



Notice is hereby given, in accordance with the provisions of the Local Government Act 1993 that an **ORDINARY MEETING** of Wentworth Shire Council will be held in the **WENTWORTH SHIRE COUNCIL CHAMBERS, SHORT STREET, WENTWORTH**, commencing at **7:00PM**.

The meeting is being livestreamed and/or recorded for on-demand viewing via Council's website. Attendance at the meeting is to be taken as consent by a person to their image and/or voice being webcast.

All speakers should refrain from making any defamatory comments or releasing personal information about another individual without their consent. Council accepts no liability for any damage that may result from defamatory comments made by persons attending meetings – all liability will rest with the individual who made the comments.

The meeting must not be recorded by others without prior written consent of the Council in accordance with the Council's code of meeting practice.

Councillors & staff are obligated to declare Conflicts of Interest as required under the Local Government Act 1993 and Councils adopted Code of Conduct.

Councillors are reminded of their Oath of Office whereby they have declared and affirmed that they will undertake the duties of the Office of Councillor in the best interests of the people of Wentworth Shire and the Wentworth Shire Council and that they will faithfully and impartially carry out the functions, powers, authorities and discretions vested in them under the Local Government Act 1993 or any other Act to the best of their ability and judgment.

KEN ROSS
GENERAL MANAGER

ORDINARY MEETING

AGENDA

17 JULY 2024

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1 OPENING OF MEETING

THE MAYOR REQUESTS THAT THE GENERAL MANAGER MAKES
ANNOUNCEMENTS REGARDING THE LIVE-STREAMING OF THE MEETING.

2 PRAYER OR ACKNOWLEDGEMENT OF COUNTRY

We acknowledge the traditional owners of the land on which we live and work, and
pay our respects to their elders past, present, and emerging.

3 APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE

4 DISCLOSURES OF INTERESTS

5 CONFIRMATION OF MINUTES

Recommendation

That the Minutes of the Ordinary Meeting held 26 June 2024 be confirmed as
circulated.



ORDINARY MEETING MINUTES

26 JUNE 2024

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1 OPENING OF MEETING

The Mayor opened the meeting with a prayer at 7:01PM.

2 PRAYER OR ACKNOWLEDGEMENT OF COUNTRY

PRESENT:

COUNCILLORS: Councillor Daniel Linklater
Councillor Brian Beaumont
Councillor Peter Crisp
Councillor Tim Elstone (via Video Conference)
Councillor Susan Nichols
Councillor Jo Rodda

STAFF: Ken Ross (General Manager)
George Kenende (Acting Director Health and Planning)
Geoff Gunn (Director Roads and Engineering)
Simon Rule (Director Finance and Policy)
Gayle Marsden (Executive Assistant to General Manager)
Hannah Nicholas (Business Support Officer)

3 APOLOGIES AND LEAVE OF ABSENCE

Council Resolution

That Council notes the apologies for Cr MacAllister and Cr Cooper.

Moved Cr. Nichols, Seconded Cr Crisp

CARRIED UNANIMOUSLY

4 DISCLOSURES OF INTERESTS

Councillor Beaumont advised that he had a less than significant non-pecuniary interest in Item 9.3 he is the President of Wentworth Regional Tourism Inc.

5 CONFIRMATION OF MINUTES

Recommendation

That the Minutes of the Ordinary Meeting held 15 May 2024 be confirmed as circulated.

Council Resolution

That the Minutes of the Ordinary Meeting held 15 May 2024 be confirmed as circulated.

Moved Cr Rodda, Seconded Cr Beaumont

CARRIED UNANIMOUSLY

Council Resolution

That the Ordinary Council meeting be adjourned for the purpose of conducting a Public Forum.

The meeting was adjourned at 7:07pm.

Moved Cr Crisp, Seconded Cr. Nichols

CARRIED UNANIMOUSLY

Public Forum:

Mr James Goldsworthy spoke in favour of Item 9.9.

Mr Roy Costa & Mr Brenton Jardine spoke against Item 9.9.

Council Resolution

That the Ordinary Council meeting be reconvened and the recording of the meeting be recommenced.

The Ordinary Council meeting was reconvened at 7:26pm.

Moved Cr Crisp, Seconded Cr Rodda

CARRIED UNANIMOUSLY

6 Outstanding Matters from Previous Meetings

6.1 OUTSTANDING MATTERS FROM PREVIOUS MEETINGS

File Number: RPT/24/252

Responsible Officer: Ken Ross - General Manager
Responsible Division: Office of the General Manager
Reporting Officer: Hannah Nicholas - Business Support Officer

Objective: 4.0 Wentworth Shire is supported by strong and ethical civic leadership with all activities conducted in an open, transparent and inclusive manner

Strategy: 4.2 A strong, responsible and representative government

Summary

The Outstanding Actions report provides details of activities raised at previous Council meetings that remain outstanding.

