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NATIVE TITLE MANAGER ADVICE

Wentworth Shire Council Draft Plan of Management: Community Land Plan of Management 2022

Prepared for: Wentworth Shire Council

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Accredited: February 2020

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CGM Planning & Development P/L

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Executive Summary

Wentworth Shire Council (Council) has sought advice from an accredited native title manager for a draft plan of management (the draft PoM) prepared for Crown reserves and reserved and dedicated Crown land in the Council local government area under the provisions of S3.23 of the *Crown Land Management Act 2016* and Division 2 of the *Local Government Act 1993*.

Council is a Crown land manager of reserved and dedicated Crown land and must ensure its dealings and activities on these managed Crown reserves comply with native title legislation.

The land involved in the draft PoM is comprised of Crown land where Federal Court determinations have determined that some land has had native title extinguished, which is excluded land, and other land has non-exclusive native title possession, which is 'relevant land' under the *Crown Land Management Act 2016*.

This relevant land is comprised of Crown reserves within the Council local government area where Council is the Crown land manager, being Crown land reserved or dedicated for a range of purposes.

- Access
- Accommodation
- Addition
- Ambulance Station
- Boy Scouts
- Cemetery, Cemetery and Crematorium, and General Cemetery
- Children's Playground
- Community Purposes
- Day Nursery
- Flood Mitigation
- From Sale Generally
- Girl Guides
- Government Purposes
- Heritage Purposes
- Kindergarten
- Plantation
- Preservation of Historical Sites and Buildings
- Public Baths
- Public Hall
- Public Recreation
- Rural Services
- Showground
- Town Hall
- Urban Services
- War Memorial
- Water

The Crown land included in the draft PoM has been the subject (with other Crown land) of Native Title Determination by the Federal Court of Australia in *Barkandji Traditional Owners #8* (NC1997/032) with determinations Part A (2015) and Part B (2017).

The Crown land included in the draft PoM has therefore been subject to significant and detailed evaluation with extensive supporting documentation as to the land status, history of use and ownership. This advice relies upon the Native Title Tribunal Register (NTTR) records, supplemented by Council's legal advice and records.

This written native title manager report provides the following advice.

Native title and excluded land

There have been three determined native title claims over Crown land within the Council LGA and one currently active claim.

Barkandji (Paakantyi) People # 11 determined that native title did not exist in the area claimed but did not include any land that is part of the draft PoM.

The Barkandji Malyangapa People (active claim) is a claim to determine compensation.

Barkandji Traditional Owners # 8 did not determine that there were any areas of Crown land that are included in the draft PoM where (native title) exclusive possession was identified.

Barkandji Traditional Owners # 8 (parts A and B) did determine that there were fifteen Crown reserves, included in the draft PoM, which contained land areas of Crown land where native title was determined to have been extinguished.

Additionally Wentworth Shire Council has acquired a further six portions of reserves for infrastructure such as roads and sewer pump stations to result in a total of 21 reserves or parts of reserves that have had native title extinguished.

The Native Title Tribunal Register of Indigenous Land Use Agreements (ILUAs) includes three ILUAs that have land within the Council LGA within an Agreement.

No Crown land included in the draft PoM is included in the three ILUAs with the exception of the Barkandji Interim Licences ILUA that is an interim five year agreement to provide for the use of land previously subject to a licence granted by the Crown Lands Minister, where the licence has been terminated and has not yet been reissued.

There are no Future Act Applications and Determinations listed in the Native Title Tribunal Register that include land in the Council LGA.

Section 8.4 of the CLM Act provides for the Minister to issue native title certificates. Council and this native title manager are unaware of any Native Title Certificate requested or issued for reserved or dedicated Crown land in the Council LGA.

Twenty-one (21) Crown reserves, either in total or in part area(s) have Crown land within the reserve that is 'excluded land' under the CLM Act Section 8.1. The balance of the reserves (52) or parts of the 21 reserves where it has not been determined that native title is extinguished, are not 'excluded land' under the provisions of the CLM Act Section 8.1.

Native title rights must be assumed to remain in existence where land in the draft PoM is not 'excluded land' under the *Crown Land Management Act 2016*.

Valid creation of the reserved and dedicated Crown land

The reserved and dedicated Crown land in the draft plan of management, including three reserves with State of NSW gazettal dates after 23 December 1996, are regarded as having been validly created (a 'valid act') by the State of NSW (the Crown) and Council is regarded as validly appointed as Crown land manager for the reserved and dedicated Crown land.

Previous exclusionary possession acts

The relevant Federal Court Determinations that native title has been extinguished over parts of or the total area of the excluded land (Section 2.2) leaves those parcels of the 21 where non-exclusive native title remains, and the balance of the 52 reserves covered by the draft PoM.

Council may act in confidence that in these instances of excluded land that native title has been determined extinguished.

Validity of Future Acts

The adoption of the draft PoM with proposed uses, developments and tenures that are in accordance with the reservation (or dedication) and the purposes of the Crown land, is a future act that meets the

requirements of validation under the *Native Title Act 1993* (Cwlth) Subdivision J, Section 24JA, Section (1) (a-e).

The plan of management

The submission of the draft plan of management for adoption to the Minister administering the CLM Act, will not have an effect on native title rights over the excluded land in the 21 Crown reserves that have been subject to acts that are *previous exclusive possession acts* (PEPAs), either over the whole of the reserved and dedicated Crown land or parts of the land in reserves.

The adoption, or referral to the Minister administering the CLM Act for adoption, of the plan of management over the parts of the 21 reserves where there is remaining non-exclusive native title, and the 52 other reserves with non-exclusive native title has been subjected to the NT Act (Cwlth) 'future acts regime' to determine if the plan of management adoption is a 'valid act'.

The adoption of the plan of management by Council in good faith and with proposed uses, developments and tenures that are in accordance with the reservation (or dedication) and the purposes of the Crown reserves is a valid future act under Section 24JA of the *Native Title Act 1993* (Cwlth).

The draft plan of management proposes a range of future acts that are public works and construction of services to the public, such as construction of a Men's' Shed at the Dareton Swimming Pool reserve or redevelopment of the Willow Bend Caravan Park, which are consistent with the reserve purpose and the draft PoM is validated under Section 24JA.

Any act of construction or establishment of a 'public work' or 'facilities for services to the public', as defined by the *Native Title Act 1993* (Cwlth), on Crown land where native title is deemed to exist and the non-extinguishment principle does not apply, will be deemed to extinguish native title and will require notification to any representative body, registered native title body corporate and registered native title claimant to provide them with an opportunity to comment prior to commencement of the public work.

Recommendation

Council may endorse the draft PoM as a draft for referral to, and submission for adoption from, the landowner: The Minister administering the *Crown Land Management Act 2016* as a landowner representative of the State of NSW.

Disclaimer:

The advice within this report is based on Federal Court and Native Title Tribunal Register records, State Government databases and Council records and advice. It is correct to the best of author's knowledge, as of 10 May 2022, and is opinion prepared in good faith and based upon, and with reference to, the NSW Government: 'Native Title Managers Handbook' 2nd Edition 2019.

1. INTRODUCTION

1.1 Crown Land Management Act 2018

- a) Wentworth Shire Council (Council) is a Crown land manager (Council Manager) for the purposes of the *Crown Land Management Act 2018* (CLM Act).
- b) A Council Manager is responsible for the care, control and management of reserved and dedicated land (Crown reserves) where the Council was previously appointed as Crown reserve trust manager under the former *Crown Lands Act 1989*.
- c) A Council Manager of Crown reserves is enabled by the CLM Act to manage the reserves as public land under the *Local Government Act 1993* (LG Act). Most of this public land is managed by Council as if it is community land under the LG Act.
- d) Community land is required to have a Council-adopted plan of management (PoM) to authorise tenures (lease, licences and other estates) and to guide the use, management and development of the community land. The CLM Act requires Council Managers to have adopted PoMs for Crown reserve community land as soon as practicably possible.

1.2 Native Title and Council

- a) The CLM Act requires the Council Manager (as a 'responsible person') to ensure Council's dealings and activities on Crown reserves that it manages comply with the native title legislation.
- b) Council managers need to employ or engage native title managers to ensure compliance with native title legislation. Council has engaged an accredited native title manager: Carl Malmberg, Director, CGM Planning & Development P/L. See **Appendix D** for letter of accreditation.
- c) The relevant legislation is the *Crown Land Management Act 2016*, the *Native Title Act 1993* [NT Act (Cwlth)] and the *Native Title Act 1994* [NT Act (NSW)].
- d) The CLM Act requires native title managers to provide written advice to the *Council Crown Land Manager* when the Council intends to perform one of the following functions in relation to the land it manages or own:
 - i. grant leases, licences, permits, forestry rights, easements or rights of way;
 - ii. mortgage the land or allow it to be mortgaged;
 - iii. impose, require or agree to (or remove or release, or agree to remove or release) covenants, conditions or other restrictions on use in connection with dealings involving the land, or
 - iv. approve (or submit for approval) a plan of management for the land that authorises or permits any of the kinds of dealings referred to in i to iii above.

1.3 Written Native Title Manager advice

Council is the Council Manager of Crown reserves in the Council Local Government Area (LGA). Council has prepared a draft PoM in accordance with the CLM Act and the LG Act.

This report meets Council's requirement under the CLM Act to obtain written native title manager's advice as Council is considering submission of the draft Council Crown Reserves Plan of Management for approval to The Minister administering the *Crown Land Management Act 2016*, representing the State of NSW as landowner of the reserved Crown land, and subsequent Council adoption of the draft PoM.

2. THE LAND

2.1 Identification of the Crown land (reserves) and purposes.

The Crown land included in the draft PoM has been the subject (with other Crown land) of Native Title Determination by the Federal Court of Australia in *Barkandji Traditional Owners #8* (NC1997/032) with determinations Part A (2015) and Part B (2017).

The Crown land included in the draft PoM has therefore been subject to significant and detailed evaluation with extensive supporting documentation as to the land status, history of use and ownership. This advice relies upon the Native Title Tribunal Register (NTTR) records, supplemented by Council's legal advice and records.

- a) Council has a total of 72 Crown reserves managed by Council as Council Manager that are included in the draft PoM.

Council has also included areas six Council-owned community land in the draft PoM. These six land areas are not included in this advice report as there is no application of native title to the six areas.

These reserves have been identified as Crown land reserved or dedicated for the following purposes.

- Access
- Accommodation
- Addition
- Ambulance Station
- Boy Scouts
- Cemetery, Cemetery and Crematorium, and General Cemetery
- Children's Playground
- Community Purposes
- Day Nursery
- Flood Mitigation
- From Sale Generally
- Girl Guides
- Government Purposes
- Heritage Purposes
- Kindergarten
- Plantation
- Preservation of Historical Sites and Buildings
- Public Baths
- Public Hall
- Public Recreation
- Rural Services
- Showground
- Town Hall
- Urban Services
- War Memorial
- Water

Table 1: List of reserved and dedicated Crown land in the plan of management

Reserve Number	Reserve Name	Gazetted	Reserve Purpose(s)	Lots/DPs Parish, County	Suburb
6	Pooncarie Sporting Reserves	8/9/1862	From Sale Generally Public Recreation	Whole: Lot 73 DP 820498 Parish Pooncaira County Perry	Pooncarie
1012528 (6)	Pooncarie Sporting Reserves Common		From Sale Generally; Grazing; ;	Part Lot 7304 DP 1182431,	Pooncarie
32017	Willow Bend Caravan Park	18/01/1901	Public Recreation	Lots 1-2 DP 1121941 Parish Wentworth County Wentworth	Wentworth
35698	Pooncarie Cemetery	25/04/1903	Cemetery	Lot 7300 DP 1156360 Parish Pooncaira County Perry	Pooncarie
55602	The Great Murray Darling Junction Reserve	11/08/1922	Public Recreation	Lot 2 DP 817572, Lots 7011-7012 DP 1125398	Wentworth

				Parish Wentworth County Wentworth	
61503	George Gordon Oval	1/11/1929	Public Recreation	Lot 7011 DP 1101609, Lot 7012 DP 1101611, Lot 1 DP 1158152 Parish Mourquong County Wentworth	Coomealla, Dareton
63988	Buronga Caravan Park	16/06/1933	Public Recreation Urban Services	Lot 2-4 DP 1032974 Lot 101 DP 1232718 Lot 980 DP756961 Lot 1159 DP 725383 Parish Mourquong County Wentworth	Buronga
64544	Part Buronga Caravan Park	11/05/1934	Public Recreation Access	Lots 429-431 DP 756961 Parish Mourquong County Wentworth	Buronga
65654	Dareton Basketball Courts	29/11/1935	Public Recreation	Lot 701 DP 1126803 Parish Mourquong County Wentworth	Dareton
67891	Wentworth Showground	16/09/1938	Addition Showground	Lot 2618 DP 764646 Parish Wentworth County Wentworth	Wentworth
72718	Pooncarie Oval	4/06/1948	Public Recreation	Lot 1430 DP 763147, Lot 7302 DP 1182431 Parish Pooncaira County Perry	Pooncarie
73211	Curlwaa Oval	10/06/1949	Public Recreation Rural Services	Lot 19 DP 725678 Parish Wentworth County Wentworth	Curlwaa
73260	James King Park	19/08/1949	Public Recreation	Lot 7003 DP 756946, Lots 7300-7301 DP 1176238 Parish Gol Gol County Wentworth	Gol Gol
73351	Wentworth Showground	14/10/1949	Addition Showground	Lot 121 DP 756994 Parish Wentworth County Wentworth	Wentworth
74478	Evans Flat Reserve	14/09/1951	Public Recreation	Lot 686 DP 756961, Lot 1174 DP 820132 Parish Mourquong County Wentworth	Buronga
74593	Alcheringa Tennis Courts	16/11/1951	Public Recreation	Lot 7007 DP 1125869, Lot 7302 DP 1176238 Parish Gol Gol County Wentworth	Gol Gol
75014	Wentworth Showground	30/05/1952	Addition Showground	Lot 7352 DP 1177510 Parish Wentworth County Wentworth	Wentworth
76144	Wentworth Tennis Courts	7/08/1953	Public Recreation Urban Services	Lot 13 Section 9 DP 759074 Parish Wentworth County Wentworth	Wentworth
76798	Part Buronga Caravan Park Reserve	4/06/1954	Public Recreation	Lots 427-428 DP 756961 Parish Mourquong County Wentworth	Buronga
77215	Dareton Children's Playground	29/10/1954	Children's Playground	Lot 1 Section 15 DP 758338 Parish Mourquong County Wentworth	Dareton
77413	Pioneer Memorial Park	28/01/1955	Children's Playground	Lot 7013 DP 1124723, Lot 7307 DP 1180919 Parish Pooncaira County Perry	Pooncarie

				Note: Lot 7307 DP 1180919 is also part of R98109	
77930	Wentworth Rowing Club Reserve	2/09/1955	Public Recreation	Lot 1464 DP 763434 Parish Wentworth County Wentworth	Wentworth
78438	Ramon Deed Retreat	29/03/1956	Public Recreation Community Purposes	Lot 713 DP 756961, Lot 1 DP 803205, Lots 2-3 DP 853243 Parish Mourquong County Wentworth	Dareton
78698	McLeod Oval	6/07/1956	Public Recreation Urban Services	Lot 1272 DP 762867, Lot 190 DP 820470, Lot 7017 DP 1126020 Parish Wentworth County Wentworth	Wentworth
78909	Thegoa Lagoon	21/09/1956	Plantation Public Recreation	Lot 7323 DP 1174216 Parish Wentworth County Wentworth	Wentworth
81010	O'Donnell Park	22/08/1958	Public Recreation	Lots 1-2 DP 117894 Parish Wentworth County Wentworth	Curlwaa
81398	McLeod Oval	20/02/1959	Public Recreation Urban Services Accommodation	Lot 7322 DP 1158106 Parish Wentworth County Wentworth	Wentworth
81861	Rotary Playground	14/08/1959	Public Recreation	Lot 5 Section 34 DP 759074 Parish Wentworth County Wentworth	Wentworth
82971	Buronga Children's Playground	13/01/1961	Children's Playground	Lot 7010 DP 1124614 Parish Mourquong County Wentworth	Buronga
83026	U Can Do It Boxing Gym	27/01/1961	Public Recreation	Lot 444 DP 756961 Parish Mourquong County Wentworth	Buronga
83919	McLeod Oval	20/07/1962	Public Recreation Urban Services Accommodation	Lot 7320 DP 1158106 Parish Wentworth County Wentworth	Wentworth
84700	Wentworth Wharf	10/01/1964	Public Recreation Urban Services	Lot 101 DP 1232727 Parish Wentworth County Wentworth	Wentworth
84989	Anabrach Hall And Tennis Courts	28/08/1964	Public Recreation	Lot 5 DP 756191, Lot 2591 DP 764619 Parish Wilton County Tara	Anabran South
85320	Pt Wentworth Golf Course	7/05/1965	Public Recreation Urban Services	Lot 7313 DP 1127027, Parish Wentworth County Wentworth	Wentworth
85419	Wilkinson Park	13/08/1965	Children's Playground	Lot 9 Section 13 DP 758456 Parish Gol Gol County Wentworth	Gol Gol
85470	Gol Gol Public Recreation Reserve	12/11/1965	Public Recreation	Lot 187 DP 756946 Parish Gol Gol County Wentworth	Buronga
85572	Old Wentworth Gaol Reserve	10/12/1965	Preservation of Historical Sites and Buildings	Lot 90 DP 756994 Parish Wentworth County Wentworth	Wentworth
85636	Dareton Pre School	25/02/1966	Day Nursery	Lots 3-4 Section 8 DP 758338	Dareton

