Transport and Infrastructure) 2021 (former Infrastructure SEPP) for the sewage treatment plant. Any future development or upgrades to the sewage reticulation system which traverses the subject land will now require consent.

Due to the location of the proposal the following agencies would have interest in the proposal: -

- Transport for NSW – Subject land has access to Adams Street, a classified road which is zoned as SP2 State Highway
- Water NSW – Responsible for Lock and Weir No. 10 which is in close proximity (<300m) to the subject land
- Environment Protection Authority – Regulator of sewage treatment plants

However, the proposed conservation zone will likely not have significant negative impacts on public infrastructure and therefore consultation with Water NSW and EPA is recommended.

## 4.4 Community

Council proposes a community consultation period of 28 days.

The proposal is categorised as a standard planning proposal.

The exhibition period proposed is considered appropriate, and forms to the conditions of the Gateway determination.

## 4.5 Agencies

The proposal does not specifically raise which agencies will be consulted. Council conducted preliminary consultation with DPE's Crown Lands and the Biodiversity and Conservation Division who raised no objections to the draft planning proposal.

It is recommended the following agencies be consulted on the planning proposal and given 21 days to comment:

- Heritage NSW
- DPI- Agriculture
- Dareton Local Aboriginal Land Council
- Western Zone Aboriginal Land Council
- Environment Protection Authority
- Water NSW

## 5 Timeframe

Council proposes a 6 month time frame to complete the LEP.

The Department recommends a time frame of nine (9) months to ensure it is completed in line with its commitment to reduce processing times and due to the additional work required by Council to address condition 1 of the Gateway determination.

A condition to the above effect is recommended in the Gateway determination.

## 6 Local plan-making authority

Council has not requested delegation to be the Local Plan-Making authority.

Council has an interest in the planning proposal as the Crown land manager of Thegoa Lagoon Reserve. However, due to the relatively low risk nature of the planning proposal, the Department recommends that Council be authorised to be the local plan-making authority for this proposal.



## 7 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- Strategic merit in rezoning the Thegoa Lagoon Reserve to C2 Environmental Conservation
- High level consistency with relevant regional and local plans
- No adverse environmental, social or economic impacts

Based on the assessment outlined in this report, the proposal is to be updated before consultation to:

- Outline amendments to Minimum Lot Size, including LEP maps
- Further description and justification of the planning proposal consistency with the following:
  - Directions and Actions in the Far West Regional Plan
  - Planning priorities in Wentworth Local Strategic Planning Statement
  - s9.1 Ministerial Directions
  - State Environmental Planning Policies

## 8 Recommendation

It is recommended the delegate of the Secretary:

- Note that inconsistency with section 9.1 Direction 6.1 Residential Zones is deemed to be of minor significance and no further work is required.

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

1. Prior to community and agency consultation the planning proposal is to be updated to:
  - Outline amendments to Minimum Lot Size, including indicative LEP map
  - Discuss consistency with relevant Directions from the Far West Regional Plan 2036 including Direction 13, 14, 15, 16, 17 and 18
  - Discuss consistency with relevant planning priorities from the Wentworth Local Strategic Planning Statement 2020 including Planning Priorities 8, 9, 10 and 11.
  - Update numbering of relevant s9.1 Ministerial Directions that came into force on 1 March 2022.

The planning proposal is to be forwarded to the Department for review and approval.

2. Consultation is required with the following public authorities:

- Heritage NSW
- DPI Agriculture
- Dareton Local Aboriginal Land Council
- Western Zone Aboriginal Land Council
- Environment Protection Authority
- Water NSW
- Transport for NSW

- NTSCorp (legal representatives for Barkandji Prescribed Body Corp) – Native Title claimants
3. The planning proposal should be made available for community consultation for a minimum of 28 days.
  4. The timeframe for completing the LEP is to be 9 months from the date of the Gateway determination.
  5. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



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(Signature)

4 April 2022

(Date)

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Helen Smith  
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