Officer Recommendation

That Council receives and notes the list of outstanding matters as at 19 June 2024.

Council Resolution

That Council receives and notes the list of outstanding matters as at 19 June 2024.

Moved Cr Rodda, Seconded Cr. Nichols

CARRIED UNANIMOUSLY

7 MAYORAL AND COUNCILLOR REPORTS

7.1 MAYORAL REPORT

File Number: RPT/24/250

Recommendation

That Council receives and notes the information contained in the Mayoral report

Council Resolution

That Council receives and notes the information contained in the Mayoral report

Moved Cr Linklater, Seconded Cr Crisp

CARRIED UNANIMOUSLY

7.2 WESTERN DIVISION OF COUNCILS - COBAR

File Number: RPT/24/320

Summary

The Western Division of Councils NSW 2024 mid-term Conference was held in Cobar on 13 - 14 June 2024.

Recommendation

That the Western Division of Councils NSW Conference report from Councillor Crisp be received and noted.

Council Resolution

That the Western Division of Councils NSW Conference report from Councillor Crisp be received and noted.

Moved Cr Crisp, Seconded Cr Beaumont

CARRIED UNANIMOUSLY

7.3 DEPARTMENT OF CLIMATE CHANGE, ENERGY, THE ENVIRONMENT AND WATER FORUM - DRAFT MURRAY AND MURRUMBIDGEE REGIONAL WATER STRATEGIES

File Number: RPT/24/324

Summary

Cr Beaumont attended the Department of Climate Change, Energy, the Environment and Water Forum – Draft Murray and Murrumbidgee Regional Water Strategies on behalf of Council at the Grande Resort 18 June 2024 and provided the following report.

Recommendation

That Council receives and notes the report from Councillor Beaumont.

Council Resolution

That Council receives and notes the report from Councillor Beaumont.

Moved Cr Beaumont, Seconded Cr Crisp

CARRIED UNANIMOUSLY

8 REPORTS FROM COMMITTEES

8.1 AUDIT, RISK AND IMPROVEMENT COMMITTEE

File Number: RPT/24/257

Responsible Officer: Simon Rule - Director Finance and Policy

Responsible Division: Finance and Policy

Reporting Officer: Simon Rule - Director Finance and Policy

Objective: 4.0 Wentworth Shire is supported by strong and ethical civic leadership with all activities conducted in an open, transparent and inclusive manner

Strategy: 4.2 A strong, responsible and representative government

Summary

A meeting of the Audit, Risk and Improvement Committee was held on 13 May 2024 and the draft Minutes for the meeting have been separately circulated for the information of Councillors.

The Committee considered the following item of business:

- Audit Office of NSW Update
- Procurement & Contract Management Internal Audit and Internal Audit update
- 2024/2025 Budget & Operational Plan Update
- Internal Audit Extreme & High Risk Recommendations Update
- Quarterly Fraud Report
- Quarterly Operational Plan Progress Report
- Quarterly Budget Review – Third Quarter 2023-2024
- Quarterly report on Legislative Updates
- Child Safe Standards Implementation Update

Officer Recommendation

That Council receives and notes the draft minutes of the Audit, Risk and Improvement Committee Meetings held on 13 May 2024

Council Resolution

That Council receives and notes the draft minutes of the Audit, Risk and Improvement Committee Meetings held on 13 May 2024

Moved Cr Rodda, Seconded Cr Beaumont

CARRIED UNANIMOUSLY

9 REPORTS TO COUNCIL

9.1 GENERAL MANAGERS REPORT

File Number: RPT/24/251

Responsible Officer: Ken Ross - General Manager
Responsible Division: Office of the General Manager
Reporting Officer: Hannah Nicholas - Business Support Officer

Objective: 4.0 Wentworth Shire is supported by strong and ethical civic leadership with all activities conducted in an open, transparent and inclusive manner

Strategy: 4.2 A strong, responsible and representative government

Summary

The General Manager's report details information pertaining to meetings attended and general information which are of public interest, and which have not been reported elsewhere in this agenda. Items of note in this report are:

1. OLG Circulars
Circulars 24-06, 24-07, 24-08, 24-09 and 24-10
2. Meetings
As listed.
3. Upcoming meetings or events
As listed.
4. Other items of note
Nil.

Recommendation

That Council receives and notes the information contained within the report from the General Manager.

Council Resolution

That Council receives and notes the information contained within the report from the General Manager.