				Parish Mourquong County Wentworth	
85733	Strother Park	7/04/1966	Public Recreation	Lot 7351 DP 1178836 Parish Wentworth County Wentworth	Wentworth
85836	Dareton Swimming Pool	1/07/1966	Public Baths Public Recreation Urban Services	Lot 101 DP 1232722 Parish Mourquong County Wentworth	Dareton
87037	Pooncarie Public Reserve	10/01/1969	Public Recreation	Lots 1-4 Section 15 DP 758851 Parish Pooncaira County Perry	Pooncarie
87250	Buronga Riverfront old Pound Reserve	27/06/1969	Public Recreation	Lot 7007 DP 1124947 Parish Mourquong County Wentworth	Buronga
87379	Fotherby Park	12/09/1969	Public Recreation	Lot 103 DP 1232727 Parish Wentworth County Wentworth	Wentworth
88251	Coomealla Golf Course	2/07/1971	Public Recreation	Lot 14 DP1253515 Parish Mourquong County Wentworth	Dareton
89255	Buronga Community Arts	2/08/1974	Boy Scouts Community Purposes	Lot 594 DP 756961 Parish Mourquong County Wentworth	Buronga
89637	Alcheringa Pre- School	7/11/1975	Kindergarten	Lot 211 DP 756946, Lot 7305 DP 1141029 Parish Gol Gol County Wentworth	Gol Gol
89749	Junction Park	19/03/1976	Public Recreation	Lots 1-5 Section 3 DP 759074 Lots 1-10 Section 4 DP 759074 Lots 1-8 Section 4A DP 759074 Lots 7335-7336 DP 1173326 Parish Wentworth County Wentworth	Wentworth
89757	Apex Park	26/03/1976	Children's Playground Urban Services	Lot 10 DP 756994 Lot 105 DP1232727 Parish Wentworth County Wentworth	Wentworth
89864	Dareton Community Activity Centre	30/07/1976	Girl Guides Community Purposes	Lot 16 Section 5 DP 758338 Parish Mourquong County Wentworth	Dareton
91386	Carramar Drive Sporting Complex	9/02/1979	Public Recreation Urban Services	Lot 472 DP 1268325, Lot 473 DP 1268325 Parish Gol Gol County Wentworth	Gol Gol
96592	Tuckers Creek Reserve	11/02/1983	Flood Mitigation Public Recreation	Lot 30 DP 45055, Lot 7340 DP 1176401 Parish Wentworth County Wentworth	Wentworth
97997	Perry Sandhills	22/11/1985	Public Recreation	Lots 3-4 DP 610639, Lot 5204 DP 725295, Lots 16, 51, 58-60, 63-64, 7009- 7012 DP 756964, Lot 7309 DP 1183405 Parish Neilpo County Wentworth, Lot 5201 DP 725295 Parish Wentworth County Wentworth	Wentworth
98030	Ellerslie Golf Course	20/12/1985	Public Recreation	Lot 5132 DP 720112 Parish Palinyewah County Wentworth	Ellerslie

98109	Darling Street Reserve	7/03/1986	Public Recreation	Lot 399 DP 761064, Lots 7307-7309 DP 1180919 Parish Pooncaira County Perry Note: Lot 7307 DP 1180919 is also part of R77413	Pooncarie
150038	Coomealla Pioneer Park	2/11/1990	Community Purposes	Lot 701 DP 1126798 Parish Mourquong County Wentworth	Dareton
150040	Sturt Park	10/05/1991	Public Recreation Water	Lots 7300-7301 DP 1121297 Parish Mourquong County Wentworth	Dareton
150041	Tapio Park	10/05/1991	Public Recreation Heritage Purposes	Lot 702 DP 1126798 Parish Mourquong County Wentworth	Dareton
230004	Part Thegoa Lagoon	8/07/1988	Public Recreation	Lot 7328 DP 1174216 Parish Wentworth County Wentworth	Wentworth
230005	Station site in Part Thegoa Lagoon	25/11/1988	Ambulance Station	Lot 7301 DP 1126251 Parish Wentworth County Wentworth	Wentworth
230030	Wentworth Pre School	28/08/1987	Kindergarten Community Purposes	Lot 14 Section 9 DP 759074 Parish Wentworth County Wentworth	Wentworth
230044	Pooncarie Public Reserve	10/06/1988	Public Recreation	Lot 2 DP 725311, Lot 7006 DP 1113537 Parish Pooncaira County Perry	Pooncarie
230081	Pooncarie Multi-Purpose Park and Golf Course	13/11/1992	Public Recreation	Lot 6588 DP 769379 Parish Pooncaira County Perry	Pooncarie
230096	Pooncarie Outback and Beyond	29/03/1996	Community Purposes	Lots 7-9 Section 8A DP 758851 Parish Pooncaira County Perry	Pooncarie
630001	Wentworth Showground	7/01/1899	Showground	Lot 84 DP 756994 Parish Wentworth County Wentworth	Wentworth
630005	Pomona Hall	18/01/1952	Public Hall Public Recreation Rural Services	Lot 8 DP 432081, Lot 1 DP 434771, Lot 7300 DP 1141042 Parish Neilpo County Wentworth	Pomona
630006	Dareton Town Square	21/12/1928	Public Hall Urban Services	Lots 1-2 Section 3 DP 758338 Parish Mourquong County Wentworth	Dareton
630011	Curlwaa Memorial Hall	10/06/1949	Public Hall	Lot 18 DP 725678 Parish Wentworth County Wentworth	Curlwaa
630036	Wentworth War Memorial	7/12/1945	War Memorial Urban Services Community Services	Lot 9 Section 25 DP 759074 Parish Wentworth County Wentworth	Wentworth
1002827	Pooncarie Hall	17/01/1947	Public Hall	Lot 10 Section 21 DP 758851 Parish Pooncaira County Perry	Pooncarie
1003148	Coomealla Memorial Gardens	12/04/2002	Cemetery and Crematorium	Lots 1-2 DP 1121904 Parish Mourquong County Wentworth	Coomealla
1005288	Gol Gol Cemetery	15/08/1879	General Cemetery	Lot 225 DP 705014,	Gol Gol

				Lots 4, 6 Section 37 DP 758456 Parish Gol Gol County Wentworth	
1011728	Dareton Lions Park	30/06/2006	Public Recreation	Lot 21 Section 19 DP 758338 Parish Mourquong County Wentworth	Dareton
1036648	Wentworth Town Hall	16/11/2012	Community Purposes Government Purposes Town Hall Urban Services	Lot 1 DP 630527 Parish Wentworth County Wentworth	Wentworth

Source: *Draft PoM and Crown Land Managers Reserves Portal and DPIE - Crown Lands advice*

The identification of the land and status as a Crown reserve relies upon the NTTR and Council records and advice, and is also based upon State Government records (DPIE – Crown Lands: Crown Land Manager Reserve Portal). The Government records indicate that all 72 Crown reserves are in the ownership of the State of NSW and can be regarded as Crown reserves within the meaning of the (now) CLM Act.

Native Title Manager Advice 1.

State of NSW Government records indicate that the Crown land covered by the plan of management is owned by the State of NSW and is Crown land reserved or dedicated for the following purposes.

- Access
- Accommodation
- Addition
- Ambulance Station
- Boy Scouts
- Cemetery, Cemetery and Crematorium, and General Cemetery
- Children's Playground
- Community Purposes
- Day Nursery
- Flood Mitigation
- From Sale Generally
- Girl Guides
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- Preservation of Historical Sites and Buildings
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- Town Hall
- Urban Services
- War Memorial
- Water

2.2 Is the Land excluded land as defined by the CLM Act?

- a) 'Excluded land' under the CLM Act native title provisions is land where there is no native title, or native title has either been extinguished, surrendered, under protection, or acquired, or where a native title certificate has been issued by the Minister responsible for the CLM Act.
- b) The CLM Act Section 8.1 defines 'Excluded land' as the following:
- land subject to an approved determination of native title (as defined in the NT Act (Cwlth) which has determined that:
 - all native title rights and interests in relation to the land have been extinguished, or
 - there are no native title rights and interests in relation to the land,
 - land where all native title rights and interests in relation to the land have been surrendered under an Indigenous land use agreement – an ILUA, (as defined in the *Native Title Act 1993* of the Commonwealth) registered under that Act,
 - an area of land to which section 24FA protection applies, defined in the NT Act (Cwlth) where a non-claimant application under S.24FA permits dealing with the land where native title may exist, even if the act affects native title,
 - land where all native title rights and interests in relation to the land have been compulsorily acquired,
 - land for which a native title certificate is in effect.

The Native Title Tribunal maintains a set of Registers (NTTR) of claims, determinations, Indigenous Land Use Agreements, and Future Act Non-Claimant Applications.

i. Native Title Claims

There have been three determined native title claims over Crown land within the Council LGA and one currently active claim.

Table 2: List of determined and active native title claims

Name	Legal process	Determination date	Status	Outcome
<u>Barkandji Traditional Owners # 8 (Part B)</u>	Consent	22/08/2017	Determined Part B NCD2017/001	Native title exists in parts of the determination area
<u>Barkandji Traditional Owners # 8 (Part A)</u>	Consent	16/06/2015	Determined Part A NCD2015/001	Native title exists in the entire determination area
<u>Barkandji (Paakantyi) People # 11</u>	Litigated	16/02/2004	Determined NPD2004/001	Native title does not exist
<u>Barkandji Malyangapa People</u>	Active			

Source: Draft PoM, Native Title Tribunal Register

- Barkandji (Paakantyi) People # 11 determined that native title did not exist in the area claimed.
- Barkandji Malyangapa People (active claim) is a claim to determine compensation.

There have been 23 other native title claims that include land in the Wentworth Shire LGA that were either dismissed, discontinued or withdrawn.

ii. Native Title Determinations

Barkandji Traditional Owners # 8 did not determine that there were any areas of Crown land that are included in the draft PoM where exclusive possession was identified.

Barkandji Traditional Owners # 8 (parts A and B) did determine that there were fifteen Crown reserves, included in the draft PoM, which contained areas of Crown land where native title was determined to have been extinguished.

Additionally Wentworth Shire Council has acquired a further six portions of reserves for infrastructure such as roads and sewer pump stations to result in a total of 21 reserves or parts of reserves that have had native title extinguished.

Table 3: Land where native title has been determined to be extinguished

Reserve Number	Reserve Name	Reserve Purpose(s)	Lots/DPs Parish, County	Native Title Extinguishment
6	Pooncarie Sporting Reserves	From Sale Generally Public Recreation	Lot 7311 DP 755396 Lots 72, 74-76 DP 820498 Lot 7304 DP 1182431 Parish Pooncaira County Perry	Extinguished Lot 73 DP 820498 NCD20015 ID 3824
63988	Buronga Caravan Park - The Caravan Park Component	Public Recreation Urban Services	Lot 1159 DP 725383 Lot 980 DP 756961 Lots 2-4 DP 1032974 Lot 101 DP 1232718 Parish Mourquong County Wentworth	Extinguished Lot 4 DP 1032974 NCD2015 ID 6357 Lot 102 DP 1232718 extinguished by recent Council acquisition for sewer pump station
72718	Pooncarie Oval	Public Recreation	Lot 1430 DP 763147 Lot 7302 DP 1182431 Parish Pooncaira County Perry	Extinguished Lot 1430 DP 763147 NCD2015 ID 3755
76798	Part Buronga Caravan Park Reserve	Public Recreation	Lots 427-428 DP 756961 Parish Mourquong County Wentworth	Extinguished Lot 427 DP 756961 NCD2015 ID 3917
78438	Ramon Deed Retreat	Public Recreation Community Purposes	Lot 713 DP 756961 Lot 1 DP 803205 Lots 2-3 DP 853243 Parish Mourquong County Wentworth Listed in Schedule 5 consent Determination – incorrect location should be Water Tower R78438	Extinguished Lot 1 DP 803205 – R78438 - Water Tower Namatjira - future acquisition area was surveyed in previous years when it was listed to be acquired. Council is creating a new Lot & DP
78909	Thegoa Lagoon	Plantation Public Recreation	Lot 7323 DP 1174216 Lot 117 DP 756994 Parish Wentworth County Wentworth	Extinguished Lot 117 DP 756994 (was resumed WLL) NCD2015 ID 1951
81010	O'Donnell Park	Public Recreation	Lots 1-2 DP 117894 Parish Wentworth County Wentworth	Extinguished Lot 1 DP 117894 NCD2015 ID 1253

Reserve Number	Reserve Name	Reserve Purpose(s)	Lots/DPs Parish, County	Native Title Extinguishment
84700	Wentworth Wharf	Public Recreation Urban Services	Lot 101 DP 1232727 Parish Wentworth County Wentworth	Lot 102 DP 1232718 extinguished by recent Council acquisition for sewer pump station
85320	Wentworth Golf Course	Public Recreation Urban Services	Lot 7313 DP 1127027	Lot 100 DP 1252699 extinguished by recent Council acquisition for sewer pump station
85470	Gol Gol Public Recreation Reserve	Public Recreation	Lot 187 DP 756946 Parish Gol Gol County Wentworth	Extinguished Lot 187 DP 756946 NCD2015 ID 2640
85836	Dareton Swimming Pool	Public Baths Public Recreation Urban Services	Previously Lot 16 Section 18 DP 758338 New Lot 101 DP 1232722 Parish Mourquong County Wentworth	Lot 102 DP 1232722 extinguished by recent Council acquisition for sewer pump station
87379	Fotherby Park	Public Recreation	Previously Lot 7337 DP 1173879 new Lot 103 DP 1232727 Parish Wentworth County Wentworth	Lot 104 DP 1232727 extinguished by recent Council acquisition for sewer pump station
88251	Coomealla Golf Course	Public Recreation	Previously 136 DP 725640 new Lot 14 DP1253515 Parish Mourquong County Wentworth	Acquisition of land within old DP – new DP registered Lot 14 DP1253215
89255	Buronga Community Arts	Boy Scouts Community Purposes	Lot 594 DP 756961 Parish Mourquong County Wentworth	Extinguished Lot 594 DP 756961 NCD2017 NO ID
89749	Junction Park	Public Recreation	Lots 1-5 Section 3 DP 759074 Lots 1-10 Section 4 DP 759074 Lots 1-8 Section 4A DP 759074 Lots 7335-7336 DP 1173326 Parish Wentworth County Wentworth	Extinguished NCD2017 IDs: Lots 1-5 Section 3 DP 759074 NCD20017 IDs: 3155, 2958, 2960, 2962, 3157. Lots 1-10 Section 4 DP 759074 NCD20017 IDs: 3156, 3399, 3401, 3161, 2964, 3403, 3163, 3164, 3166, 2957. Lots 1-8 Section 4A DP 759074 NCD20017 IDs: 2955, 3158, 3150, 3162, 2965, 3404, 2967, 2968. Lots 7335-7336 DP 1173326 NCD20017 IDs: 6831, 6830.
89757	Apex Park	Children's Playground Urban Services	Lot 105 DP1232727 Lot 10 DP 756994 Parish Wentworth County Wentworth	Lot 106 DP 1232727 extinguished by recent Council acquisition for sewer pump station Lot 105 came from Lot 9 DP 756994

Reserve Number	Reserve Name	Reserve Purpose(s)	Lots/DPs Parish, County	Native Title Extinguishment
91386	Carramar Drive Sporting Complex	Public Recreation Urban Services	Lots 472, 473 DP 1268325	Lots 470, 471 DP 1268325 extinguished by recent Council acquisition for road
97997	Perry Sandhills	Public Recreation	Lots 3-4 DP 610639 Lot 5204 DP 725295 Lots 16, 51, 58-60, 63-64. Lot 5201 DP 725295 Parish Wentworth County Wentworth	Extinguished Lots 3-4 DP 610639 Lot 5204 DP 725295 NCD2017 IDs: 6112, 2748, 1905. Lots 16, 51, 58-60, 63-64. NCD2015 IDs: 2544, 2681, 2682, 2746, 2879, 2555, 2880. Lot 5201 DP 725295 NCD201 ID: 1826
150040	Sturt Park	Public Recreation Water	Lots 7300-7301 DP 1121297 Parish Mourquong County Wentworth	Extinguished Listed in NCD2017 - Schedule 5 consent Determination Dareton Raw Water Reservoir in Lot 7301. Also future water tower acquisition
230044	Pooncarie Public Reserve	Public Recreation	Lot 2 DP 725311 Lot 7006 DP 1113537 Parish Pooncaira County Perry	Extinguished Lot 2 DP 725311 NCD2015 ID 3695
1003148	Coomealla Memorial Gardens	Cemetery and Crematorium	Lots 1-2 DP 1121904 Parish Mourquong County Wentworth	Extinguished Part Lot 1 DP 1121904 Funeral Home crematorium lease

Source: Draft PoM, Native Title Tribunal Register and Council records

iii. Register of Indigenous Land Use Agreements

The Native Title Tribunal Register of Indigenous Land Use Agreements (ILUAs) includes three ILUAs that have land within the Council LGA within an Agreement.

No Crown land included in the draft PoM is included in the three ILUAs with the exception of the Barkandji Interim Licences ILUA that is an interim five year agreement to provide for the use of land previously subject to a licence granted by the Crown Lands Minister, where the licence has been terminated and has not yet been reissued.

Table 4: Indigenous Land Use Agreements

ILUA name	ILUA type	Subject matter(s)	Tribunal file no	Date registered
Buronga HealthOne ILUA	Body Corporate	Government, Development	NI2019/006	04/03/2020
Barkandji RNTBC Keltren ILUA	Body Corporate	Extinguishment, Not specified	NI2019/002	30/07/2019
Barkandji Interim Licences ILUA	Body Corporate	Interim use of land	NI2018/007	20/11/2018

Source: Draft PoM, Native Title Tribunal Register

iv. Native Title Future Act Applications and Determinations

There are no Future Act Applications and Determinations listed in the Native Title Tribunal Register that include land in the Council LGA.

v. Native Title Certificate

Section 8.4 of the CLM Act provides for the Minister to issue native title certificates.

Council and this native title manager are unaware of any Native Title Certificate requested or issued for reserved or dedicated Crown land in the Council LGA.

Native Title Manager advice 2.

21 Crown reserves, either in total or in part area(s) have Crown land within the reserve that is 'excluded land' under the CLM Act Section 8.1.

The balance of the reserves (52) or parts of the 21 reserves where it has not been determined that native title is extinguished, are not 'excluded land' under the provisions of the CLM Act Section 8.1.

