



IRF24/1905

Gateway determination report – PP-2024-798

Proposed listing of a local heritage item in the
Wentworth Local Environmental Plan 2011

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Acknowledgment of Country

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

Contents

1	Planning proposal	1
1.1	Overview	1
1.2	Objectives of planning proposal	1
1.3	Explanation of provisions	1
1.4	Site description and surrounding area	2
1.5	Mapping	3
2	Need for the planning proposal	3
3	Strategic assessment	3
3.1	Regional Plan	3
3.2	Local	3
3.3	Section 9.1 Ministerial Directions	4
3.4	State environmental planning policies (SEPPs)	5
4	Site-specific assessment	6
4.1	Social and economic	6
5	Consultation	6
5.1	Community	6
5.2	Agencies	6
6	Timeframe	7
7	Local plan-making authority	7
8	Recommendation	7

Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Attachment A – Planning Proposal (Cadell Consulting Service, April 2024)
Attachment A1 – Statement of Heritage Justification (Zenith Town Planning, March 2024)
Attachment A2 – Council Meetings

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Wentworth
PPA	Wentworth Shire Council
NAME	Proposed listing of a local heritage item in the Wentworth Local Environmental 2011
NUMBER	PP-2024-798
LEP TO BE AMENDED	Wentworth Local Environmental Plan 2011
ADDRESS	1183 River Road, Mourquong
DESCRIPTION	Lot 1170 DP 820161
RECEIVED	22/07/2024
FILE NO.	IRF24/1905
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The planning proposal (**Attachment A**) contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objective of the planning proposal is to list the subject site as a local heritage item to recognise its local significance. The objective of this planning proposal is clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the Wentworth LEP 2011 to identify the 'Wow Tree' located at 1183 River Road, Mourquong in Part 1 of Schedule 5. The corresponding heritage map sheet (HER_004) is also to be amended.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

The 'Wow Tree' is a *Eucalyptus Oleosa* located at 1183 River Road, Mourquong (Lot 1170 DP 820161). The site is occupied by the Australian Inland Botanic Gardens. It is Vegetation Category 3 Bushfire Prone Land, flood prone and contains terrestrial biodiversity.

The site adjoins pastoral, industrial and horticultural land uses, see Figure 1. The site is located on the NSW and Victoria border, see Figure 2, approximately 10km from the Mildura Centre and 1,000km west of the Sydney CBD.