Moved Cr Crisp, Seconded Cr Rodda

CARRIED UNANIMOUSLY

9.2 CONSOLIDATING CURRENT VISITORS INFORMATION CENTRE WITH THE ROTARY OP SHOP AND MANAGEMENT OF THE OLD WENTWORTH GAOL

File Number: RPT/24/280

Responsible Officer: Ken Ross - General Manager
Responsible Division: Office of the General Manager
Reporting Officer: Hannah Nicholas - Business Support Officer
Lexi Stockman - Manager Tourism and Promotion

Objective: 1.0 Wentworth Shire is a vibrant, growing and thriving Region
Strategy: 1.2 Promote the Wentworth Region as a desirable visitor and tourism destination

Summary

At the end of June, the current caretaker of the Old Wentworth Gaol, Paul Swarbrick, will be retiring from his duties and handing the caretaking role of the Gaol back to Council. Council have received a letter from the Rotary Club of Wentworth Inc, expressing their interest in operating the Gaol following Mr Swarbrick's departure. The letter also proposes that the Rotary Club of Wentworth Inc Op Shop utilise the area that currently houses the Visitor Information Centre.

Recommendation

That Council:

- a) appoints the Rotary Club of Wentworth Inc as the future operators of the Old Wentworth Gaol
- b) accept the Rotary Club of Wentworth Inc's proposal to utilize the current Visitor Information Centre site for the Op Shop.

Council Resolution

That Council:

- a) appoints the Rotary Club of Wentworth Inc as the future operators of the Old Wentworth Gaol
- b) accept the Rotary Club of Wentworth Inc's proposal to utilize the current Visitor Information Centre site for the Op Shop.

Moved Cr Rodda, Seconded Cr Beaumont

CARRIED UNANIMOUSLY

9.3 DRAFT WENTWORTH REGION TOURISM & EVENTS STRATEGY 2024-2029

File Number: RPT/24/291

Responsible Officer: Ken Ross - General Manager
Responsible Division: Office of the General Manager
Reporting Officer: Lexi Stockman - Manager Tourism and Promotion

Objective: 1.0 Wentworth Shire is a vibrant, growing and thriving Region
Strategy: 1.2 Promote the Wentworth Region as a desirable visitor and tourism destination

Summary

The draft *Wentworth Region Tourism & Events Strategy 2024-2029* has been developed after it was identified that Wentworth Shire Council does not currently have an updated Tourism & Events Strategy, with the last strategy completed in 2012.

The draft *Wentworth Region Tourism & Events Strategy 2024-2029* provides a framework to provide direction and consistency to all organisations and businesses within the tourism sector. The strategy includes a high-level plan that identifies the challenges currently faced within the local tourism industry as well as the main priorities and aspirations for the future, and how to achieve these goals.

Recommendation

That Council endorses the draft Wentworth Region Tourism & Events Strategy 2024-2029 for community consultation for 28 days.

Council Resolution

That Council defer the community consultation process of this draft Wentworth Region Tourism & Events Strategy 2024-2029 to allow a review of the initiatives, actions and stakeholders prior to endorsement for community consultation.

Moved Cr Beaumont, Seconded Cr Rodda

CARRIED UNANIMOUSLY

9.4 MONTHLY FINANCE REPORT - MAY 2024

File Number: RPT/24/256

Responsible Officer: Simon Rule - Director Finance and Policy

Responsible Division: Finance and Policy

Reporting Officer: Vanessa Lock - Finance Officer

Objective: 4.0 Wentworth is a caring , supportive and inclusive community that is informed and engaged in its future

Strategy: 4.1 Provide strong and effective representation, leadership, planning, decision-making and service delivery

Summary

Rates and Charges collections for the month of May 2024 were \$1,370,617.37. After allowing for pensioner subsidies, the total levies collected are now 91.96%. For comparison purposes 87.44% of the levy had been collected at the end of May 2023. Council currently has \$45,574,280.82 in cash and investments.

Recommendation

That Council receives and notes the Monthly Finance Report.

Council Resolution

That Council receives and notes the Monthly Finance Report.

Moved Cr Rodda, Seconded Cr. Elstone

CARRIED UNANIMOUSLY

9.5 MONTHLY INVESTMENT REPORT - MAY 2024

File Number: RPT/24/276

Responsible Officer: Simon Rule - Director Finance and Policy

Responsible Division: Finance and Policy

Reporting Officer: Bryce Watson - Accountant

Objective: 4.0 Wentworth Shire is supported by strong and ethical civic leadership with all activities conducted in an open, transparent and inclusive manner

Strategy: 4.5 Adopt practices of prudent asset, financial and human resource management across Council to ensure long-term sustainability and efficiency

Summary

As of 31 May 2024, Council had \$41 million invested in term deposits and \$4,574,280.82 in other cash investments. Council received \$103,274.43 from its investments for the month of May 2024.

