



# WENTWORTH SHIRE COUNCIL

## MINUTES

EXTRAORDINARY COUNCIL MEETING  
COMMENCING 3PM

THURSDAY 25 FEBRUARY 2010

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**2. OPENING OF MEETING AND PRAYER****3. PRESENT**

**COUNCILLORS:** Margaret Thomson (*Mayor*), Brian Wakefield (*Deputy Mayor*), Bill Brook, Melisa Hederics, Mark King, and Ian Whitfield

**STAFF:** Mr Peter Kozlowski (*General Manager*)  
Mr Ken Ross (*Director, Sustainable Planning & Environment*)  
Mr Sylvester Tan (*Manager, Planning & Development*)

**4. APOLOGIES AND APPLICATIONS FOR LEAVE**

Councillor Thompson is currently on leave of absence and Councillors Wheeldon and McKinnon submitted their apologies.

***Moved Crs. Wakefield and Whitfield that the apologies from Councillors Thompson (currently on leave of absence), Wheeldon and McKinnon be accepted.***

**CARRIED**

**5. DECLARATIONS OF PECUNIARY INTEREST AND CONFLICTS OF INTEREST**

Councillor Hederics declared a pecuniary interest in item 6.2, as a property owner whose land will be rezoned to a new category in the proposed draft Local Environmental Plan 2010.

**6. OFFICERS' REPORTS****6.1 Local Environmental Plan – Seeking Section 65 Certificate of Director General to exhibit draft Wentworth Local Environmental Plan 2010**

Responsible Officer: Director Sustainable Planning and Environment  
Author: Manager Planning and Development  
Implications: Policy, Management Plan  
File & References: L1/8-5  
Attachments: Nil  
Separately Circ.: Nil  
Tabled: Information for Submission of draft Plan

**Recommendation**

That Council endorses the draft Wentworth Local Environmental Plan 2010 and the attached information for submission of the draft Plan to the New South Wales Department of Planning under Section 64 of the *Environmental Planning and Assessment Act 1979 as amended* (Act)

**AND**

That Council requests the Director General of the Department of Planning to issue a Section 65 Certificate of Director General to exhibit the draft Plan under Section 66 of the Act.

### **Purpose**

The purpose of this report is to enable Council to make the determination to submit the draft Wentworth Local Environmental Plan (WLEP) to the Director General of the New South Wales Department of Planning for issuance of Section 65 Certificate and to exhibit the draft Plan under delegation after the receipt of Section 65 Certificate.

### **Report**

New South Wales (NSW) State Government made an Order in 2006 to issue the Standard Instrument Local Environmental Plan (templates). Following the gazettal of the Order NSW Councils are required to review their Local Environmental Plan/s and to prepare a new local environmental planning instrument to comply with the Standard Instrument 2006.

Council has prepared a Local Environmental Study under Section 54 of the Act and informed the Director General of the Department of Planning of its decision to prepare a new comprehensive Local Environmental Plan.

Council has completed the processes and procedures required under Section 62 and Section 63 of the Act in the preparation of the draft WLEP. Both Sections refer to preliminary consultations with state agencies and incorporation of their comments into the draft WLEP.

Council has also prepared all the required information under the Section 64 of the Act and that information is attached to this report as part of the submission to the Department of Planning for a Section 65 Certificate request. Necessary information includes:

*Response to Section 117 (2) Ministerial Directions*

*Review of State and Regional Environmental Planning Policies for the purpose of the draft WLEP*

*Review of Planning Circulars for the purpose of the draft WLEP*

In addition to the necessary information, an Addendum has been prepared to the Local Environmental Study. The Study is a statutory requirement under the Act prior to Council lodging a plan making proposal such as the draft WLEP.

The Department of Planning will consider all materials submitted for the purpose of seeking a Section 65 Certificate. The Certificate may be issued with conditions. Council must satisfy the conditions if listed prior to exhibiting the draft WLEP under Section 66 of the Act. The draft WLEP must also be exhibited for the duration of time as prescribed under a Section 65 Certificate.

A separate report will be tabled to Council at its Ordinary Meeting after the exhibition period with consideration of all public and state agencies submissions made during the exhibition period.

### **Policy and Management Plan Implications**

It is considered that the draft Wentworth Local Environmental Plan has minimal implications on Council Policies as adopted and in force.