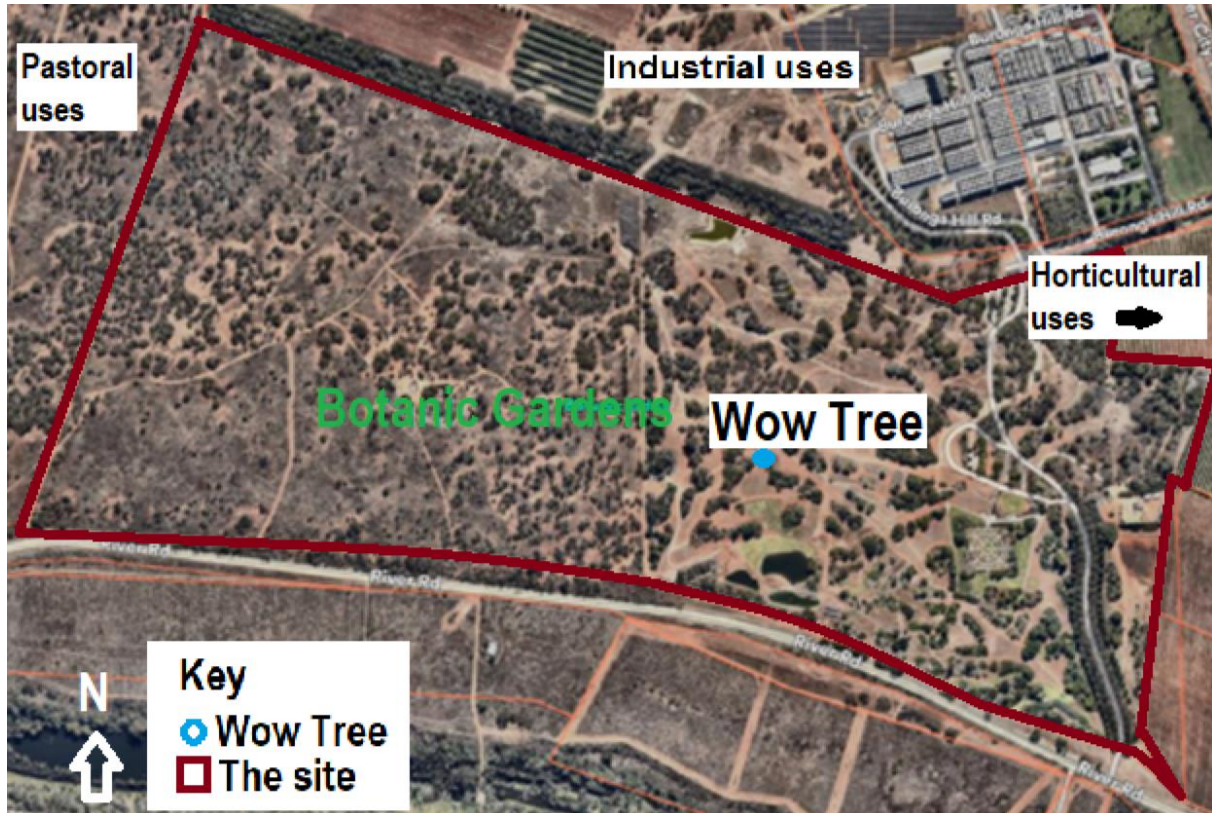


Figure 1 Subject site (Source: Planning proposal edited by DPPI, April 2024)

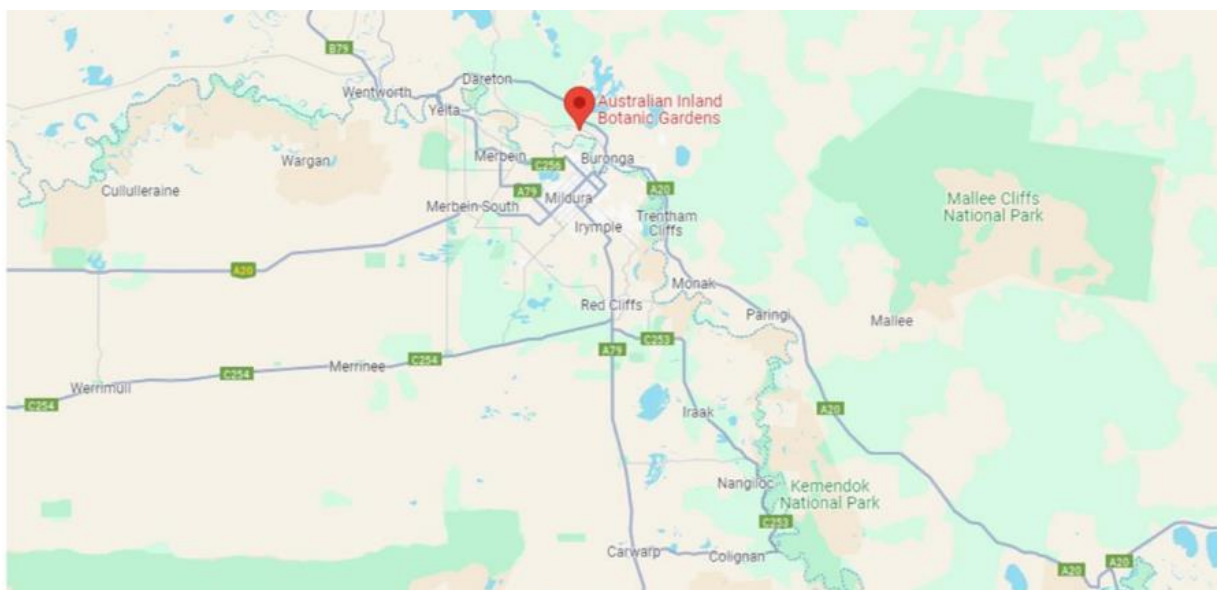


Figure 2 Site context (Source: Planning proposal, April 2024)

1.5 Mapping

The planning proposal does not contain mapping of the proposed LEP map (HER_004). It is recommended the Gateway determination include a condition requiring the planning proposal be updated to include proposed mapping prior to community consultation.