In May 2024 Council investments averaged a rate of return of 5.05% and it currently has \$8,011,465.14 of internal restrictions and \$34,653,579.53 of external restrictions.

Recommendation

That Council receives and notes the monthly investment report.

Council Resolution

That Council receives and notes the monthly investment report.

Moved Cr Rodda, Seconded Cr Crisp

CARRIED UNANIMOUSLY

9.6 DETERMINATION OF COUNCILLOR REMUNERATION FOR 2023/2024

File Number: RPT/24/247

Responsible Officer: Simon Rule - Director Finance and Policy

Responsible Division: Finance and Policy

Reporting Officer: Simon Rule - Director Finance and Policy

Objective: 4.0 Wentworth Shire is supported by strong and ethical civic leadership with all activities conducted in an open, transparent and inclusive manner

Strategy: 4.5 Adopt practices of prudent asset, financial and human resource management across Council to ensure long-term sustainability and efficiency

Summary

The Local Government Remuneration Tribunal has determined a 3.75% increase to the Mayoral and Councillor fees for the 2024/2025 financial year, with effect from 1 July 2024.

Sections 248 and 249 of the Local Government Act 1993 require Councils to fix and pay an annual fee based on the Tribunal's determination for the 2024/2025 financial year. If a Council does not fix a fee, the Council must pay the minimum fee determined by the Tribunal.

The Remuneration Tribunal classifies the Wentworth Shire Council as a Rural Council. As such, the minimum fee for a Councillor is \$10,220 and the maximum allowable is \$13,520. In addition to the fee paid as a Councillor, the minimum fee payable to the Mayor is \$10,880 and the maximum fee is \$29,500.

In May 2023, Council resolved to increase the fees for the 2023/2024 to the maximum amount. The fees for 2023/2024 are \$13,030 for Councillors plus an additional \$28,430 for the Mayor.

Recommendation

That Council sets the level of fees to be paid to the Councillors and Mayor in accordance with the schedule of fees determined by the Local Government Remuneration Tribunals.

Council Resolution

That Council sets the maximum of fees to be paid to the Councillors and Mayor in accordance with the schedule of fees determined by the Local Government Remuneration Tribunals being Mayor \$29,500 and Councillors \$13,520.

Moved Cr Rodda, Seconded Cr Crisp

CARRIED UNANIMOUSLY

9.7 ADOPTION OF THE 2022-2026 DELIVERY PROGRAM/2023-2024 OPERATIONAL PLAN

File Number:	RPT/24/255
Responsible Officer:	Simon Rule - Director Finance and Policy
Responsible Division:	Finance and Policy
Reporting Officer:	Simon Rule - Director Finance and Policy
Objective:	4.0 Wentworth Shire is supported by strong and ethical civic leadership with all activities conducted in an open, transparent and inclusive manner
Strategy:	4.2 A strong, responsible and representative government

Summary

Following the presentation of the Draft 2024/2025 Operational Plan to the May Ordinary Council Meeting, the Draft Plan was placed on public exhibition for 28 days as required under the *Local Government Act*.

Council is now required to consider all submissions received prior to adopting the 2024/2025 Operational Plan. This includes the following:

- The 2024/2025 Annual Statement of Revenue and the Annual Fees and Charges.
- The making and levying of rates and charges including:
 - 5.20% increase in the Ordinary Rate for 2024/2025
 - 5.00% increase in Sewer Access Charges for 2024/2025
 - 5.00% increase in Water Access Charges for 2024/2025
 - 5.00% increase in Domestic Waste Charges for 2024/2025
 - 5.00% increase to Water Consumption Charges for 2024/2025
 - Charge the maximum interest rate on Overdue Rates and Charges

Recommendation

- a) That Council adopts the 2024/2025 Operational Plan, as amended, having considered submissions received.
- b) That Council resolves to increase ordinary rate income for the 2023/2024 year by the maximum 5.20% rate pegged amount determined by the Independent Pricing and Regulatory Tribunal of NSW (IPART)
- c) That Council resolves to make and levy an ordinary rate to comprise of a base rate and an ad valorem rating structure for Residential, Business and Farmland categories of rates under Section 534, 535, 537 of the *Local Government Act 1993* (NSW) for the 2023/2024 year including:

Farmland category

Includes all of the lands within the local government area of Wentworth categorised as Farmland except those parcels of rateable land sub categorised as Farmland, Dry Land Grazing and Farmland, Licence/Pump Site/Pipeline

Farmland

- An ordinary rate of 0.00200372 cents in the dollar on the land value of all rateable lands within Wentworth Shire Council categorised as Farmland, in accordance with Section 515 of the Local Government Act, 1993 be now made for the 2024/2025 rating period, subject to a base amount of (\$600.00) for each assessment. The base amount accounts for 32.96% of the estimated yield for this category. The estimated yield for this rate is \$1,281,704.