3. VALID CREATION OF THE RESERVED AND DEDICATED CROWN LAND

As set out in this advice (Section 2.1) and in Table 1, the Crown land included in the draft PoM has been the subject (with other Crown land) of Native Title Determination by the Federal Court of Australia in *Barkandji Traditional Owners #8* (NC1997/032) with determinations Part A (2015) and Part B (2017).

The Crown land included in the draft PoM has therefore been subject to significant and detailed evaluation with extensive supporting documentation as to the land status, history of use and ownership. This advice relies upon the Native Title Tribunal Register (NTTR) records, supplemented by Council's legal advice and records.

It is understood that as part of the claim evaluation and determination, the reserved and dedicated Crown land included in the draft PoM has been individually subject to a methodical and systemic process of research, review and evaluation involving databases, mapping, title searching for each land

lot parcel, and a historical land status, use and ownership searching that included, as required, Parish and Charting Maps, and Crown Plans.

Based on Federal Court evaluation, State Government and Council records, all of the reserves (with the exception of three reserves) are therefore regarded as having been validly created and are accurately identified.

There are three reserves that have gazettal dates that are after past act validity date of 23 December 1996:

- Coomealla Memorial Gardens (1003148) - 12/04/2002;
- Dareton Lions Park (1011728) - 30/06/2006; and
- Wentworth Town Hall (1036648) - 16/11/2012.

These three reserves require further native title manager historical land status and tenure history research and subsequent advice. Given the Federal Court determination that native title is non-exclusive over these reserves, and the acts (addition of, changes to or new reserve purposes) was by The State of NSW, it assumed that these acts were valid due to the validity of past acts.

The commencement of the CLM Act on 1 July 2018 automatically amended Crown Reserve Trust managers to Council Managers (Crown Land Managers), with the residual reserve trust being abolished 1 July 2019. At this point, Council became the Council Manager.

Native Title Manager advice 3.

The reserved and dedicated Crown land in the draft plan of management, including the three reserves with gazettal dates after 23 December 1996 where validity is assumed, are regarded as having been validly created (a 'valid act') by the State of NSW (the Crown) and Council is regarded as validly appointed as Crown land manager for the reserved and dedicated Crown land.

4. PREVIOUS ACTS INCONSISTENT WITH CONTINUED PRESENCE OF NATIVE TITLE - PREVIOUS EXCLUSIVE POSSESSION ACTS

The NT Act (Cwlth) Division 2B provides for the confirmation of past extinguishment of native title by certain valid or validated acts. The NT Act (NSW) mirrors the provisions of the NT Act (Cwlth) as to the extinguishing effect of a previous exclusionary possession act (PEPA) where the act was done by the State of NSW.

The NT Act (Cwlth), Division 2B, Section 23A (2) states:

*If the acts were **previous exclusive possession acts** (involving the grant or vesting of things such as freehold estates or leases that conferred exclusive possession, or the construction or establishment of public works), the acts will have completely extinguished native title.*

To be a previous exclusive possession act, the act:

- must be valid (including because it is a past act or intermediate act);
- have taken place on or before 23 December 1996; and
- must consist of the grant or vesting of acts listed in s. 23B(2)(c); set out in the table below entitled 'Extinguishing effect of categories of previous acts – Div. 2B'.

The following table sets out the extinguishing effect of PEPAs.

Table 5: Extinguishing effect of previous exclusive possession acts (PEPAs)

Category	Acts in the category	Extinguishing effect
PEPAs	<ul style="list-style-type: none">• Freehold estates• Construction or establishment of public works• Acts set out in Schedule 1 of the NT Act (Cwlth)• Commercial leases (not being an agricultural or pastoral lease)• Exclusive agricultural leases• Residential leases• Community purposes leases• Separate leases• Any lease (other than a mining lease) that confers a right of exclusive possession	The act extinguishes any native title in relation to the land or waters

Source: NSW Government: 'Native Title Managers Handbook' 2nd Edition 2019

The relevant Federal Court Determinations that native title has been extinguished over parts of or the total area of the excluded land (Section 2.2) and Council's acquisition of land for public works and infrastructure, leaves those parcels of the 21 where non-exclusive native title remains, and the balance of the 52 reserves covered by the draft PoM.

Council may act in confidence that in these instances of excluded land that native title has been determined extinguished.

Where Council undertakes any acts in this report's Table 3 over any of those parcels of the 21 where non-exclusive native title remains, and the balance of the 52 reserves covered by the draft PoM, Council will be potentially liable for compensation to native title holders.

Native Title Manager advice 4.

Council may act in confidence that in the instances of excluded land that native title has been determined extinguished.

Where Council undertakes any acts the cause exclusive possession over any of those parcels of the 21 where non-exclusive native title remains, and the balance of the 52 reserves covered by the draft PoM, Council may be potentially liable for compensation to native title holders.

5. THE DRAFT PLAN OF MANAGEMENT

The NT Acts and the CLM Act are clear: unless the land is defined as excluded land, then native title rights should be considered to be in existence.

Reserves where native title is not extinguished (as a result of being excluded land) will generally require examination against the NT Act (Cwlth) 'future acts regime' to determine if dealings or developments on the land affect presumed native title rights or may be 'valid acts'.

The acts of Crown land reservation and dedication are valid legislative past acts by the NSW Government, validated by Section 8 of the *Native Title Act 1994* (NT Act NSW). Section 8 provides for the validation of past acts performed by the State of NSW, meaning: where the NSW State has done a 'past act' it is deemed to be valid in so far as it affects native title.

The adoption of this draft PoM will affect the presumed native title rights that are considered to be in existence.

5.1 Future Acts Regime

The NT Act NSW does not validate future acts. The only way that future acts may be validated is through the future acts regime in Div. 3 of Pt. 2 of the NT Act (Cwlth).

A future act is defined in s. 233 of the NT Act (Cwlth):

Section 233

- 1) *Subject to this section, an act is a future act in relation to land or waters if:*
 - a) *either:*
 - i. *it consists of the making, amendment or repeal of legislation and takes place on or after 1 July 1993; or*
 - ii. *it is any other act that takes place on or after 1 January 1994; and*
 - b) *it is not a past act; and*
 - c) *apart from this Act, either:*
 - i. *it validly affects native title in relation to the land or waters to any extent; or*
 - ii. *the following apply:*
 - A. *it is to any extent invalid; and*
 - B. *it would be valid to that extent if any native title in relation to the land or waters did not exist; and*
 - C. *if it were valid to that extent, it would affect the native title.*

To be a future act, the act must:

- 'affect' native title;
- be valid (or be valid if it were not for native title);
- have occurred on or after 1 January 1994 when the NT Act (Cwlth) commenced; and
- *not* be a past act.

5.2 Extinguishment Effect

Where native title has been extinguished by the Crown's grant of a certain interest that is inconsistent with native title, any subsequent act will not be a future act, as the act cannot 'affect' native title or compliance with the native title legislation - a future acts regime is not required.

Section 23E of the NT Act (Cwlth) enables states and territories to enact laws which confirm the extinguishment of native title by previous exclusive possession act attributable to them. Accordingly, the NT Act (NSW) in Part 2, Division 2 provides similar provisions of the NT Act (Cwlth) as to the extinguishing effect of a previous exclusive possession act where the act was done by the State of NSW.

If Subdivision J of the NT Act (Cwlth) applies to the act, the act will be valid and the non-extinguishment principle will apply unless the act is the construction or establishment of a public work, in which case native title will be extinguished.

5.3 Validity of 'future acts' and the draft plan of management

There are parts of land in 21 reserves and a further 52 Crown reserves where native title is determined to exist. The existing native title has been determined to be non-exclusive native title.

The adoption of the plan of management and its proposed uses, development and authorised tenures are regarded as 'future acts' as these acts:

- 'affect' native title;
- would be valid (or be valid if it were not for native title);
- have occurred on or after 1 January 1994 when the NT Act (Cwlth) commenced; and
- are *not* a past act.

The NT Act NSW does not validate future acts. Future acts may only be validated through the future acts regime in Div. 3 of Pt. 2 of the NT Act (Cwlth). **Table 6** sets out a summary of the cascading future acts regime in the NT Act (Cwlth).

Table 6: Overview of future acts regime subdivisions (stopping at Subdivision J)

Subdivision	Summary of subdivision
B-E	Subdivisions B-E cover ILUAs. ILUAs can be negotiated when the other subdivisions of the future acts regime do not apply (subject to the agreement of the native title holders and/or native title claimants).
F	Subdivision F covers future acts where there is an absence of native title. A government body may obtain s. 24FA protection for future acts by making a non-claimant application in the Federal Court. A requirement is that there be no relevant native title claims over the whole or part of the area: see ss. 24FC(c) and 24FC(d).
G	Subdivision G deals with certain acts relating to primary production on areas subject to non-exclusive agricultural and pastoral leases that were granted on or before 23 December 1996.
H	Subdivision H relates to management or regulation of surface and subterranean water, living aquatic resources and airspace.
I	Subdivision I applies to acts which are pre-existing rights-based acts or acts that are permissible e.g. lease renewals.
JA	Subdivision JA deals with public housing for the benefit of Aboriginal peoples or Torres Strait Islanders.
J	Subdivision J deals with future acts done in good faith under or in accordance with a reservation, dedication, condition, permission or authority made on or before 23 December 1996 which required the land to be used for a particular purpose, or the future act otherwise had no greater an impact on native title than any act that could have been done that was under or in accordance with the reservation.

Source: NSW Government: 'Native Title Managers Handbook' 2nd Edition 2019

The Native Title Act (1994) allows for a range of future acts to occur on Crown land and specifies the level of consultation that must be conducted before the act can occur. Rather than attempt to prove that Native Title has been extinguished, the role of the native title manager is to assume native title has NOT been extinguished and to proceed with the assessment of impact on native title of the act which is proposed.

See below for specific advice on a range of acts which may apply to the reserves covered in this draft Plan of Management.

- Construction of recreational facilities on the reserves (such as recreation and leisure facilities, sporting facilities and infrastructure, sheds, ablution blocks and the like) on the reserve which is consistent with the reserve purpose.

The construction of buildings such as recreation and leisure facilities, sporting facilities and infrastructure, sheds, ablution blocks, and the like may be validated under Subdivision J if the construction and operation of such facilities may affect native title and as such may be a future act. Assuming the construction is consistent with the reserve purpose (public recreation) then the good faith requirement under Section 24JA(1)(e)(i) is met.

b) Construction of facilities on the reserve (such as roadways, footpaths, and gardens)

Construction of these various structures may affect native title and as such may be a future act. Assuming the construction is consistent with the reserve purpose (public recreation) then the good faith requirement under Section 24JA(1)(e)(i) is met.

c) Issue of Leases or Licences

The issue of a lease or licence may affect native title and as such may be a future act. Assuming the issuing of the lease or licence is consistent with the reserve purpose then the good faith requirement under Section 24JA(1)(e)(i) is satisfied. If the issue of the lease or licence is in the area covered by the reservation, so long as the act's impact on native title is no greater than the impact that any act that could have been done under or in accordance with the reservation would have had, then the good faith requirement under Section 24JA(1)(e)(ii) is met.

Subdivision J deals with future acts done in good faith under or in accordance with a reservation, dedication, condition, permission or authority made on or before 23 December 1996. It requires the land to be used for a particular purpose, as otherwise the future act has no greater an impact on native title than any act that could have been done that was under or in accordance with the reservation.

Table 7: Requirements for validity of future acts under Subdivision J - areas subject to a reservation

Requirement	Section 24JA	Compliance
There is a valid earlier act that took place before the later act and on or before 23 December 1996	(1)(a)	Yes
The earlier act was valid (including because of Div. 2 or 2A)	(1)(b)	Yes
The earlier act was done by the Crown (the Commonwealth or State), or consisted of the making, amendment or repeal of legislation	(1)(c)	Yes
The earlier act contained, made or conferred a reservation, proclamation, dedication, condition, permission or authority (the reservation) under which the whole or part of any land or waters was to be used for a particular purpose	(1)(d)	Yes
The later act is done in good faith under: (i) under or in accordance with the reservation, or (ii) in the area covered by the reservation, so long as the act's impact on native title is no greater than the impact that any act that could have been done under or in accordance with the reservation would have had	(1)(e)	Yes

Source: NSW Government: 'Native Title Managers Handbook' 2nd Edition 2019

The adoption of the plan of management is to be done by Council as a Council Manager in good faith. The plan of management proposed uses, development and authorised tenures are consistent with the Crown reserve purposes (in accordance with the reservation or dedication).

The adoption of the plan of management with proposed uses, developments and tenures that are in accordance with the reservation (or dedication) and the purposes of the Crown land is a future act that meets the requirements of validation under the NT Act (Cwlth) Subdivision J, Section 24JA, Section (1) (a-e).

5.4 Consequences of Subdivision J

If Subdivision J applies to the act, the act will be valid and the non-extinguishment principle will apply unless the act is the construction or establishment of a public work, in which case native title will be extinguished.

The procedural rights under Subdivision J, if applicable, are to notify any representative body, registered native title body corporate and registered native title claimant and provide them with an opportunity to comment.

However, the notice is only required if the act consists of the construction or establishment of a public work, or the creation of a plan for the management of a National or State park intended to preserve the natural environment of an area.

Procedural rights under the NT Act (Cwlth) for potential native title claimants, such as notification or opportunity to comment, do not apply, as the adoption of a Crown land community land plan of management, which is a future act validated under Subdivision J, and which is not a public work does not require notification and do not confer other procedural rights.

The draft plan of management proposes a range of future acts that are public works, such as construction of a Men's Shed at the Dareton Swimming Pool reserve or redevelopment of the Willow Bend Caravan Park, which are consistent with the reserve purpose and validated under Section 24JA of the NT Act (Cwlth).

Any act of construction or establishment of a 'public work', as defined by the NT Act (Cwlth), on Crown land where native title is deemed to exist and the non-extinguishment principle does not apply, will be deemed to extinguish native title and will require notification to any representative body, registered native title body corporate and registered native title claimant to provide them with an opportunity to comment prior to commencement of the public work. See **Appendix C: Native Title Act 1993 (Cwlth) S.253** Other definitions.

The draft PoM authorises leases, licences, permits or other estates. Further native title manager advice will be required prior to issuing approval for future acts of granting draft PoM authorised leases, licences, permits or other estates consistent with the reserves' purposes. In addressing the *Native Title Act 1993*, Council and or the proponent may need to utilise subdivision 24FA (protection) following any non-claimant application, or negotiate an ILUA at that stage.

The draft PoM authorises easements to be approved subject to the provisions of the *Native Title Act 1993* and further native title manager advice. In addressing the *Native Title Act 1993*, Council may need to utilise subdivision FA (protection) following any non-claimant application, or negotiate an ILUA at that stage.

Council Crown land managers may be liable to pay compensation for acts that impact on native title rights and interests whether or not the act was valid and otherwise in accordance with the future acts regime in the NT Act (Cwlth).

The CLM Act has made a Council Crown land manager liable for any compensation that would previously have been payable by The State of NSW where an act has an impact on native title rights and interests.

The Council Crown land manager will be directly responsible to native title holders for any compensation liability in relation to their conduct which affects native title and is valid under the NT Act (Cwlth) Ss. 24JAA (public housing), 24KA (facilities for services to the public), s. 24MD (acts passing the freehold test) and s. 24NA (acts affecting offshore places) of the NT Act (Cwlth).

Native Title Manager Advice 5

The adoption of the plan of management by Council in good faith and with proposed uses, developments and tenures that are in accordance with the reservation (or dedication) and the purposes of the Crown land is a future act that meets the requirements of validation under the *Native Title Act 1993* (Cwlth) Subdivision J, Section 24JA, Section (1) (a-e).

6. CONCLUSION

6.1 Native title and excluded land

There is one active Native Title Claim by The Barkandji Malyangapa People which is a claim to determine compensation.

21 Crown reserves, either in total or in part area(s) have Crown land within the reserve that is 'excluded land' under the CLM Act Section 8.1.

The balance of the reserves (52) or parts of the 21 reserves where it has not been determined that native title is extinguished, are not 'excluded land' under the provisions of the CLM Act Section 8.1.

Native title rights must be assumed to remain in existence as the land is not 'excluded land' under the CLM Act.

6.2 Valid creation of the reserved and dedicated Crown land

The reserved and dedicated Crown land is regarded due to reliance on Federal Court investigations and evaluation and supplemented by State Government and Council records as having been validly created by the State of NSW (the Crown).

The reserved and dedicated Crown land in the draft plan of management, including the exception of three reserves with gazettal dates after 23 December 1996 where validity is assumed, are regarded as having been validly created (a 'valid act') by the State of NSW (the Crown) and Council is regarded as validly appointed as Crown land manager for the reserved and dedicated Crown land.

6.3 Previous exclusionary possession acts

Land in 21 Crown reserves have been subject to valid acts that are *previous exclusive possession acts* (PEPAs), either over the whole of the reserved and dedicated Crown land or parts of the land in reserves. Where that residue of the land in the reserves has not been subject to PEPAs, it is assumed that native title is still in existence.

The PEPAs, subject to the Commonwealth and NSW State native title legislation, have the effect to extinguish any native title in relation to the land or waters affected by the PEPA.

6.4 Validity of Future Acts

The adoption of the draft PoM by Council in good faith and with proposed uses, developments and tenures that are in accordance with the reservation (or dedication) and the purposes of the Crown reserves is a future act that meets the requirements of validation under the *Native Title Act 1993* (Cwlth) Subdivision J, Section 24JA, Section (1) (a-e).

6.5 The plan of management

The adoption of the plan of management will not have an effect on native title rights over the land in the 21 Crown reserves that have been subject to acts that are *previous exclusive possession acts* (PEPAs), either over the whole of the reserved and dedicated Crown land or parts of the land in reserves.

The adoption of the plan of management over the parts of the 21 reserves where there is remaining non-exclusive native title, and the 52 other reserves with non-exclusive native title has been subjected to the NT Act (Cwlth) 'future acts regime' to determine if the plan of management adoption is a 'valid act'.

The adoption of the plan of management with proposed uses, developments and tenures that are in accordance with the reservation (or dedication) and the purposes of the Crown reserves is a valid future act.