2 Need for the planning proposal

On 20 April 2022 Council supported a request by the Australian Botanic Gardens to initiate the process of the proposed listing of the tree (**Attachment A2**). An independent heritage assessment was prepared by Sustainable Thinking in March 2024 (**Attachment A1**) in accordance with the Assessing Heritage Significance manual (NSW Heritage Office, 2023). It found that the site meets the criteria for local heritage listing. The tree displays environmental significance, as well as cultural significance both to the local indigenous people and wider community. A more detailed review of the site against the heritage criteria can be found in the planning proposal and heritage assessment.

The planning proposal has demonstrated the site warrants local heritage listing in the Wentworth LEP and a planning proposal is considered the most appropriate pathway to action this.

3 Strategic assessment

3.1 Regional Plan

The Far West Regional Plan 2036 and the draft Far West Regional Plan 2041 (publicly exhibited) apply to the proposal. The Far West Regional Plan 2036, Direction 18 states respect and protect Aboriginal cultural heritage assets, and Objective 2 of the draft Far West Regional Plan 2041, states protect and enhance culture and heritage.

Both regional plans encourage the protection of cultural heritage. The planning proposal has demonstrated the site has local heritage significance and aims to protect a tree that is meaningful to the local community, including the Indigenous Barkindji nation. The objective of the planning proposal is to include the site in Schedule 5 of the Wentworth LEP, and this protection satisfies the intent of the regional plans.

3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 3 Local strategic planning assessment

Local Strategies	Justification
Wentworth Local Strategic Planning Statement 2020	<p>The planning proposal seeks to provide an additional layer of protection to a tree that has been demonstrated to possess local heritage significance as discussed in Section 2 of this report.</p> <p>This is consistent with 'Planning Priority 8 – Preserve and promote heritage' of the Wentworth LSPS.</p>

Wentworth
Community
Strategic Plan
2022-2032

The planning proposal is consistent with the following objectives of the Plan:

- 1.2 – Promote the Wentworth Region as a desirable visitor and tourism destination.
- 1.4 – Encourage lifelong learning opportunities.

The site is occupied by the Inland Botanic Gardens which functions as a tourist destination and education facility. The listing of the site as a heritage item may draw more tourists, this will in turn will promote the site as a tourist destination. The planning proposal is consistent with the Community Strategic Plan.

3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 4 9.1 Ministerial Direction assessment

Directions	Consistent	Reasons
1.1 Implementation of Regional Plan	Consistent	The planning proposal is consistent with this Direction, as discussed in Section 3.1.
3.2 Heritage Conservation	Consistent	<p>The objective of this Direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p> <p>The planning proposal is consistent with this direction as it contains provisions to facilitate the conservation of a heritage item.</p>
4.1 Flooding	Consistent	<p>The objective of this Direction is to ensure development on flood prone land is consistent with relevant NSW policies and strategies and ensure that LEP controls are commensurate with flood behaviours.</p> <p>The Direction applies as the subject site is flood prone.</p> <p>The subject site is flood prone; however the planning proposal does not seek to permit development or increase development density therefore the proposal is consistent with this direction.</p>
4.3 Planning for Bushfire Protection	Further justification required	<p>The objective of this Direction is to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas and encourage sound management of bush fire prone areas.</p> <p>The Direction applies as the subject site is identified as being bush fire prone.</p> <p>Whilst the proposal is consistent with aspects of this Direction, consultation is still required with NSW Rural Fire Service to be consistent. A condition of Gateway determination has been included to this effect. Upon completion of the Gateway determination condition the planning proposal will be consistent</p>

Directions	Consistent	Reasons
		with the Direction, subject to no further issues being identified during consultation with NSW Rural Fire Service.
9.1 Rural Zones	Consistent	This Direction applies as the site is located within a rural zone. The proposal is consistent with this direction as it does not amend the existing zone.
9.2 Rural Lands	Inconsistent, of minor significance	<p>This Direction applies as the proposal is located outside the Greater Sydney Region and will impact land within an existing rural zone.</p> <p>The planning proposal will assist in protecting cultural heritage and native vegetation by applying local heritage protection to a significant tree. This is consistent with 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>The proposed amendment is in part inconsistent with this Direction as the subject site is currently zoned rural land and the listing of the heritage item will restrict potential rural land uses in the future. However, given the site has been occupied by the Inland Botanic Gardens since the 1980s and adjoins an industrial land use, the Department considers the inconsistency of minor significance.</p>