Farmland – Dry Land Grazing

- An ordinary rate of 0.00160101 cents in the dollar on the land value of all rateable lands within Wentworth Shire Council categorised as Farmland, sub categorised Dry Land Grazing in accordance with Section 515 of the Local Government Act, 1993 be now made for the 2024/2025 rating period, subject to a base amount of (\$600.00) for each assessment. The base amount accounts for 19.21% of the estimated yield for this category. The estimated yield for this rate is \$827,783.

Farmland, Licence/Pump Site/Pipeline

- An ordinary rate of 0.03526919 cents in the dollar on the land value of all rateable lands within Wentworth Shire Council categorised as Farmland, sub categorised Licence/Pump Site/Pipeline, in accordance with Section 515 of the Local Government Act, 1993 be now made for the 2024/2025 rating period, subject to a base amount of (\$95.00) for each assessment. The base amount accounts for 42.17% of the estimated yield for this category. The estimated yield for this rate is \$16,218.

Residential Category**Wentworth**

- An ordinary rate of 0.00350233 cents in the dollar on the land value of all rateable lands with Wentworth Shire Council categorised as Residential, sub categorised Wentworth, in accordance with Section 516 of the Local Government Act, 1993 be now made for the 2024/2025 rating period, subject to base amount of (\$240.00) for each assessment. The amount accounts for 40.45% of the estimated yield for this category. The estimated yield for this rate is \$360,774.

Buronga

- An ordinary rate of 0.00284856 cents in the dollar on the land value of all rateable lands within Wentworth Shire Council categorised as Residential, sub categorised Buronga, in accordance with Section 516 of the Local Government Act, 1993 be now made for the 2024/2025 rating period, subject to a base amount of (\$260.00) for each assessment. The base amount accounts for 27.87% of the estimated yield for this category. The estimated yield for this rate is \$534,262.

Gol Gol

- An ordinary rate of 0.00315362 cents in the dollar on the land value of all rateable lands within Wentworth Shire Council categorised as Residential, sub categorised Gol Gol, in accordance with Section 516 of the Local Government Act, 1993 be now made for the 2024/2025 rating period, subject to a base amount of (\$260.00) for each assessment. The base amount accounts for 24.56% of the estimated yield for this category. The estimated yield for this rate is \$757,851.

Gol Gol East

- An ordinary rate of 0.00300166 cents in the dollar on the land value of all rateable lands within Wentworth Shire Council categorised as Residential, sub categorised

Gol Gol East, in accordance with Section 516 of the Local Government Act, 1993 be now made for the 2024/2025 rating period, subject to a base amount of (\$360.00) for each assessment. The base amount accounts for 21.74% of the estimated yield for this category. The estimated yield for this rate is \$450,388

Pooncarie

- An ordinary rate of 0.01556897 cents in the dollar on the land value of all rateable lands with Wentworth Shire Council categorised as Residential, sub categorised Pooncarie, in accordance with Section 516 of the Local Government Act, 1993 be now made for the 2024/2025 rating period, subject to a base amount of (\$210.00) for each assessment. The base amount accounts for 44.88% of the estimated yield for this category. The estimated yield for this rate is \$24,801.

Dareton

- An ordinary rate of 0.01920076 cents in the dollar on the land value of all rateable lands within Wentworth Shire Council categorised as Residential, sub categorised Dareton, in accordance with Section 516 of the Local Government Act, 1993 be now made for the 2024/2025 rating period, subject to a base amount of (\$210.00) for each assessment. The base amount accounts for 46.44% of the estimated yield for this category. The estimated yield for this rate is \$85,924.

Rural Residential

- An ordinary rate of 0.0024780 cents in the dollar on the land value of all rateable lands within Wentworth Shire Council categorised as Residential, sub categorised Rural, in accordance with Section 516 of the Local Government Act, 1993 be now made for the 2024/2025 rating period, subject to a base amount of (\$210.00) for each assessment. The base amount accounts for 24.94% of the estimated yield for this category. The estimated yield for this rate is \$554,151.

Business Category

Includes all of the lands within the local government area of Wentworth categorised as Business except those parcels of rateable land sub categorised as Business, Mourquong; Business, Trentham Cliffs; Business, Arumpo; Business, Wentworth; Business, Pooncarie (including all of the lands within the locality of Pooncarie sub categorised as Business Pooncarie except those lands within the township of Pooncarie).