6.6 Outcome of advice

Council may endorse the draft PoM as a draft for referral to, and submission for adoption from, the landowner: The Minister administering the *Crown Land Management Act 2016* as a landowner representative of the State of NSW.

APPENDICES

- Appendix A: List of Crown reserves covered by draft PoM
- Appendix B: Council Maps 1 – 40 (note – No Map 5)
- Appendix C: Native Title Act 1993 (Cwlth) Public Works and Facilities for Services to the Public
- Appendix D: Native Title Manager letter of accreditation

Appendix A — List of Crown reserves covered by draft PoM

Excluded land is land that has been the subject of a Determination

Res #	Name	Gazette	Purpose	Use	Lots	Extinguished NT	Non-Exclusive NT (Co-existing)
6	Pooncarie Sporting Reserves	8/9/1862	From Sale Generally Public Recreation	Racetrack and Gun Club - extracted from Pooncarie Common	Lot 7311 DP 755396 Lots 72, 74-76 DP 820498 Lot 7304 DP 1182431 Parish Pooncaira County Perry	Lot 73 DP 820498 NCD20015 ID 3824	Yes – all other See Map 19
32017	Willow Bend Caravan Park	18/01/1901	Public Recreation	Commercial Lease	Lots 1-2 DP 112194 Parish Wentworth County Wentworth		Yes. Note part of R32017 is used as Council depot but not extinguished. Public works on land. See Map 1
35698	Pooncarie Cemetery	25/04/1903	Cemetery	Cemetery	Lot 7300 DP 1156360 Parish Pooncaira County Perry		Yes No Map
55602	The Great Murray Darling Junction Reserve	11/08/1922	Public Recreation	Park	Lot 2 DP 817572 Lots 7011-7012 DP 1125398 Parish Wentworth County Wentworth		Yes. See Map 2
61503	George Gordon Oval	1/11/1929	Public Recreation	User Group in place - permanent use of grounds pavilions and change rooms.	Lot 7011 DP 1101609 Lot 7012 DP 1101611 Lot 1 DP 1158152 Parish Mourquong County Wentworth	Extinguished Lot 1 DP 607424 pump station not in reserve NCD2015 ID 9558	Yes Lot 7011 DP 1101609 sportsground and grandstand buildings, cricket nets and basketball courts See Map 26
63988	Buronga Caravan Park - The Caravan Park Component	16/06/1933	Public Recreation Urban Services	Lot 3 has a nature playground & pump bike track Lot 2 leased for mooring boat business Commercial Caravan Park is Lot 101 DP1232718	Lot 1159 DP 725383 Lot 980 DP 756961 Lot 2-4 DP 1032974 Lot 101 DP 1232718 Parish Mourquong County Wentworth	Extinguished Lot 4 DP 1032974 NCD2015 ID 6357 Lot 102 DP 1232718 Recent Council acquisition for sewer pump station	Yes Lots 1-3 DP 1032974 Lot 101 DP 1232718 Lot 1159 DP 725383 Lot 980 DP 756961 See Map 31

Res #	Name	Gazette	Purpose	Use	Lots	Extinguished NT	Non-Exclusive NT (Co-existing)
64544	Part Buronga Caravan Park	11/05/1934	Public Recreation Access	Vacant scrub land adjacent to Caravan Park Reserve.	Lots 429-431 DP 756961 Parish Mourquong County Wentworth		Yes. See Map 31
65654	Dareton Basketball Courts	29/11/1935	Public Recreation	Bitumised area for basketball casual users	Lot 701 DP 1126803 Parish Mourquong County Wentworth		Yes See Map 27
67891	Wentworth Showground	16/09/1938	Addition Showground	User Group in place - multiple permanent users	Lot 2618 DP 764646 Parish Wentworth County Wentworth		Yes. No Map
72718	Pooncarie Oval	4/06/1948	Public Recreation	Cricket club appears to have folded - community oval with no regular users.	Lot 1430 DP 763147 Lot 7302 DP 1182431 Parish Pooncaira County Perry	Lot 1430 DP 763147 Extinguished NCD2015 ID 3755	Yes co-existing See Map 20
73211	Curlwaa Oval	10/06/1949	Public Recreation Rural Services	Cricket club including clubrooms. New Hall constructed to replace condemned hall on Reserve 630011- multiple permanent users	Lot 19 DP 725678 Parish Wentworth County Wentworth		Yes. Sports oval See Map 24
73260	James King Park	19/08/1949	Public Recreation	Park with no regular users	Lot 7003 DP 756946 Lots 7300-7301 DP 1176238 Parish Gol Gol County Wentworth		Yes See Map 35
73351	Wentworth Showground	14/10/1949	Addition Showground	User Group in place - multiple permanent users	Lot 121 DP 756994 Parish Wentworth County Wentworth		Yes. No Map
74478	Evans Flat Reserve	14/09/1951	Public Recreation	Riverfront scrub - no regular users	Lot 686 DP 756961 Lot 1174 DP 820132 Parish Mourquong County Wentworth		Yes See Map 32
74593	Alcheringa Tennis Courts	16/11/1951	Public Recreation	Public tennis courts - Alcheringa Tennis Club	Lot 7007 DP 1125869 Lot 7302 DP 1176238 Parish Gol Gol County Wentworth		Yes See Map 35

Res #	Name	Gazette	Purpose	Use	Lots	Extinguished NT	Non-Exclusive NT (Co-existing)
75014	Wentworth Showground	30/05/1952	Addition Showground	User Group in place - multiple permanent users	Lot 7352 DP 1177510 Parish Wentworth County Wentworth		Yes. No Map
76144	Wentworth Tennis Courts	7/08/1953	Public Recreation Urban Services	Former tennis courts - bitumen surface - identified as car parking for adjoining kindergarten child care centre, Library and Aged Care Home opposite	Lot 13 Section 9 DP 759074 Parish Wentworth County Wentworth		Yes. No map.
76798	Part Buronga Caravan Park Reserve	4/06/1954	Public Recreation	Vacant scrub land adjacent to Caravan Park Reserve.	Lots 427-428 DP 756961 Parish Mourquong County Wentworth	Extinguished Lot 427 DP 756961 NCD2015 ID 3917	Yes. Yes Lot 428 DP 756961 See Map 31
77215	Dareton Children's Playground	29/10/1954	Children's Playground	Park	Lot 1 Section 15 DP 758338 Parish Mourquong County Wentworth		Yes. See Map 27
77413	Pioneer Memorial Park	28/01/1955	Children's Playground	Children's Playground	Lot 7013 DP 1124723 Lot 7307 DP 1180919 Parish Pooncaira County Perry Note: Lot 7307 DP 1180919 is also part of R98109		Yes No map
77930	Wentworth Rowing Club Reserve	2/09/1955	Public Recreation	Rowing Club building and river access Nature playground. Mooring poles and boardwalk	Lot 1464 DP 763434 Parish Wentworth County Wentworth		Yes. Public works - extension to building
78438	Ramon Deed Retreat	29/03/1956	Public Recreation Community Purposes	Lot 3 – Licenced to Vietnam Veterans Retreat	Lot 713 DP 756961 Lot 1 DP 803205 Lots 2-3 DP 853243 Parish Mourquong County Wentworth	Lot 1 DP 803205 – R78438 - Water Tower Namatjira - future acquisition area was surveyed in previous years when it was listed to be acquired.	Yes. See Map 23 Minor public works (building) South/middle Lot 3 DP 853243)

Res #	Name	Gazette	Purpose	Use	Lots	Extinguished NT	Non-Exclusive NT (Co-existing)
						Council is creating a new Lot & DP Listed in Schedule 5 consent Determination – incorrect location should be Water Tower R78438	
78698	McLeod Oval	6/07/1956	Public Recreation Urban Services	Golf Course - User Group in place - multiple permanent users	Lot 1272 DP 762867 Lot 190 DP 820470 Lot 7017 DP 1126020 Parish Wentworth County Wentworth		Yes. See Map 3
78909	Thegoa Lagoon	21/09/1956	Plantation Public Recreation	Natural scrub	Lot 7323 DP 1174216 Parish Wentworth County Wentworth	Lot 117 DP 756994 (was resumed WLL) NCD2015 ID 1951 See Map 4	Lot 7323 DP 1174216 Listed in NCD2015, Schedule 4 as non-exclusive. Council legal advice infers no determination despite listing due to other NT Claim at time.
81010	O'Donnell Park	22/08/1958	Public Recreation	Park	Lots 1-2 DP 117894 Parish Wentworth County Wentworth	Extinguished Lot 1 DP 117894 NCD2015 ID 1253 Public toilets See Map 25	Yes. Lot 2 DP 117894 See Map 25
81398	McLeod Oval	20/02/1959	Public Recreation Urban Services Accommodation	Grandstand part of oval - public swimming pool - User Group in place - multiple permanent users	Lot 7322 DP 1158106 Parish Wentworth County Wentworth		Yes. Major public works – pool, grandstand Minor public works - grounds See Map 7
81861	Rotary Playground	14/08/1959	Public Recreation	Park	Lot 5 Section 34 DP 759074 Parish Wentworth County Wentworth		Yes No Map
82971	Buronga Children's Playground	13/01/1961	Children's Playground	Park	Lot 7010 DP 1124614 Parish Mourquong County Wentworth		Yes See Map 33

Res #	Name	Gazette	Purpose	Use	Lots	Extinguished NT	Non-Exclusive NT (Co-existing)
83026	U Can Do It Boxing Gym	27/01/1961	Public Recreation	Building and car park	Lot 444 DP 756961 Parish Mourquong County Wentworth		Yes See Map 33
83919	McLeod Oval	20/07/1962	Public Recreation Urban Services Accommodation	Other part of oval - cricket clubrooms bowling greens - tennis courts buildings for golf, tennis and bowling clubs - User Group in place - multiple permanent users	Lot 7320 DP 1158106 Parish Wentworth County Wentworth		Yes. Major public works – buildings, roads, etc Minor public works – grounds See Map 7
84700	Wentworth Wharf	10/01/1964	Public Recreation Urban Services	Public Wharf and temporary moorings - park	Lot 101 DP 1232727 Parish Wentworth County Wentworth		Yes Lot 102 DP 1232718 extinguished by recent Council acquisition for sewer pump station See Map 12
84989	Anabranche Hall and Tennis Courts	28/08/1964	Public Recreation	Community hall playground BBQ and tennis courts - very dry area not much grass - meeting place for surrounding Western Lands Lease holder's families – Regular permanent users	Lot 5 DP 756191 Lot 2591 DP 764619 Parish Wilton County Tara		Yes See Map 39
85320	Pt Wentworth Golf Course	7/05/1965	Public Recreation Urban Services	Corner parcel golf course access	Lot 7313 DP 1127027 Parish Wentworth County Wentworth		Yes Lot 100 DP 1252699 acquired for Pump station See Map 11
85419	Wilkinson Park	13/08/1965	Children's Playground	Park/Children's Playground	Lot 9 Section 13 DP 758456 Parish Gol Gol County Wentworth		Yes See Map 36
85470	Gol Gol Public Recreation Reserve	12/11/1965	Public Recreation	Landlocked scrub land	Lot 187 DP 756946	Extinguished Lot 187 DP 756946	

Res #	Name	Gazette	Purpose	Use	Lots	Extinguished NT	Non-Exclusive NT (Co-existing)
					Parish Gol Gol County Wentworth	NCD2015 ID 2640 See Map 32	
85572	Old Wentworth Gaol Reserve	10/12/1965	Preservation of Historical Sites and Buildings	Historic Gaol - 10 year existing lease with 10 year option expires 2026	Lot 90 DP 756994 Parish Wentworth County Wentworth		Yes Major public works – goal building See Map 13
85636	Dareton Pre School	25/02/1966	Day Nursery	General Community Use – Multiple users	Lots 3-4 Section 8 DP 758338 Parish Mourquong County Wentworth		Yes Major public works buildings See Map 30
85733	Strother Park	7/04/1966	Public Recreation	Park/Children's Playground	Lot 7351 DP 1178836 Parish Wentworth County Wentworth		Yes Minor public works – building See Map 14
85836	Dareton Swimming Pool	1/07/1966	Public Baths Public Recreation Urban Services	Public Swimming Pool Future Men's' Shed under construction with proposed licence	Lot 101 DP 1232722 Parish Mourquong County Wentworth		Yes Minor works – pool See Map 29
87037	Pooncarie Public Reserve	10/01/1969	Public Recreation	Park - no improvements	Lots 1-4 Section 15 DP 758851 Parish Pooncaira County Perry		Yes No Map
87250	Buronga Riverfront old Pound Reserve	27/06/1969	Public Recreation	Vacant block	Lot 7007 DP 1124947 Parish Mourquong County Wentworth		Yes See Map 34
87379	Fotherby Park	12/09/1969	Public Recreation	Park and slipway for historic paddle steamer / McClymont House / Possum statue / old bridge infrastructure	Lot 103 DP 1232727 Parish Wentworth County Wentworth		Yes. Note Lot 104 DP 1232727 extinguished by sewer pump station acquisition See Map 15
88251	Coomealla Golf Course	2/07/1971	Public Recreation	Golf Course held under lease	Lot 14 DP1253515 Parish Mourquong County Wentworth		Yes. 2/3 golf course See Map 22

Res #	Name	Gazette	Purpose	Use	Lots	Extinguished NT	Non-Exclusive NT (Co-existing)
89255	Buronga Community Arts	2/08/1974	Boy Scouts Community Purposes	Old Scout Hall housing theatre props - youth theatre – permanent users	Lot 594 DP 756961 Parish Mourquong County Wentworth	Extinguished Lot 594 DP 756961 NCD2017 NO ID See Map 33	
89637	Alcheringa Pre-School	7/11/1975	Kindergarten	Preschool – Exclusive permanent users	Lot 211 DP 756946 Lot 7305 DP 1141029 Parish Gol Gol County Wentworth		Yes Moderate 1/3+ works See Map 36
89749	Junction Park	19/03/1976	Public Recreation	Riverside Park – weddings, private parties, rallies, various casual users	Lots 1-5 Section 3 DP 759074 Lots 1-10 Section 4 DP 759074 Lots 1-8 Section 4A DP 759074 Lots 7335-7336 DP 1173326 Parish Wentworth County Wentworth	Extinguished See Map 8 NCD2017 IDs: Lots 1-5 Section 3 DP 759074 NCD20017 IDs: 3155, 2958, 2960, 2962, 3157. Lots 1-10 Section 4 DP 759074 NCD20017 IDs: 3156, 3399, 3401, 3161, 2964, 3403, 3163, 3164, 3166, 2957. Lots 1-8 Section 4A DP 759074 NCD20017 IDs: 2955, 3158, 3150, 3162, 2965, 3404, 2967, 2968. Lots 7335-7336 DP 1173326 NCD20017 IDs: 6831, 6830.	
89757	Apex Park	26/03/1976	Children's Playground Urban Services	Park	Lot 10 DP 756994 Lot 105 DP1232727 Parish Wentworth County Wentworth		Yes See Map 16

Res #	Name	Gazette	Purpose	Use	Lots	Extinguished NT	Non-Exclusive NT (Co-existing)
89864	Dareton Community Activity Centre	30/07/1976	Girl Guides Community Purposes	Refurbished Scout Hall housing community art group	Lot 16 Section 5 DP 758338 Parish Mourquong County Wentworth		Yes Major works 85% building See Map 27
91386	Carramar Drive Sporting Complex	9/02/1979	Public Recreation Urban Services	Ovals netball courts cricket nets playground - pavilion suitable for hire - User Group in place - multiple permanent users	Lots 472,473 DP 1268325 Parish Gol Gol County Wentworth	New Lot 470 and 471 DP 1268325 acquired for road See Map 37	Yes See Map 37
96592	Tuckers Creek Reserve	11/02/1983	Flood Mitigation Public Recreation	Riverfront park - issues with access - easement over Lot 30 for Town Levee	Lot 30 DP 45055 Lot 7340 DP 1176401 Parish Wentworth County Wentworth		Yes. See Map 6
97997	Perry Sandhills	22/11/1985	Public Recreation	Natural inland sandhills and riverfront scrub	Lots 3-4 DP 610639 Lot 5204 DP 725295 NCD2017 IDs: 6112, 2748, 1905. Lots 16, 51, 58-60, 63-64. NCD2015 IDs: 2544, 2681, 2682, 2746, 2879, 2555, 2880. Lot 5201 DP 725295 NCD201 ID: 1826 Parish Wentworth County Wentworth	Extinguished See Map 17	Yes, Lagoon and NCD2017 ID: 7446 Lot 7309 DP 1183405 Parish Neilpo County Wentworth See Map 17
98030	Ellerslie Golf Course	20/12/1985	Public Recreation	Community building - tennis courts - oval - tree plantation - dam - golf course in adjoining WLL	Lot 5132 DP 720112 Parish Palinyewah County Wentworth		Yes See Map 40
98109	Darling Street Reserve	7/03/1986	Public Recreation	Park	Lot 399 DP 761064 Lots 7307-7309 DP 1180919 Parish Pooncaira County Perry Note: Lot 7307 DP 1180919 is also part of R77413		Yes. No map
150038	Coomealla Pioneer Park	2/11/1990	Community Purposes	Library and Senior Citizens	Lot 701 DP 1126798		Yes