It is considered that the draft Wentworth Local Environmental Plan in its current form does not have implications on the Council's Management Plan as it is a document prepared for exhibition under the Act and is subject to possible alterations following the exhibition period. Whilst the draft Plan is known as a comprehensive Local Environmental Plan it is nonetheless significantly a translation of the current Plan adopted in 1993 to conform to the Standard Instrument Local Environmental Plan Order 2006.

### **Conclusion**

Council can now proceed to submit the draft Wentworth Local Environmental Plan to the Department of Planning for a Section 65 Certificate of the Director General as per recommendation.

***Moved Cr Brook and seconded Cr Wakefield that the supplementary report item 6.2 be admitted for consideration.***

**CARRIED**

### **6.1 SUPPLEMENTARY REPORT Local Environmental Plan – Seeking Section 65 Certificate of Director General to exhibit draft Wentworth Local Environmental Plan 2010**

Responsible Officer: Director Sustainable Planning and Environment  
Author: Manager Planning and Development  
Implications: Policy, Management Plan  
File & References: L1/8-5  
Attachments: Nil  
Separately Circ.: CD Submission of draft Plan to Department of Planning  
Tabled: Planning PS 10-002

### **RECOMMENDATION**

1. That Council submits the draft Wentworth Local Environmental Plan 2010 to the Department of Planning requesting a Section 65 Certificate to enable public exhibition of the draft Plan;
2. That upon receipt of the Section 65 Certificate, Council commences public exhibition of the draft Plan.

### **Purpose**

The purpose of this report is to submit the draft Wentworth Local Environmental Plan 2010 (draft LEP) to Council for consideration to obtain a resolution to request a Section 65 Certificate from the Department of Planning to proceed to public exhibition of the draft Plan.

Daris Olsauskas and Associates were commissioned by Council to prepare the Buronga Gol Gol Structure Plan, Local Environmental Study and a new Local Environmental Plan (LEP) for the Wentworth Local Government Area (LGA). The Buronga Gol Structure Plan was endorsed by Council on 19 October 2005 following

extensive community/agency consultation and analysis. Endorsement of the Structure Plan has guided the preparation of the Local Environmental Study and subsequently preparation of a new principal Wentworth Local Environmental Plan, which, when gazetted, will replace the current WLEP 1993.

### **Summary**

In March 2006, the NSW State Government released a standard LEP template which was aimed at making it easier for residents and investors to work within a planning regime that applied consistently across the State and simpler for local Councils to prepare and administer LEPs. Nine subsequent amendments to the standard template have been gazetted, the most recent amendment being on 8 January 2010. The standard LEP template contains mandatory zones, zone objectives, definitions and local clauses which Councils must incorporate in their draft LEPs. Councils are also permitted to incorporate certain additional provisions to reflect the unique characteristics of their local areas. The draft LEP has been both governed and informed by the following:-

- ✂ Buronga Gol Gol Structure Plan (2005);
- ✂ Local Environmental Study 2007;
- ✂ State Environmental Planning Policies;
- ✂ Section 117 Ministerial Directions and Standard Instrument;
- ✂ Legal considerations provided by Parliamentary Counsel; and
- ✂ Community-Based Heritage Studies.

The draft LEP incorporates 31 mandated clauses, 7 optional clauses, 28 local clauses, five Schedules and a Dictionary. A total of 90 map sheets have also been prepared in accordance with the standard map Guidelines and includes maps relating to land zoning, minimum lot size, heritage; together with flooding, public land and infrastructure.

### **Report**

The draft LEP will establish best practice controls and requirements for urban growth, agriculture, industrial development, environmental management and heritage protection over the next five years. The content and format of the LEP has been determined with the input and assistance of many internal and external of stakeholders. These included:-

- ✂ David Richardson and Partners;
- ✂ Daris Olsaukas and Associates;
- ✂ JG Consultancy
- ✂ Staff from Council's three Directorates;
- ✂ Councillors;
- ✂ State Government Agencies (including the Department of Planning); and
- ✂ Members of the community who provided supporting information to accompany their submission to the Buronga Gol Gol Structure Plan.

### **Format and Content of the draft Wentworth Local Environmental Plan 2010**

A copy of the draft LEP (instrument and maps) is provided on a CD separately circulated for the information of Councillors. Paper copies have also been placed in the Council Chambers for the information and perusal of Councillors. The documents cannot be made publicly available until the Department of Planning has issued a certificate authorising public exhibition of the draft Local Environmental Plan. Following certification of the draft Plan by the Department, a comprehensive consultation strategy will be implemented to enable the community to be fully

informed and to participate in further development of the draft Plan. In this regard, a number of consultation techniques will be utilised during public exhibition of the draft Plan, including briefing sessions/forums with local communities across the Shire, special interest groups and development industry representatives, together with distribution of information via the Council's website, media outlets and direct mailing.