Business

- An ordinary rate of 0.00540767 cents in the dollar on the land value of all rateable lands within Wentworth Shire Council categorised as Business, in accordance with Section 518 of the Local Government Act, 1993 be now made for the 2024/2025 rating period, subject to a base amount of (\$270.00) for each assessment. The base amount accounts for 16.69% of the estimated yield for this category. The estimated yield for this rate is \$302,597.

Business, Wentworth

- An ordinary rate of 0.00787116 cents in the dollar on the land value of all rateable lands within Wentworth Shire Council categorised as Business, sub categorised Wentworth, in accordance with Section 518 of the Local Government Act, 1993 be now made for the 2024/2025 rating period, subject to a base amount of (\$270.00) for each assessment. The base amount accounts for 38.54% of the estimated yield for

this category. The estimated yield for this rate is \$38,528.

Business, Mourquong

- An ordinary rate of 0.17286802 cents in the dollar on the land value of all rateable lands within Wentworth Shire Council categorised as Business, sub categorised Mourquong, in accordance with Section 518 of the Local Government Act, 1993 be now made for the 2024/2025 rating period, subject to a base amount of (\$100.00) for each assessment. The base amount accounts for 0.11% of the estimated yield for this category. The estimated yield for this rate is \$284,668.

Business, Trentham Cliffs

- An ordinary rate of 0.00495035 cents in the dollar on the land value of all rateable lands within Wentworth Shire Council categorised as Business, sub categorised Trentham Cliffs, in accordance with Section 518 of the Local Government Act 1993, be now made for the 2024/2025 rating period, subject to a base amount of (\$120.00) for each assessment. The base amount accounts for 3.73% of the estimated yield for this category. The estimated yield for this rate is \$12,861.

Business, Arumpo

- An ordinary rate of 0.06449843 cents in the dollar on the land value of all rateable lands within Wentworth Shire Council categorised as Business, sub categorised Arumpo, in accordance with Section 518 of the Local Government Act, 1993 be now made for the 2024/2025 rating period, subject to a base amount of (\$210.00) for each assessment. The base amount accounts for 1.39% of the estimated yield for this category. The estimated yield for this rate is \$105,957.

Business, Pooncarie

- An ordinary rate of 0.05613864 cents in the dollar on the land value of all rateable lands with Wentworth Shire Council categorised as Business, sub categorised Pooncarie, in accordance with Section 518 of the Local Government Act, 1993 be now made for the 2024/2025 rating period, subject to a base amount of (\$100.00) for each assessment. The base amount accounts for 0.03% of the estimated yield for this category. The estimated yield for this rate is \$789,790
- d) That Council resolves to make and levy fees and charges for Sewer Services for the 2024/2025 year as set out in the Annual Statement of Revenue.
- e) That Council resolves to make and levy fees and charges for Water Services for the 2024/2025 year as set out in the Annual Statement of Revenue.
- f) That Council resolves to make and levy a Domestic Waste Management charge for the 2024/2025 year under Section 496 of the *Local Government Act 1993* (NSW) on each parcel of rateable land of which the service is available as set out in the Annual Statement of Revenue.
- g) That Council resolves to fix the Fees and Charges schedule for the 2024/2024 year as set out in the Annual Statement of Revenue.
- h) That Council resolves to charge the maximum interest rate on overdue rates and charges.
- i) That Council resolves to approve Appendix A – Bodies Granted Exemptions automatic fee waiver as part of the 2023/2024 Financial Assistance Program as set out in the Schedule of Fees and Charges.
- j) That Council resolves to approve borrowings for 2024/2025 of \$12,000,000 as outlined in

the Annual Statement of Revenue.

Council Resolution

- a) That Council adopts the 2024/2025 Operational Plan, as amended, having considered submissions received.
- b) That Council resolves to increase ordinary rate income for the 2023/2024 year by the maximum 5.20% rate pegged amount determined by the Independent Pricing and Regulatory Tribunal of NSW (IPART)
- c) That Council resolves to make and levy an ordinary rate to comprise of a base rate and an ad valorem rating structure for Residential, Business and Farmland categories of rates under Section 534, 535, 537 of the *Local Government Act 1993* (NSW) for the 2023/2024 year including:

Farmland category

Includes all of the lands within the local government area of Wentworth categorised as Farmland except those parcels of rateable land sub categorised as Farmland, Dry Land Grazing and Farmland, Licence/Pump Site/Pipeline

Farmland

- An ordinary rate of 0.00200372 cents in the dollar on the land value of all rateable lands within Wentworth Shire Council categorised as Farmland, in accordance with Section 515 of the Local Government Act, 1993 be now made for the 2024/2025 rating period, subject to a base amount of (\$600.00) for each assessment. The base amount accounts for 32.96% of the estimated yield for this category. The estimated yield for this rate is \$1,281,704.