Res #	Name	Gazette	Purpose	Use	Lots	Extinguished NT	Non-Exclusive NT (Co-existing)
					Parish Mourquong County Wentworth		Major works – public building See Map 28B
150040	Sturt Park	10/05/1991	Public Recreation Water	Park and Water Tower – casually hired	Lots 7300-7301 DP 1121297 Parish Mourquong County Wentworth	Listed in Schedule 5 consent Determination Dareton Raw Water Reservoir in Lot 7301. Also future water tower acquisition	Yes See Map 30 Minor works water tower
150041	Tapio Park	10/05/1991	Public Recreation Heritage Purposes	Park - old war memorial newly erected – casually hired	Lot 702 DP 1126798 Parish Mourquong County Wentworth		Yes See Map 28B
230004	Part Thegoa Lagoon	8/07/1988	Public Recreation	North of Golf Course + scrub	Lot 7328 DP 1174216 Parish Wentworth County Wentworth		Yes See Map 9
230005	Wentworth Ambulance Station Reserve - site in Part Thegoa Lagoon	25/11/1988	Ambulance Station Crown Lands investigating to incorporate into R230004	Vacant block	Lot 7301 DP 1126251 Parish Wentworth County Wentworth		Yes See Map 10
230030	Wentworth Pre School	28/08/1987	Kindergarten Community Purposes	Preschool / out of hours day care centre – Exclusive permanent users	Lot 14 Section 9 DP 759074 Parish Wentworth County Wentworth		Yes No Map
230044	Pooncarie Public Reserve	10/06/1988	Public Recreation	Riverfront scrub - no regular users	Lot 2 DP 725311 Lot 7006 DP 1113537 Parish Pooncaira County Perry	Lot 2 DP 725311 NCD2015 ID 3695 Extinguished	Yes Lot 7006 1113537 No Map, based on Council records
230081	Pooncarie Multi-Purpose Park and Golf Course	13/11/1992	Public Recreation	Golf Course Scrub - Fee for use camping grounds with some powered sites, boat ramp, primitive camping, undercover camp kitchen	Lot 6588 DP 769379 Parish Pooncaira County Perry		Yes See Map 21

Res #	Name	Gazette	Purpose	Use	Lots	Extinguished NT	Non-Exclusive NT (Co-existing)
230096	Pooncarie Outback and Beyond	29/03/1996	Community Purposes	Community Hub - Post Office - Library	Lots 7-9 Section 8A DP 758851 Parish Pooncaira County Perry		Yes ½ major works - buildings No Map
630001	Wentworth Showground	7/01/1899	Showground	User Group in place - multiple permanent users	Lot 84 DP 756994 Parish Wentworth County Wentworth		Yes. No Map
630005	Pomona Hall	18/01/1952	Public Hall Public Recreation Rural Services	General Community Use	Lot 8 DP 432081 Lot 1 DP 434771 Lot 7300 DP 1141042 Parish Neilpo County Wentworth		Yes. Building on Lot 7300 DP 1141042 No Map
630006	Dareton Town Square	21/12/1928	Public Hall Urban Services	General Community Use	Lots 1-2 Section 3 DP 758338 Parish Mourquong County Wentworth		Yes Minor works building See Map 28
630011	Curlwaa Memorial Hall	10/06/1949	Public Hall	General Community Use	Lot 18 DP 725678 Parish Wentworth County Wentworth		Yes Minor works – hall building See Map 24
1002827	Pooncarie Hall	17/01/1947	Public Hall	Hall	Lot 10 Section 21 DP 758851 Parish Pooncaira County Perry		Yes, Public works - hall building No Map
1003148	Coomealla Memorial Gardens	12/04/2002	Cemetery and Crematorium	Leased Cemetery and Crematorium	Lots 1-2 DP 1121904 Parish Mourquong County Wentworth	Extinguished Part Lot 1 DP 1121904 Funeral Home crematorium lease	Yes. See Map 23A
1005288	Gol Gol Cemetery	15/08/1879	General Cemetery	Cemetery	Lot 225 DP 705014 Lots 4, 6 Section 37 DP 758456 Parish Gol Gol County Wentworth		Yes, Note cemetery See Map 38
1011728	Dareton Lions Park	30/06/2006	Public Recreation	Park/Children's Playground	Lot 21 Section 19 DP 758338 Parish Mourquong County Wentworth		Yes See Map 28A
1036648	Wentworth Town Hall	16/11/2012	Community Purposes Government Purposes Town Hall Urban Services	Town Hall	Lot 1 DP 630527 Parish Wentworth County Wentworth		Yes Major Public works but 2012 Gazettal ? See Map 18

APPENDIX B: COUNCIL MAPS 1-40

MAP 1 – PURPLE OUTLINE AND SHADING (Co-existing Native Title), BLACK OUTLINE AND GREY SHADING (Native Title Extinguished)

Willow Bend Caravan Park Reserve 32017
 Lot 1 DP112194
 Caravan park Community

Council Depot Reserve 85921
 Lots 2A-6 Section 38 DP 759074
 Depot is Operational

Purple has co-existing Native Title – Grey extinguished

Issue



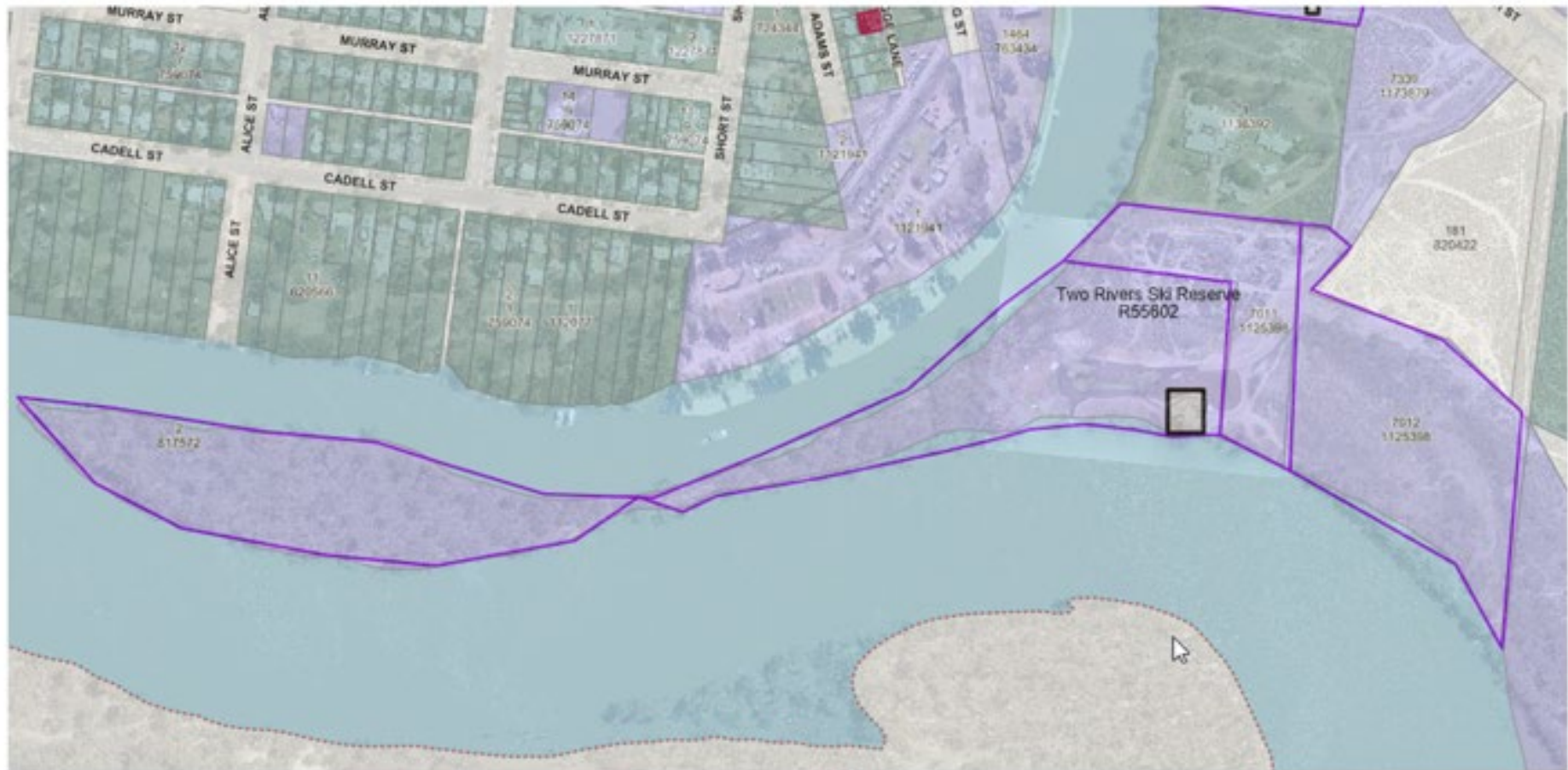
Yellow	Crown Land parcels with NT – used as part of Council depot but part of Willow Bend Caravan Park
Green	Currently part of Depot alignment - Crown Land - NT extinguished within Willow Bend Caravan Park

MAP 2 – PURPLE OUTLINE AND SHADING (Co-existing Native Title), BLACK OUTLINE AND GREY SHADING (Native Title Extinguished)

Two Rivers Ski Reserve 55602

Lots 7011 & 7012 1125398 & Lot 2 DP 817572

■ Lot 1 DP 817572 – Freehold WSC – pump station





MAP 3 – PURPLE OUTLINE AND SHADING (Co-existing Native Title), BLACK OUTLINE AND GREY SHADING (Native Title Extinguished)

MAP 3

Wentworth Golf Course Reserve 78698
Lot 7017 DP1126020

Part Wentworth Golf Club Reserve 85320
Lot 7313 DP1127027

  Extinguished - Lot 1 DP1143037 new Lot 100
DP1252699 – sewer pump station

Pt Wentworth Sporting Reserve 83919 – Club
House used by multiple licenced users –
Permanent User Group established



MAP 4 – PURPLE OUTLINE AND SHADING (Co-existing Native Title), BLACK OUTLINE AND GREY SHADING (Native Title Extinguished)

Thegoa Lagoon Reserve 78909 – comprises of:

Lot 7323 DP 1174216 – Extinguished see notes on next page

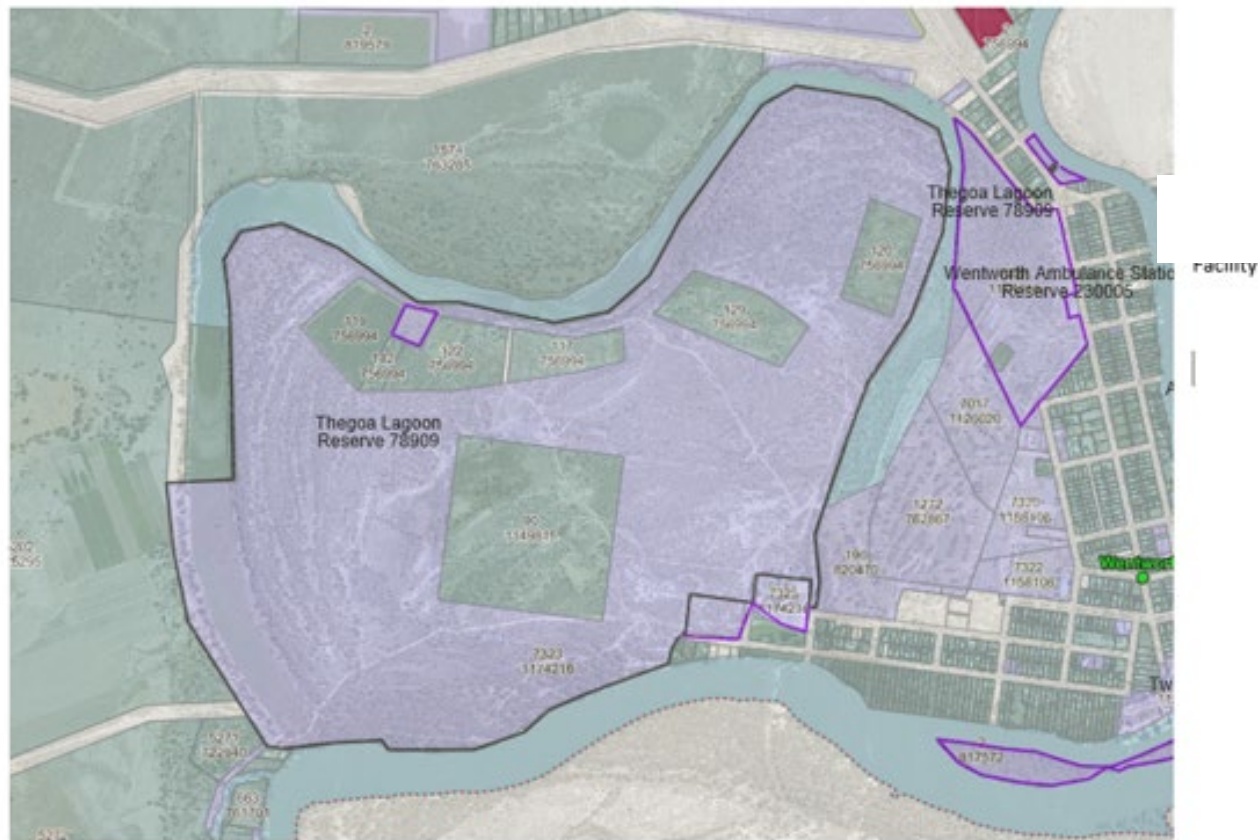
Lot 7328 DP 1174216 – Native Title

Lot 117 DP 756994 – was a WLL resumed and joined into reserve – **extinguished**

Lots 7324 & 7325 DP1174216 – Native Title

Lot 123 & 142 DP 756994 – old Night Soil Depot owned by Crown (Lot 123 is above 142) – other areas in the Reserve are Western Lands Leases

Lot 90 DP 1149815 – WSC freehold Wentworth Sewer Treatment Plant



MAP 6 – PURPLE OUTLINE AND SHADING (Co-existing Native Title)

Tuckers Creek Reserve 96592

Lot 7340 DP1176401

Levee Lot 30 DP45055

Red area a crown reserve not part of Tuckers
Creek Reserve 96592

|



MAP 7 – PURPLE OUTLINE AND SHADING (Co-existing Native Title), BLACK OUTLINE AND GREY SHADING (Native Title Extinguished)

**Wentworth Swimming Pool / McLeod Oval
Reserve 81398**

Lot 7322 DP1158106

Oval across Wentworth Sporting Reserve 81398

Lot 7320 DP1158106

■ See map 3



MAP 8 –BLACK OUTLINE AND GREY SHADING (Native Title Extinguished)