3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 5 Assessment of planning proposal against relevant SEPPs

SEPPs	Reasons for Consistency or Inconsistency
State Environmental Planning Policy (Biodiversity and Conservation) 2021	<p>This SEPP is applicable as the site is zoned RU1 Primary Production and located in the list of local government areas specified in Schedule 2, the site is also identified in Map 35 of the Murray Regional Environmental Plan No. 2 – Riverine Land.</p> <p>Any future development application will adhere to the requirements outlined in Chapters 3, 4 and 5. The planning proposal seeks to apply an additional level of protection to native vegetation. This is consistent with the intent of the SEPP to protect koala habits and the lands around the Murray River.</p>
State Environmental Planning Policy (Exempt and Complying Development Code) 2008	<p>The planning proposal will not impact on the operation of the SEPP. However, as a result of the proposal any future works on the site will be limited or excluded from utilising the provisions in the SEPP. A more stringent approval process generally applies to heritage items to offer a higher level of protection, facilitating their ongoing management.</p>

SEPPs	Reasons for Consistency or Inconsistency
State Environmental Planning Policy (Primary Production) 2021	<p>The SEPP aims to protect and manage agricultural land in a sustainable manner that considers environmental impacts.</p> <p>The planning proposal seeking to apply heritage protection to native vegetation, in keeping with the aims of the SEPP.</p>

4 Site-specific assessment

4.1 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

Table 6 Social and economic impact assessment

Social and Economic Impact	Assessment
Social	<p>The planning proposal is likely to have positive social impacts. Listing the site as a local heritage item will provide the community with greater certainty regarding the heritage significance of the site and facilitate its ongoing protection. Additionally, it recognises the importance of the Indigenous culture and the significance of the Wow Tree to the community.</p> <p>The proposal will have an acceptable social impact.</p>
Economic	<p>The proposal may result in positive economic impacts with potentially more visitors to the Inland Botanic Gardens. The heritage listing will limit future development options at the site as works will require specialist heritage studies to form part of any future development application submission and the effect of any future development on the heritage significance of the site will need to be considered.</p> <p>The proposal will have an acceptable economic impact.</p>

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days, however the planning proposal is categorised as a basic under the LEP Making Guidelines (September 2022). Accordingly, a community consultation period of 10 working days is recommended and this forms part of the conditions to the Gateway determination.

5.2 Agencies

The proposal does not specifically raise which agencies will be consulted. It is recommended that NSW Rural Fire Service be consulted in accordance with Ministerial Direction 4.3 and given 30 working days to comment.

6 Timeframe

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as basic.

The Department recommends an LEP completion date of 19 February 2025 in line with its commitment to reducing processing times and with regard to the benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

As the planning proposal addresses matters of local heritage significance and Council supports the progression of the planning proposal, the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

8 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 9.2 Rural Lands are of minor significance.
- Note that the consistency with section 9.1 Directions 4.3 Planning for Bushfire Protection will be resolved as part of the consultation process.

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

The following conditions are recommended to be included on the Gateway determination:

1. Prior to community consultation the planning proposal is to be updated to:
 - Include the current and proposed versions of Wentworth Local Environmental Plan 2011 Heritage HER_004.
2. Prior to community consultation, consultation is required with the following public authority:
 - NSW Rural Fire Service
3. The planning proposal should be made available for community consultation for a minimum of 10 working days.
4. Given the nature of the planning proposal, it is recommended that the Gateway authorise council to be the local plan-making authority and that an LEP completion date of 19 February 2025 be included on the Gateway determination.
5. The timeframe for the LEP to be completed is on or before 19 February 2025.



21/8/2024

Tim Collins

Manager, Local Planning and Council Support (Southern, Western and Macarthur Region)



22/8/2024

Chantelle Chow

Acting Director, Local Planning and Council Support (Southern, Western and Macarthur Region)

Assessment officer

Kimberley Beencke

Planning Officer, Local Planning and Council Support (Southern, Western and Macarthur Region)

02 9274 6053