## **Zones**

As previously outlined, the format and content of the draft LEP has been largely determined in accordance with the Standard Instrument template. Twelve (12) zones have been selected from the standard template suite for inclusion in the new Plan. These include the following zones:-

### **Rural Zones**

#### *Zone RU1 Primary Production*

This zone is generally to cover land used for most kinds of primary production including extensive agriculture, horticulture, intensive livestock agriculture, mining, forestry and extractive industries. The zone is aimed at maintaining and enhancing the natural resource base of the area.

#### *Zone RU3 Forestry*

This zone is generally intended to identify and protect land that is to be used for long-term forestry.

#### *Zone RU5 Village*

This zone is generally intended to cover rural villages where a mix of residential, retail and other uses are to be established or maintained.

### **Residential Zones**

#### *Zone R5 Large Lot Residential*

This zone is generally intended to cater for development that provides for residential housing in a rural setting. The allocation of large lot residential land is the same as that previously zone 1(c) Rural Residential Zone.

### **Industrial Zones**

#### *Zone IN1 General Industrial*

This zone is intended to accommodate a wide range of industrial and warehouse uses. Councils can choose to supplement the existing mandated industrial and warehouse uses by permitting heavy and offensive or hazardous industrial uses, if appropriate.

### *Zone IN2 Light Industrial*

This zone is generally intended for instances where Councils wish to designate particular land for light industrial uses that would enable other landuses that provide facilities or services to meet the day to day needs of workers in the area.

## **Special Purpose Zones**

### *Zone SP2 Infrastructure*

This zone is generally intended to cover a wide range of physical and human infrastructure uses such as transport (eg. Highways) and utility undertakings/works. This zone has been applied to the two state highways within the Shire.

## **Recreation Zones**

### *Zone RE1 Public Recreation*

This zone is generally intended for a wide range of public recreation areas and activities, including local open space. Councils may permit typical public recreation uses in this zone, together with a range of landuses compatible with its principal recreational purpose.

### *Zone RE2 Private Recreation*

This zone covers a range of recreation areas and facilities on privately-owned land, such as golf and bowling clubs.

## **Environmental Protection Zones**

### *Zone E1 National Parks and Nature Reserves*

This zone may be applied to existing National Parks and Nature Reserves. All uses currently authorised under the *National Parks and Wildlife Act 1974* will continue to be permitted without consent within this zone.

### *Zone E2 Environmental Conservation*

This zone is generally intended to protect land that has high conservation value. A number of landuses considered to be inappropriate for this zone have been mandated as prohibited uses.

### *Zone E3 Environmental Management*

This zone is intended to be applied to land that has environmental or scenic values but where a limited range of development, including dwelling houses and other uses, will be permitted.

## **Land Use Table**

Each of the above zones has a corresponding landuse table in the draft LEP text which outlines the landuses that are “permitted without the consent” of Council, “permitted with the consent” of Council or are “prohibited” in the respective zones. The landuse tables were formulated by using a “landuse matrix” which cross tabulates each zone with all of the definitions listed in the standard LEP template.

The Landuse Matrix is included on a CD separately circulated for the information of Councillors.

#### *Minimum Lot Size Maps*

In addition to the preparation of zoning maps as outlined above, a set of maps have been prepared to identify the minimum lot sizes for subdivision of rural, residential, industrial and environmentally-sensitive areas within the Shire.

#### **Heritage Maps**

The standard LEP template mandates the inclusion of both a heritage “schedule” in the draft Local Environmental Plan text, together with a set of maps which identify all of the properties listed in the Schedule. The relevant Schedule in the draft Local Environmental Plan contains heritage listings, including structures and archaeological sites located throughout the region. The properties listed in the draft Schedule were derived either from heritage schedules in the current LEP and the 1989 Wentworth heritage study. A set of “heritage” maps accompanies the Schedule in the draft Plan. The primary purpose of listing items in the Schedule is to ensure that a detailed assessment is undertaken where it is proposed to demolish or significantly alter a building or structure. In most cases, minor alterations will not require Council’s approval. Council also provides financial assistance on an annual basis for maintenance and/or improvements to heritage buildings within the LGA.