Junction Park Reserve 89749 – NT Extinguished

Lots 1- 8 Section 4A DP 759074

Lots 7335 & 7336 DP 1173326 / lot 7336

Lots 1-10 Section 4 DP 759074

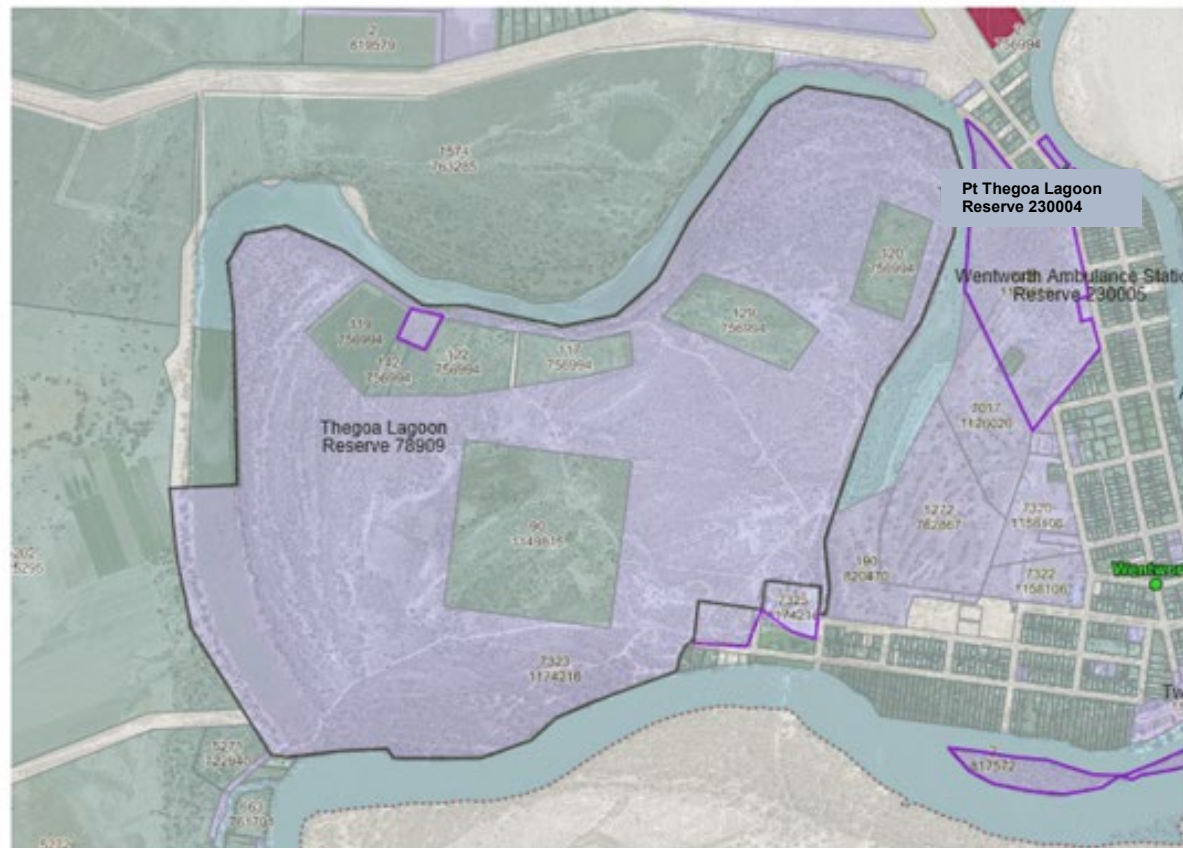
Lots 1 -5 Section 3 DP 759074



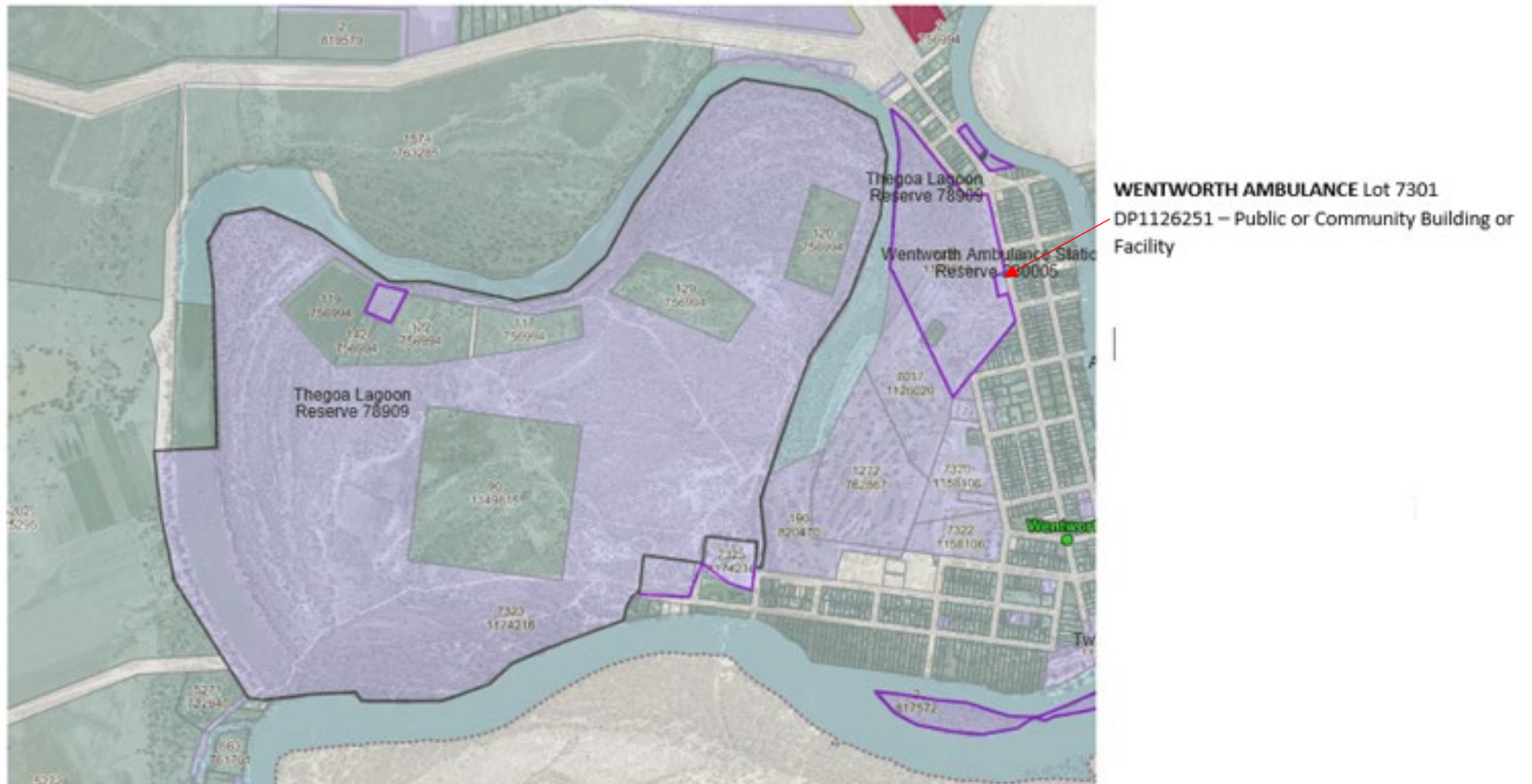
MAP 9 – PURPLE OUTLINE AND SHADING (Co-existing Native Title), BLACK OUTLINE AND GREY SHADING (Native Title Extinguished)

Part Thegoa Lagoon Reserve 240004 – comprises:
Lot 7328 DP 1174216 Parish Wentworth County Wentworth

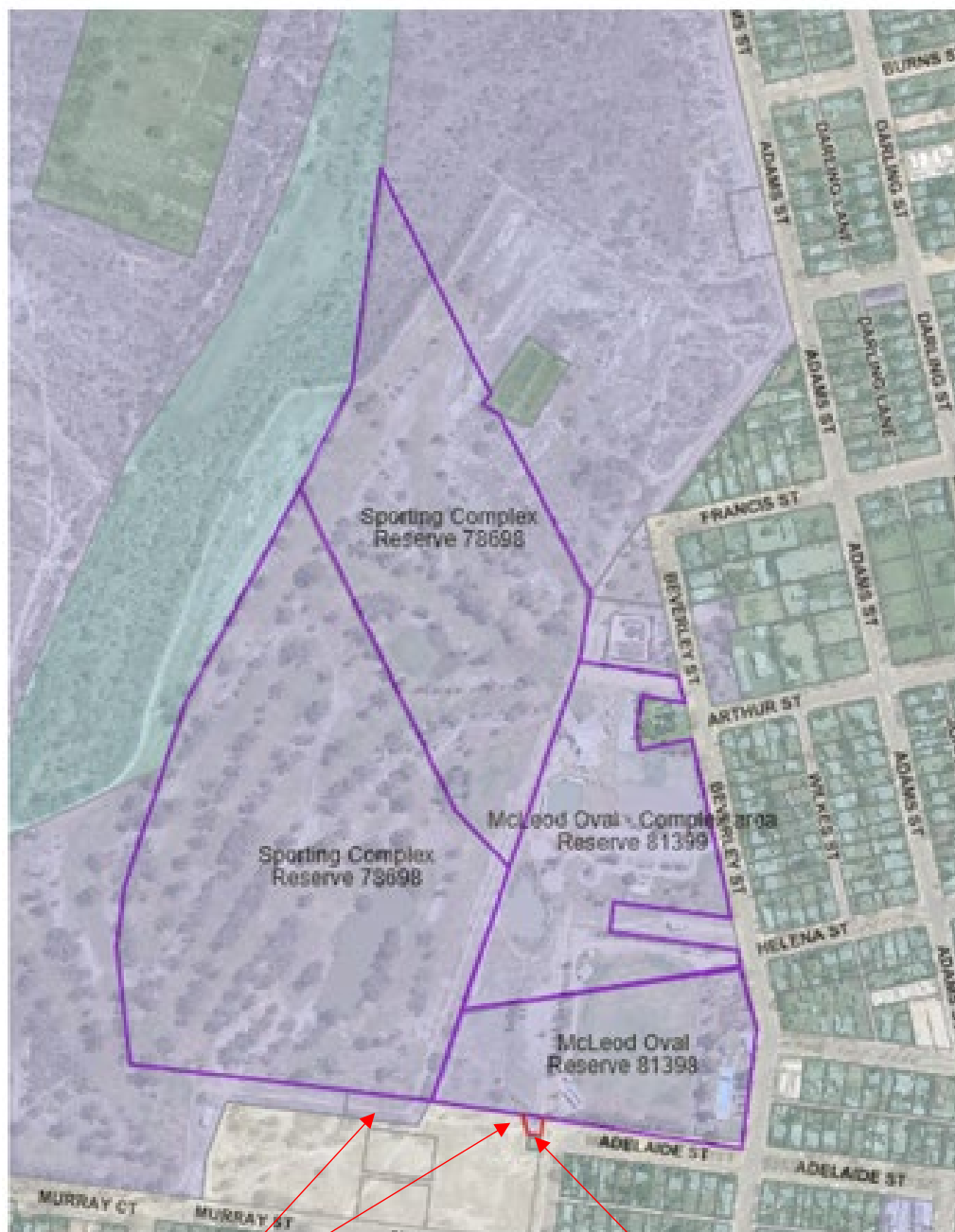
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MAP 10 – PURPLE OUTLINE AND SHADING (Co-existing Native Title), BLACK OUTLINE AND GREY SHADING (Native Title Extinguished)



MAP 11 – PURPLE OUTLINE AND SHADING (Co-existing Native Title), BLACK OUTLINE AND GREY SHADING (Native Title Extinguished)



**R85320 Pt Wentworth Golf Course (Lot 7313 DP 1127027
Lot 1 DP 1143037)
Lot 1 DP 1143037 now Lot 100 DP 125699 about to be acquired Pump station to
be acquired**

MAP 12 – PURPLE OUTLINE AND SHADING (Co-existing Native Title), BLACK OUTLINE AND GREY SHADING (Native Title Extinguished)

|

Wharf Reserve 84700

Lot 101 DP1232727 (Old Lot 7034 DP1126248)

■ Extinguished Lot 102 DP1232727 - sewer pump station



MAP 13 – PURPLE OUTLINE AND SHADING (Co-existing Native Title)

Old Wentworth Gaol Reserve 85572
Lot 90 DP756994



MAP 14 – PURPLE OUTLINE AND SHADING (Co-existing Native Title)

Strother Park Reserve 85733
Lot 7351 DP1178836



MAP 15 – PURPLE OUTLINE AND SHADING (Co-existing Native Title), BLACK OUTLINE AND GREY SHADING (Native Title Extinguished)

Fotherby Park Reserve 87379

Lot 103 DP1232727 (Old Lot 7337
DP1173879)

■ **Extinguished** Lot 104 DP1232727 –
Sewer Pump Station



MAP 16 – PURPLE OUTLINE AND SHADING (Co-existing Native Title), BLACK OUTLINE AND GREY SHADING (Native Title Extinguished)

Apex Park Reserve 89757

Lot 105 DP1232727 (Old Lot 9 DP756994)

Lot 10 DP756994

■ **Extinguished** Lot 106 DP1232727 – Sewer Pump Station

Listed in Schedule 5 Consent

Determination – (Q) Sewer Pump Station
PS4 at East Wentworth Park, Wentworth



MAP 17 – PURPLE OUTLINE AND SHADING (Co-existing Native Title), BLACK OUTLINE AND GREY SHADING (Native Title Extinguished)

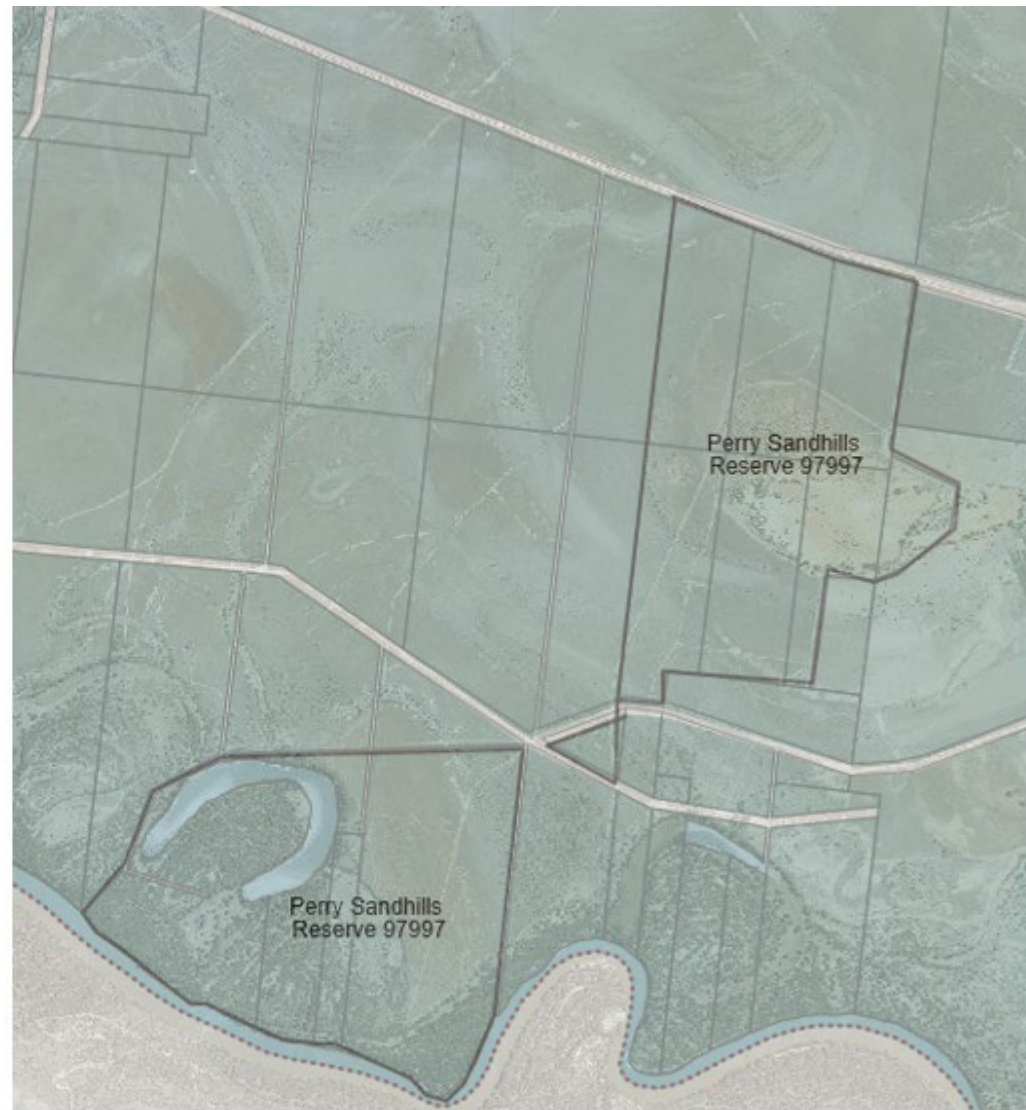
Perry Sandhills Reserve 97997

Lots 3 & 4 DP610639

Lots 5201 & 5204 DP725295

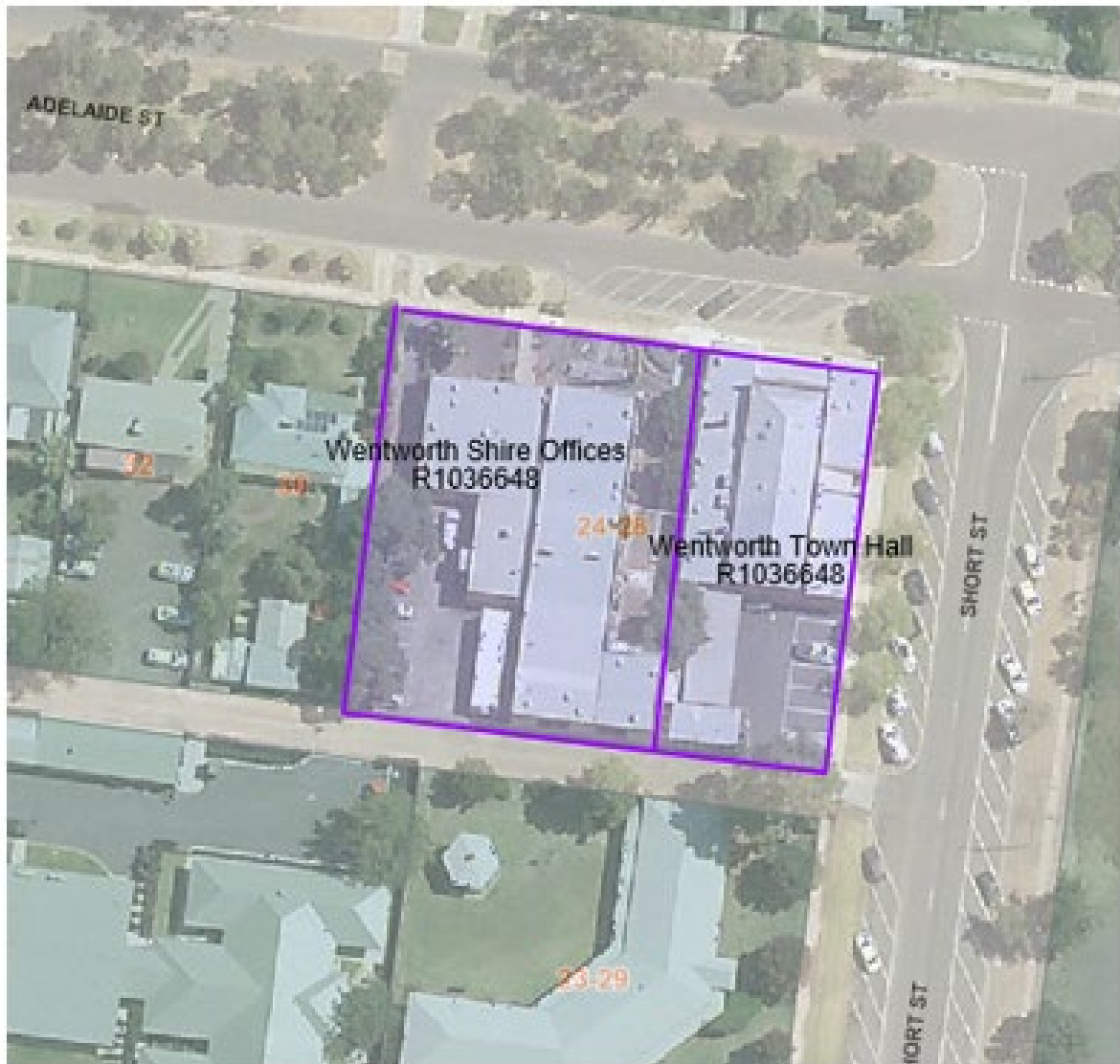
Lots 51, 58, 59, 60, 63, 64DP756964

NT extinguished



MAP 18 – PURPLE OUTLINE AND SHADING (Co-existing Native Title)

WENTWORTH (Town Hall) COMMUNITY & COUNCIL FACILITIES RESERVE 1036648
Lot 1 DP 630527



MAP 19 – PURPLE OUTLINE AND SHADING (Co-existing Native Title), BLACK OUTLINE AND GREY SHADING (Native Title Extinguished)