Farmland – Dry Land Grazing

- An ordinary rate of 0.00160101 cents in the dollar on the land value of all rateable lands within Wentworth Shire Council categorised as Farmland, sub categorised Dry Land Grazing in accordance with Section 515 of the Local Government Act, 1993 be now made for the 2024/2025 rating period, subject to a base amount of (\$600.00) for each assessment. The base amount accounts for 19.21% of the estimated yield for this category. The estimated yield for this rate is \$827,783.

Farmland, Licence/Pump Site/Pipeline

- An ordinary rate of 0.03526919 cents in the dollar on the land value of all rateable lands within Wentworth Shire Council categorised as Farmland, sub categorised Licence/Pump Site/Pipeline, in accordance with Section 515 of the Local Government Act, 1993 be now made for the 2024/2025 rating period, subject to a base amount of (\$95.00) for each assessment. The base amount accounts for 42.17% of the estimated yield for this category. The estimated yield for this rate is \$16,218.

Residential Category

Wentworth

- An ordinary rate of 0.00350233 cents in the dollar on the land value of all rateable lands with Wentworth Shire Council categorised as Residential, sub categorised Wentworth, in accordance with Section 516 of the Local Government Act, 1993 be now made for the 2024/2025 rating period, subject to base amount of (\$240.00) for each assessment. The amount accounts for 40.45% of the estimated yield for this category. The estimated yield for this rate is \$360,774.

Buronga

- An ordinary rate of 0.00284856 cents in the dollar on the land value of all rateable lands within Wentworth Shire Council categorised as Residential, sub categorised Buronga, in accordance with Section 516 of the Local Government Act, 1993 be now made for the 2024/2025 rating period, subject to a base amount of (\$260.00) for each assessment. The base amount accounts for 27.87% of the estimated yield for this category. The estimated yield for this rate is \$534,262.

Gol Gol

- An ordinary rate of 0.00315362 cents in the dollar on the land value of all rateable lands within Wentworth Shire Council categorised as Residential, sub categorised Gol Gol, in accordance with Section 516 of the Local Government Act, 1993 be now made for the 2024/2025 rating period, subject to a base amount of (\$260.00) for each assessment. The base amount accounts for 24.56% of the estimated yield for this category. The estimated yield for this rate is \$757,851.

Gol Gol East

- An ordinary rate of 0.00300166 cents in the dollar on the land value of all rateable lands within Wentworth Shire Council categorised as Residential, sub categorised Gol Gol East, in accordance with Section 516 of the Local Government Act, 1993 be now made for the 2024/2025 rating period, subject to a base amount of (\$360.00) for each assessment. The base amount accounts for 21.74% of the estimated yield for this category. The estimated yield for this rate is \$450,388

Pooncarie

- An ordinary rate of 0.01556897 cents in the dollar on the land value of all rateable lands with Wentworth Shire Council categorised as Residential, sub categorised Pooncarie, in accordance with Section 516 of the Local Government Act, 1993 be now made for the 2024/2025 rating period, subject to a base amount of (\$210.00) for each assessment. The base amount accounts for 44.88% of the estimated yield for this category. The estimated yield for this rate is \$24,801.

Dareton

- An ordinary rate of 0.01920076 cents in the dollar on the land value of all rateable lands within Wentworth Shire Council categorised as Residential, sub categorised Dareton, in accordance with Section 516 of the Local Government Act, 1993 be now made for the 2024/2025 rating period, subject to a base amount of (\$210.00) for each assessment. The base amount accounts for 46.44% of the estimated yield for this category. The estimated yield for this rate is \$85,924.

Rural Residential

- An ordinary rate of 0.0024780 cents in the dollar on the land value of all rateable lands within Wentworth Shire Council categorised as Residential, sub categorised Rural, in accordance with Section 516 of the Local Government Act, 1993 be now made for the 2024/2025 rating period, subject to a base amount of (\$210.00) for each assessment. The base amount accounts for 24.94% of the estimated yield for this category. The estimated yield for this rate is \$554,151.

Business Category

Includes all of the lands within the local government area of Wentworth categorised as Business except those parcels of rateable land sub categorised as Business, Mourquong; Business, Trentham Cliffs; Business, Arumpo; Business, Wentworth; Business, Pooncarie (including all of the lands within the locality of Pooncarie sub categorised as Business Pooncarie except those lands within the township of Pooncarie).