#### *Exempt and Complying Development, Principal Development Standards, Miscellaneous Provisions and Local Provisions*

In addition to prescribing zones, objectives/uses with the landuse tables and definitions, the standard LEP template requires those Councils proposing LEPs to include a number of compulsory clauses within the LEP text and provides the option for including a number of optional clauses.

Council should expect that some of the local clauses may be reworded by Parliamentary Counsel through the legal drafting process, while still preserving Council’s intent. Council officers will be preparing a “Statements of Intent” in order to assist Parliamentary Counsel in this process. This statement is provided on a CD separately circulated for the information of Councillors.

#### **Schedules**

A total of five Schedules are “prescribed” within the standard LEP template and have been subsequently incorporated in the draft Local Environmental Plan. They include:

##### **Schedule 1 Additional Permitted Uses**

This Schedule is designed to “facilitate” specific additional uses (subdivisions and/or development) which are not currently permitted by the zone provisions within the LEP. A review of the “additional” uses listed in the Schedules applying to the current Local Environmental Plan has been undertaken and it has been determined that only 30% permitted uses have been completed. As a consequence it is proposed to provide a sunset clause to facilitate the development within a period of five years.

##### **Schedules 2 and 3 Exempt and Complying Development**

These two Schedules are intended to include lists of those types of development/activities that are classified as “exempt” and “complying” development

respectively. "Exempt" development refers to minor development/activities such as air conditioning units, barbecues, bird aviaries and garden sheds that will not require any approval from Council (subject to meeting certain size/location criteria). "Complying" development refers to certain types of development such as dwelling houses which can be approved either by Council or an accredited private certifier (subject to meeting a number of conditions).

The "exempt" and "complying" development schedules in the draft Local Environmental Plan have been formulated by having regard to the recently released "Model Codes" for housing and commercial premises. Council has received advice that the "exempt" and "complying" development schedules may need to be reformatted from the published version of the "Model Codes" to comply with PC requirements.

#### **Schedule 4 Classification and Reclassification of Public Land**

The purpose of this Schedule is to list Council-owned properties that are intended to be reclassified from "community" to "operational" land status under the Local Government Act 1993. The draft Local Environmental Plan currently has a nil listing in the table. This will be review prior to submitting the Schedule to the Department of Planning.

#### **Schedule 5 Environmental Heritage**

This Schedule (and associated clause in the LEP text) is designed to provide protection to buildings, structures and archaeological sites within the LGA which have been identified as having State or Local "heritage" significance. The items have been identified in Schedule 5 of the draft Local Environmental Plan and are derived from current Local Environmental Plan, 1989 heritage study and a review undertaken by Council's Heritage Advisor.

#### **Dictionary**

The final section of the draft Local Environmental Plan lists mandatory "definitions" of words and expressions used throughout the Plan.

##### **(a) Policy Implications**

The draft Local Environmental Plan, once gazetted, will comprise the principal statutory planning instrument within the Council. It will provide for the future direction and management of all landuses within the Shire.

##### **(b) Financial Implications**

The draft Local Environmental Plan has been prepared in accordance with the allocated funds in the budget.

##### **(c) Legal Implications**

The draft LEP is a statutory (legal) document and as such, will be reviewed by Parliamentary Counsel prior to public exhibition of the Plan.

##### **(d) Community Consultation**

Once the Department of Planning has formally issued a S65 Certificate in relation to the draft Plan, LEP will be publicly exhibited for a period of six weeks. It is envisaged that extensive community consultation will be undertaken during this period.

**Conclusion**

Following an extensive review and analysis of the current Local Environmental Plan , together with “guidance” provided (and/or mandated) by the standard LEP template in conjunction with the Buronga Gol Gol Structure Plan and Local Environmental Study, a single integrated principal Local Environmental Plan has been drafted for the Council . The next step in the process requires a resolution from Council to refer the draft LEP to the Department of Planning in order to obtain a Section 65 Certificate which will authorise public exhibition of the draft Plan.

Whilst every attempt has been made to ensure that the enclosed LEP text and maps are accurate at the time of writing the report, a number of errors, anomalies and inaccuracies may be present which will require minor amendment to the draft Plan prior to referral to the Department of Planning. It is therefore recommended that Council resolve to permit such minor modifications to the draft Plan prior to referral to the Department.

Following receipt of the Section 65 Certificate, the draft LEP will be placed on public exhibition for six weeks. It is intended that there will be extensive community involvement during the public exhibition phase.

***Moved Councillor King and seconded Councillor Brook that the recommendation be adopted.***

**CARRIED**

There being no further business the meeting concluded at 4.28pm.

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CHAIRMAN