Pooncarie Sporting Reserve 6

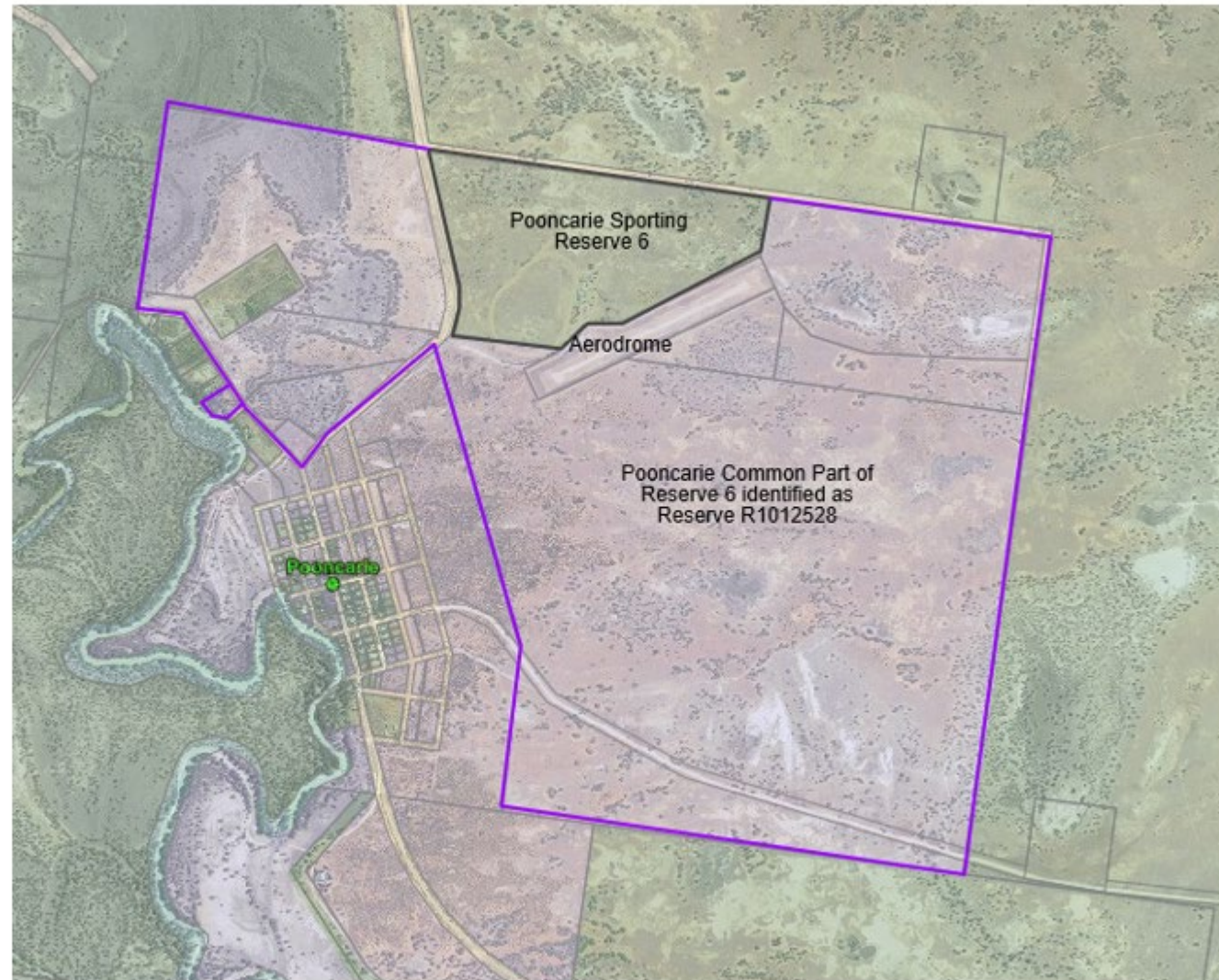
Co-Existing Native Title

Lot 7311 DP755396

Lots 72, 74, 75 & 76 DP820498

Lot 7304 DP1182431

■ Extinguished Lot 73 DP820498



MAP 20 – PURPLE OUTLINE AND SHADING (Co-existing Native Title), BLACK OUTLINE AND GREY SHADING (Native Title Extinguished)



Pooncarie Public Recreation reserve 72718
Lot 7302 DP 1182431
Lot 1430 DP 763147 – Public Toilets extinguished

MAP 21 – PURPLE OUTLINE AND SHADING (Co-existing Native Title), BLACK OUTLINE AND GREY SHADING (Native Title Extinguished)



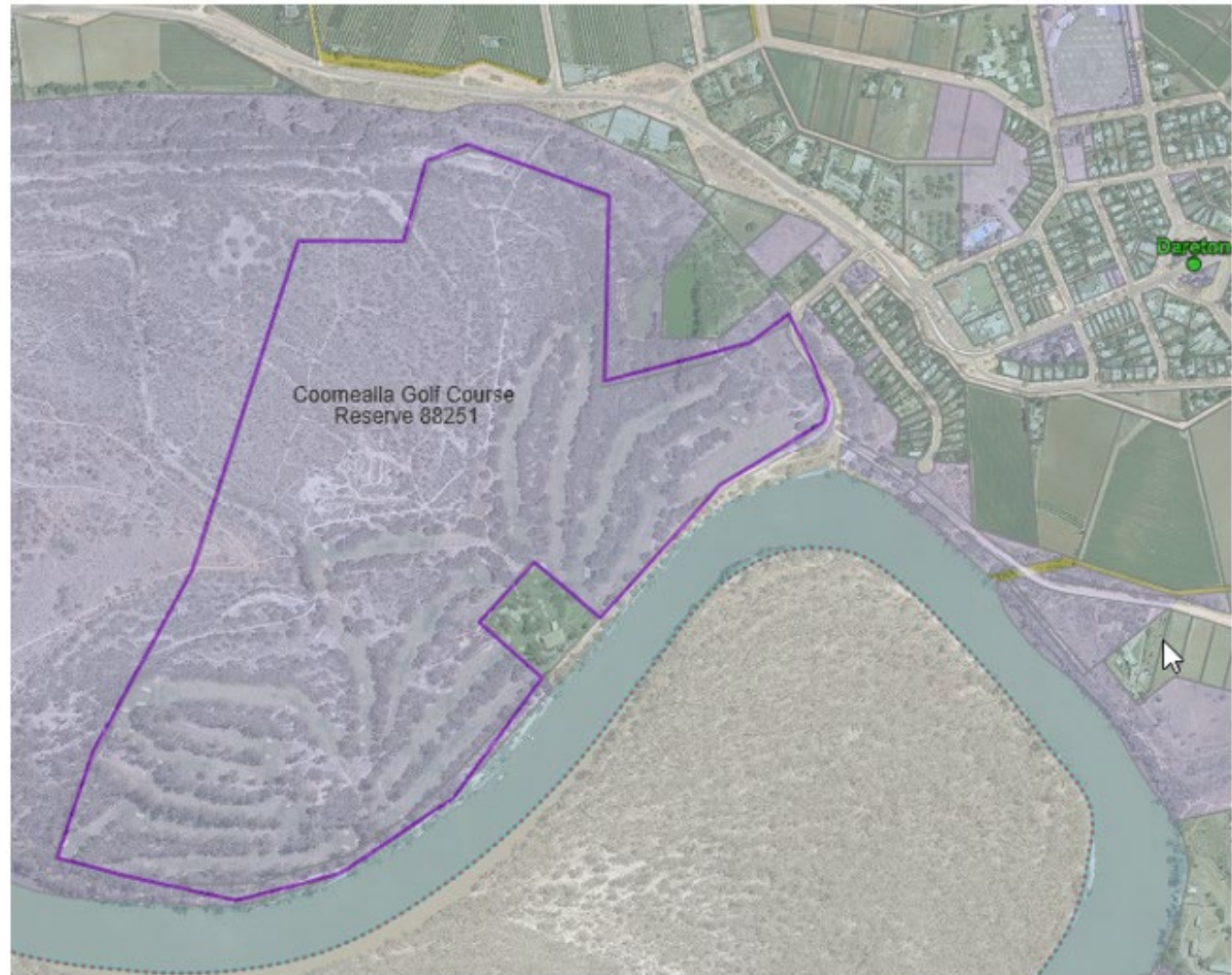
PARK AND GOLF COURSE - RESERVE 230081
Lot 6588 DP 769379
Golf Course & camping ground

MAP 22 – PURPLE OUTLINE AND SHADING (Co-existing Native Title)

Coomealla Golf Course
Reserve 88251

Lot 1136 DP725640

|



MAP 23 – PURPLE OUTLINE AND SHADING (Co-existing Native Title), BLACK OUTLINE AND GREY SHADING (Native Title Extinguished)

Dareton Horse Complex Reserve 88251

Lot 713 DP756961

Lots 2 & 3 DP853243

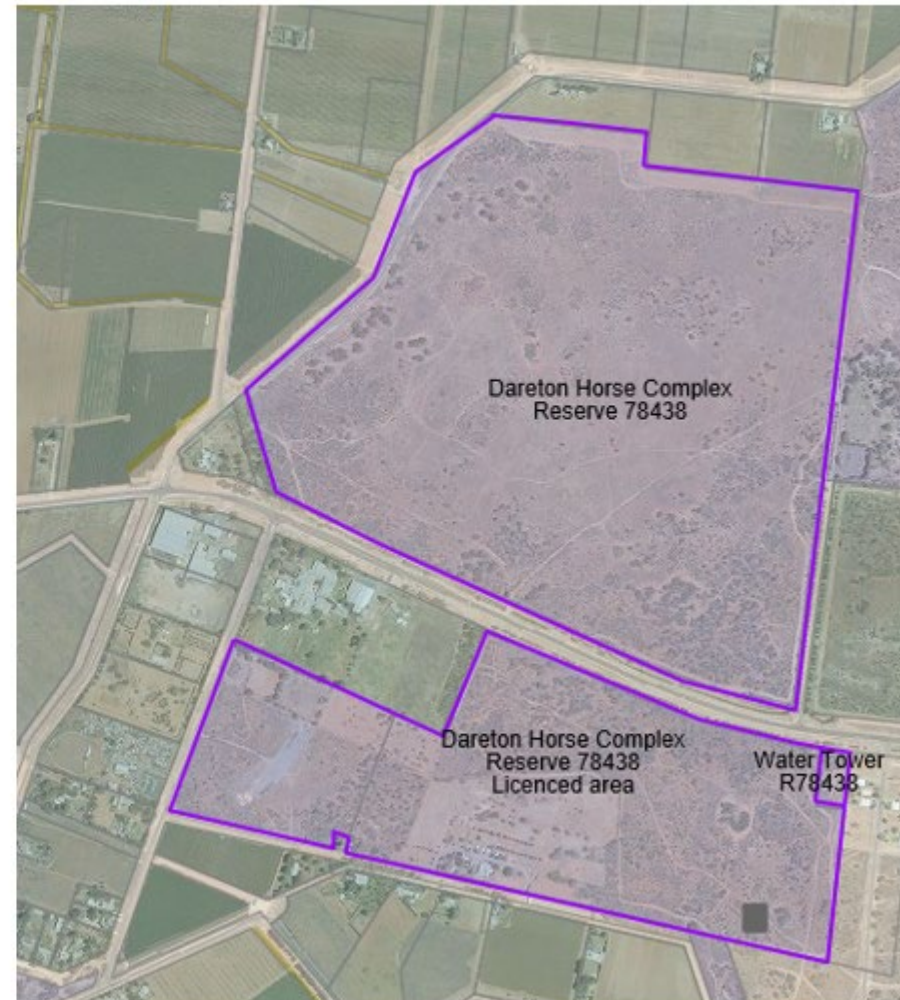
Lot 3 DP853243 Licenced to Ramon Deed Veterans Retreat - Wentworth & Coomealla Districts Sub Branch; including the Ramon Deed Veterans Retreat of the Vietnam Veterans, Peacekeepers and Peacemakers Association of Australia NSW Branch Inc.

Water Tower included in Reserve 78438

Lot 1 DP803205

Future acquisition – area was surveyed off years ago when it was listed to be acquired creating a new Lot & Deposited Plan

■ Listed in Schedule 5 Consent Determination (G)
incorrect location should be Water Tower for
Namatjira Housing

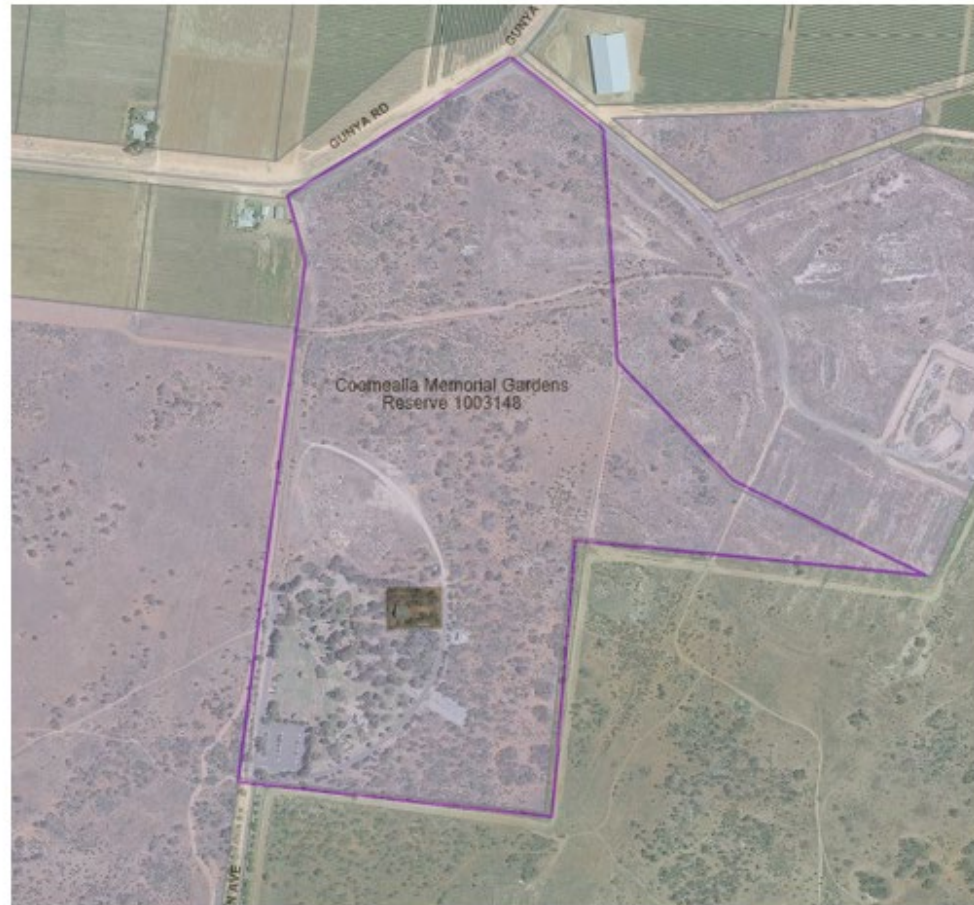


MAP 23A – PURPLE OUTLINE AND SHADING (Co-existing Native Title), BLACK OUTLINE AND GREY SHADING (Native Title Extinguished)

Coomealla Memorial Gardens Reserve 1003148

Lot 713 DP756961

Lot 1 DP1121904



MAP 24 – PURPLE OUTLINE AND SHADING (Co-existing Native Title)

Curlwaa Public Hall Reserve 630011
Lot 18 DP725678

Curlwaa Oval Reserve 73211
Lot 19 DP 725678



MAP 25 – PURPLE OUTLINE AND SHADING (Co-existing Native Title), BLACK OUTLINE AND GREY SHADING (Native Title Extinguished)

O'Donnell Park Reserve 81010

Lot 2 DP 117894 & Lot 32 DP 729494

Purple has co-existing Native Title – Grey extinguished



Lot 32 DP 729494 - Co-existing NT

Lot 1 DP 117894 Extinguished Public Toilet

Lot 2 DP 117894 Co-existing NT

Lot 5 DP 729494 small parcel of land below lot 32 owned by WAMC (WAMC are currently proposing on disposing of unwanted land & giving it to CL to incorporate into reserve)

NB: Cadastral out of line – purple is the reserve marked but not actually covering the infrastructure

MAP 26 – PURPLE OUTLINE AND SHADING (Co-existing Native Title), BLACK OUTLINE AND GREY SHADING (Native Title Extinguished)

George Gordon Sporting Complex Reserve 61503

Lot 7011 DP1101609, Lot 1 DP1158152 &

Lot 7012 DP1101611

■ Extinguished Parcels

Lot 2 DP1239025 - 2nd Oval WSC freehold land

Lot 1 DP607424 – Sewer Pump Station



MAP 27 – PURPLE OUTLINE AND SHADING (Co-existing Native Title)

Dareton Basketball Courts Reserve 65654

Lot 701 DP1126803

Dareton Children's Playground Reserve 77215

Lot 1 Section 15 DP758338

Dareton Community Activity Centre Reserve 89864

Lot 16 Section 5 DP758338



MAP 28 – PURPLE OUTLINE AND SHADING (Co-existing Native Title)

Dareton Town Square
Reserve 630006
Lot 1 Section 3 DP758338

Sturt Park Reserve 150040
Lot 7300 DP1121297

Dareton Pre School
Reserve 85636
Lots 3-4 Section 8 DP758338



Dareton Lions Park Reserve 1011728
Lot 21 Section 19 DP758338



MAP 28B – PURPLE OUTLINE AND SHADING (Co-existing Native Title)

Tapio Park Reserve 150041
Lot 702 DP1126798

Coomealla Pioneer Park Reserve 150038 (Dareton Library)
Lot 701 DP1126798



MAP 29 – PURPLE OUTLINE AND SHADING (Co-existing Native Title), BLACK OUTLINE AND GREY SHADING (Native Title Extinguished)

Dareton Swimming Pool Reserve 61503

Lot 101 DP1232722

■ Extinguished Lot 102 DP1232722 – Sewer Pump Station

Lot 101 DP1232722 – Area determined for future development of a Men in a Shed

Letter from the Minister received for consent to construct Men in a Shed building, no more land will be extinguished



MAP 30 – PURPLE OUTLINE AND SHADING (Co-existing Native Title), BLACK OUTLINE AND GREY SHADING (Native Title Extinguished)

Dareton – Sturt Park Reserve 150040
 Lots 7300 & 7301 DP 1121297

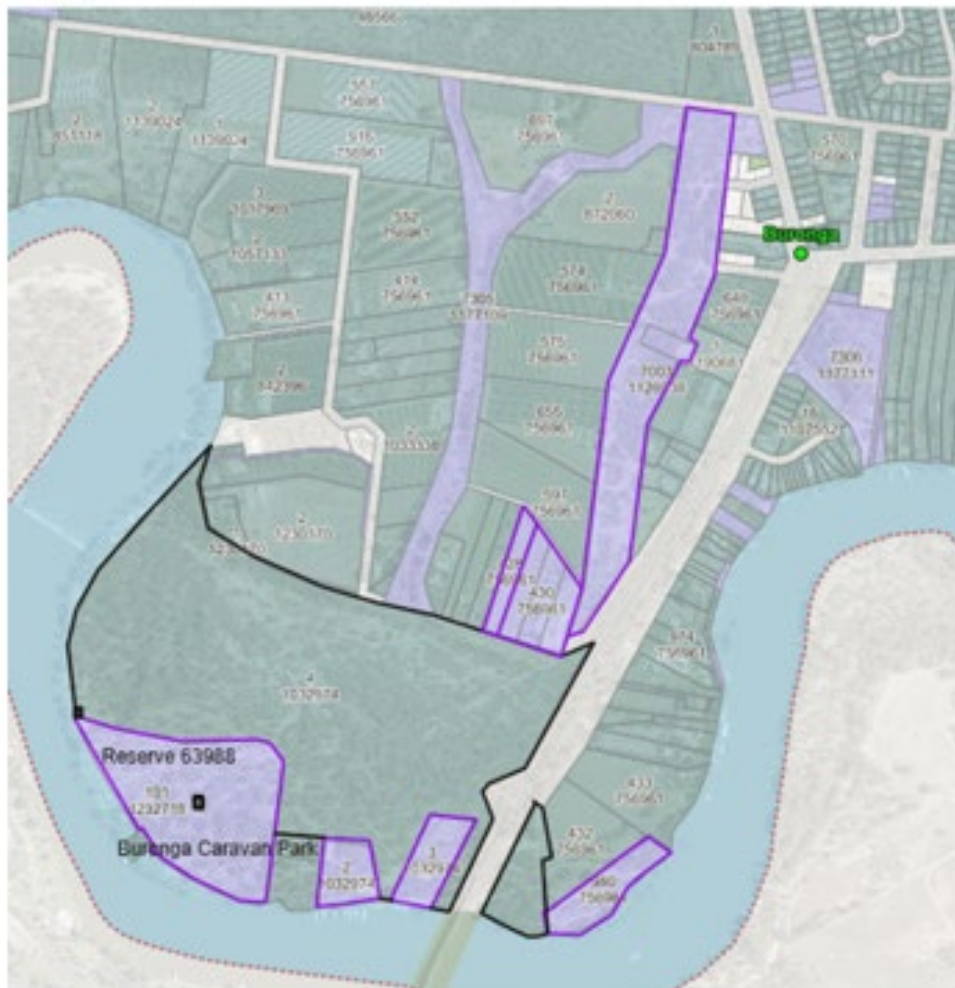


- Listed in Schedule 5 consent Determination
- (H) Dareton Raw Water Reservoir, within Lot 7301 DP 1121297
- Water Tower **future acquisition**

Dareton Preschool Reserve 85636
 Lot 3 section 8 DP 758338

MAP 31 – PURPLE OUTLINE AND SHADING (Co-existing Native Title), BLACK OUTLINE AND GREY SHADING (Native Title Extinguished)

Buronga Caravan Park – Reserve 63988 – multiple parcels within reserve



Actual Caravan Park - Lot 101 DP1232718 – Reserve 63988 - Lease with Discovery Parks

■ Lot 102 DP 1232718 - Square within reserve has been extinguished for sewer pump station (recent acquisition)

Lot 4 DP1032974 – Reserve 63988 extinguished

Lots 2 DP 1032974 – Reserve 63988 - leased to Tim Knight Buronga Boatman

Lot 3 DP 1032974 & Lot 101 DP1232718 & Lot 980 DP 756961 - Reserve 63988

Lots 429 - 430 DP 756961 – Reserve 64544

Lot 428 DP 756961 – Reserve 76798

Lot 7003 DP 1126938 - Reserve 85950 – **Current acquisition** - acquiring for road actually does not have Native Title – Geospatial search & notification from NTSCorp although listed in Consent Determination!

MAP 32 – PURPLE OUTLINE AND SHADING (Co-existing Native Title), BLACK OUTLINE AND GREY SHADING (Native Title Extinguished)

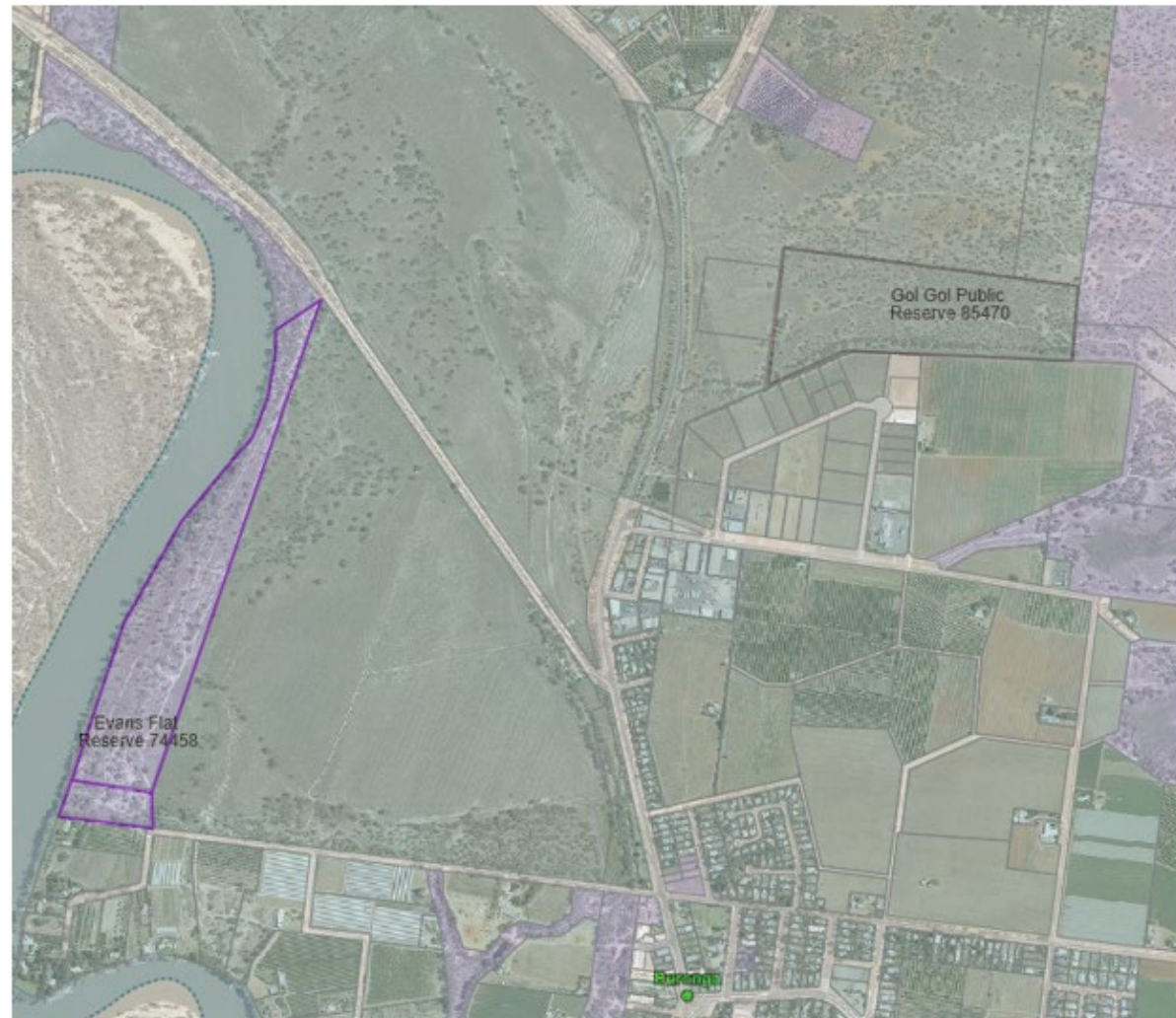
Evans Flat Reserve 74478

Lot 686 DP756961

Lot 1174 DP820132

■ Gol Gol Public Reserve 85470

Lot 187 DP856946



MAP 33 – PURPLE OUTLINE AND SHADING (Co-existing Native Title), BLACK OUTLINE AND GREY SHADING (Native Title Extinguished)

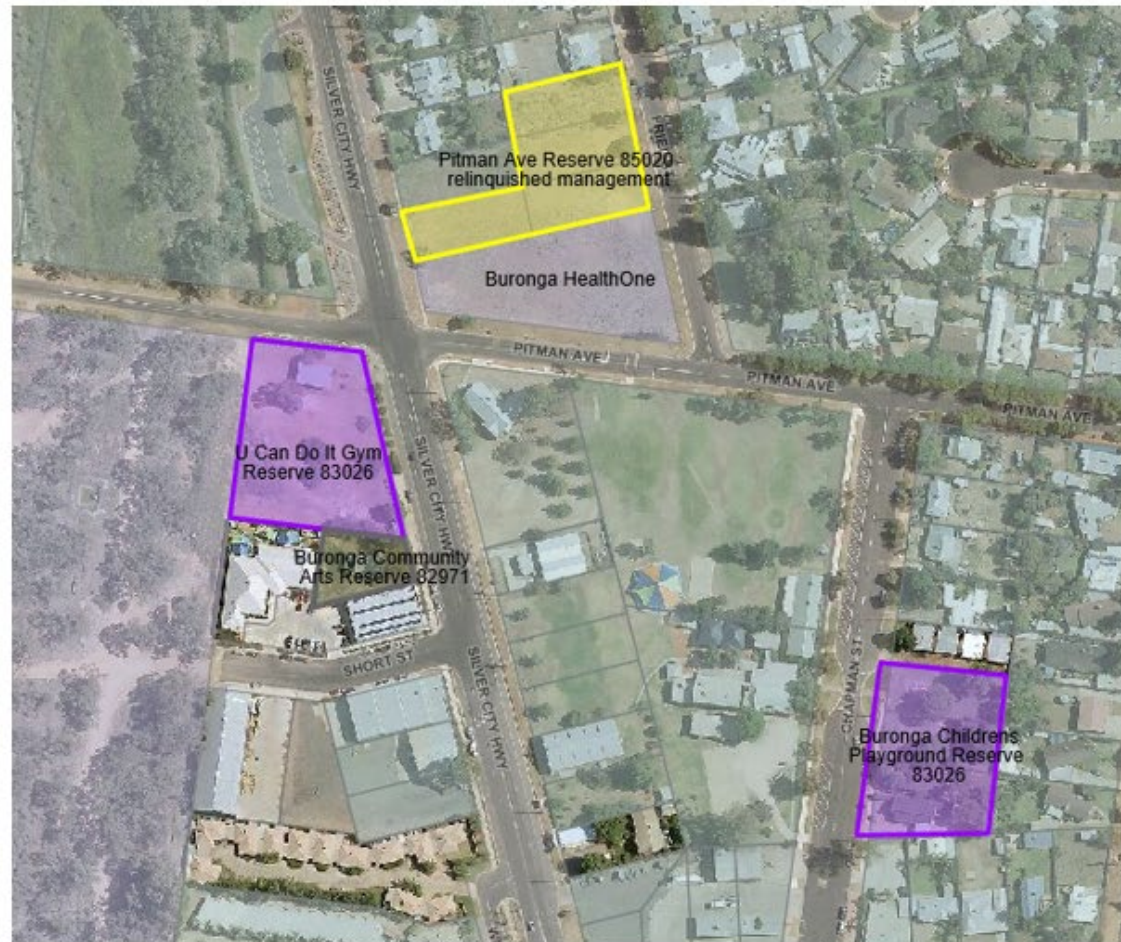
MAP 33

U Can Do it Gym Reserve 83026
Lot 444 DP756961

Buronga Children's Playground Reserve 82971
Lot PT7010 DP1124614
Lot PT7009 DP1124517
Lot 734 DP756961

■ **Extinguished Buronga Community Arts Reserve 82971**
Lot 594 DP756961

■ **Pitman Avenue Recreation Reserve 85020**
Lots 891, 898-900 DP756961 – Council relinquishing management of whole reserve



MAP 34 – PURPLE OUTLINE AND SHADING (Co-existing Native Title)

Buronga Riverfront old Pound
Reserve 88250
Lot 7007 DP1124947



MAP 35 – PURPLE OUTLINE AND SHADING (Co-existing Native Title), BLACK OUTLINE AND GREY SHADING (Native Title Extinguished)

James King Park Reserve 73620
Lots 7300 & 7301 DP 1176238

Lot 7302 DP 1176238 – Alcheringa Tennis Club / Courts – individual licenced area with the Crown – expiry 30/06/2034 - Actual courts are not completely within this parcel outline as below



Lot 224 DP 705002 – ~~Gol~~ Sewer Pump Station SPS - Extinguished



Aerial showing actual tennis courts bottom courts are not there - parkland

MAP 36 – PURPLE OUTLINE AND SHADING (Co-existing Native Title)

Wilkinson Park Reserve 85419

Lot 9 Section 13 DP758456

Alcheringa Pre School Reserve

Lot 211 D756946

Lot 7305 DP1141029

Gol Gol Fire Station Reserve 1010468

Lot 209 & 210 DP756946



MAP 37 – PURPLE OUTLINE AND SHADING (Co-existing Native Title), BLACK OUTLINE AND GREY SHADING (Native Title Extinguished)

Carramar Drive Sporting Reserve 91386

Lots 472 & 473 DP1268325

Previously Lot 7001 DP1118958 & Lot 7011
DP1045202

■ Extinguished Lots 470 & 471 DP1268325 for
service road extension

Lots 471 & 473 derived from Lot 7011 DP1045202
Lots 470 & 472 derived from Lot 7001 DP1118958



MAP 38 – PURPLE OUTLINE AND SHADING (Co-existing Native Title)

Gol Gol Cemetery Reserve 1005288

Lots 4 & 6 section 37 DP 758456

Lot 225 DP 705014



MAP 39 – PURPLE OUTLINE AND SHADING (Co-existing Native Title)

Anabranh Hall and Tennis Court Reserve 84989

Lot 2591 DP764619

Lot 5 DP756191

Cadastre out of line

|



MAP 40 – PURPLE OUTLINE AND SHADING (Co-existing Native Title)

Ellerslie Sporting Complex Reserve 98030
Lot 5132 DP720112



APPENDIX C: **NATIVE TITLE ACT 1993 (CWLTH)**

PUBLIC WORKS AND FACILITIES FOR SERVICES TO THE PUBLIC

Section 253 Other definitions

public work means:

- (a) any of the following that is constructed or established by or on behalf of the Crown, or a local government body or other statutory authority of the Crown, in any of its capacities:
 - (i) a building, or other structure (including a memorial), that is a fixture; or
 - (ii) a road, railway or bridge; or
 - (iia) where the expression is used in or for the purposes of Division 2 or 2A of Part 2—a stock-route; or
 - (iii) a well, or bore, for obtaining water; or
 - (iv) any major earthworks; or
- (b) a building that is constructed with the authority of the Crown, other than on a lease.

Note: In addition, section 251D deals with land or waters relating to public works.

Section 24KA Facilities for services to the public

- (1) This Subdivision applies to a future act if:
 - (a) it relates, to any extent, to an onshore place; and
 - (b) it either:
 - (i) permits or requires the construction, operation, use, maintenance or repair, by or on behalf of any person, of any of the things listed in subsection (2) that is to be operated, or is operated, for the general public; or
 - (ii) consists of the construction, operation, use, maintenance or repair, by or on behalf of the Crown, or a local government body or other statutory authority of the Crown, in any of its capacities, of any of the things listed in subsection (2) that is to be operated, or is operated, for the general public; and
 - (c) it does not prevent native title holders in relation to land or waters on which the thing is located or to be located from having reasonable access to such land or waters in the vicinity of the thing, except:
 - (i) while the thing is being constructed; or
 - (ii) for reasons of health and safety; and
 - (d) a law of the Commonwealth, a State or a Territory makes provision in relation to the preservation or protection of areas, or sites, that may be:
 - (i) in the area in which the act is done; and
 - (ii) of particular significance to Aboriginal peoples or Torres Strait Islanders in accordance with their traditions.

Compulsory acquisitions not covered

- (1A) To avoid doubt, this Subdivision does not apply to a future act that is the compulsory acquisition of the whole or part of any native title rights and interests.

Facilities etc.

- (2) For the purposes of paragraph (1)(b), the things are as follows:
- (a) a road, railway, bridge or other transport facility (other than an airport or port);
 - (b) a jetty or wharf;
 - (c) a navigation marker or other navigational facility;
 - (d) an electricity transmission or distribution facility;
 - (e) lighting of streets or other public places;
 - (f) a gas transmission or distribution facility;
 - (g) a well, or a bore, for obtaining water;
 - (h) a pipeline or other water supply or reticulation facility;
 - (i) a drainage facility, or a levee or other device for management of water flows;
 - (j) an irrigation channel or other irrigation facility;
 - (k) a sewerage facility, other than a treatment facility;
 - (l) a cable, antenna, tower or other communication facility;
 - (la) an automatic weather station;
 - (m) any other thing that is similar to any one or more of the things mentioned in the paragraphs above.

APPENDIX D: NATIVE TITLE MANAGER LETTER OF ACCREDITATION



Planning,
Industry &
Environment

Reference: LBN20/38

Mr Carl Malmberg
Council Crown Land Management
GPO Box 5477
Sydney NSW 2000

Dear Mr Malmberg,

**Subject: Confirmation of approved training as Native Title Manager
Crown Land Management Act 2016**

This letter provides confirmation that Carl Malmberg, having completed the approved training below, is qualified to act as a Native Title Manager for the purposes of Part 8 of the *Crown Land Management Act 2016* which commenced on 1 July 2018.

**Introductory Native Title Training
Delivered by the NSW Department of Planning, Industry and Environment,
Sydney, NSW on 3 December 2019**

For further information about the qualified training, please contact Mr Todd Craig, Native Title Operations, Crown Lands in the NSW Department of Planning, Industry and Environment: via email: todd.craig@crowntland.nsw.gov.au

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Rodney Hodder'.

Rodney Hodder
A/Executive Director Strategy and Policy
Crown Lands

6/2/2020