Business

- An ordinary rate of 0.00540767 cents in the dollar on the land value of all rateable lands within Wentworth Shire Council categorised as Business, in accordance with Section 518 of the Local Government Act, 1993 be now made for the 2024/2025 rating period, subject to a base amount of (\$270.00) for each assessment. The base amount accounts for 16.69% of the estimated yield for this category. The estimated yield for this rate is \$302,597.

Business, Wentworth

- An ordinary rate of 0.00787116 cents in the dollar on the land value of all rateable lands within Wentworth Shire Council categorised as Business, sub categorised Wentworth, in accordance with Section 518 of the Local Government Act, 1993 be now made for the 2024/2025 rating period, subject to a base amount of (\$270.00) for each assessment. The base amount accounts for 38.54% of the estimated yield for this category. The estimated yield for this rate is \$38,528.

Business, Mourquong

- An ordinary rate of 0.17286802 cents in the dollar on the land value of all rateable lands within Wentworth Shire Council categorised as Business, sub categorised Mourquong, in accordance with Section 518 of the Local Government Act, 1993 be now made for the 2024/2025 rating period, subject to a base amount of (\$100.00) for each assessment. The base amount accounts for 0.11% of the estimated yield for this category. The estimated yield for this rate is \$284,668.

Business, Trentham Cliffs

- An ordinary rate of 0.00495035 cents in the dollar on the land value of all rateable lands within Wentworth Shire Council categorised as Business, sub categorised Trentham Cliffs, in accordance with Section 518 of the Local Government Act 1993, be now made for the 2024/2025 rating period, subject to a base amount of (\$120.00) for each assessment. The base amount accounts for 3.73% of the estimated yield for this category. The estimated yield for this rate is \$12,861.

Business, Arumpo

- An ordinary rate of 0.06449843 cents in the dollar on the land value of all rateable lands within Wentworth Shire Council categorised as Business, sub categorised Arumpo, in accordance with Section 518 of the Local Government Act, 1993 be now made for the 2024/2025 rating period, subject to a base amount of (\$210.00) for each assessment. The base amount accounts for 1.39% of the estimated yield for this category. The estimated yield for this rate is \$105,957.

Business, Pooncarie

- An ordinary rate of 0.05613864 cents in the dollar on the land value of all rateable lands with Wentworth Shire Council categorised as Business, sub categorised Pooncarie, in accordance with Section 518 of the Local Government Act, 1993 be now made for the 2024/2025 rating period, subject to a base amount of (\$100.00) for

each assessment. The base amount accounts for 0.03% of the estimated yield for this category. The estimated yield for this rate is \$789,790

- d) That Council resolves to make and levy fees and charges for Sewer Services for the 2024/2025 year as set out in the Annual Statement of Revenue.
- e) That Council resolves to make and levy fees and charges for Water Services for the 2024/2025 year as set out in the Annual Statement of Revenue.
- f) That Council resolves to make and levy a Domestic Waste Management charge for the 2024/2025 year under Section 496 of the *Local Government Act 1993* (NSW) on each parcel of rateable land of which the service is available as set out in the Annual Statement of Revenue.
- g) That Council resolves to fix the Fees and Charges schedule for the 2024/2024 year as set out in the Annual Statement of Revenue.
- h) That Council resolves to charge the maximum interest rate on overdue rates and charges.
- i) That Council resolves to approve Appendix A – Bodies Granted Exemptions automatic fee waiver as part of the 2023/2024 Financial Assistance Program as set out in the Schedule of Fees and Charges.
- j) That Council resolves to approve borrowings for 2024/2025 of \$12,000,000 as outlined in the Annual Statement of Revenue.

Moved Cr Rodda, Seconded Cr Crisp

CARRIED

For the Motion :

Clr.s Beaumont, Crisp, Elstone, Linklater and Rodda.

Against the Motion:

Clr. Nichols.

9.8 DISCLOSURE OF INTEREST RETURNS

File Number: RPT/24/292

Responsible Officer: Simon Rule - Director Finance and Policy

Responsible Division: Finance and Policy

Reporting Officer: Deborah Zorzi - Governance Officer

Objective: 4.0 Wentworth Shire is supported by strong and ethical civic leadership with all activities conducted in an open, transparent and inclusive manner

Strategy: 4.2 A strong, responsible and representative government

Summary

Council's Code of Conduct Policy requires Councillors and Designated Persons to disclose their personal interests by completing a publicly available return of interests.

In addition to the annual lodgement of returns within three (3) months following 30 June, a Councillor or Designated Person must make and lodge with the General Manager a return disclosing a new interest as specified in schedule 1 of the Code of Conduct Policy within 3 months after becoming aware of that interest.

These returns are required to be lodged with the General Manager and tabled at the next meeting of Council after the return is lodged.

Recommendation

That Council notes the tabling of updated Disclosure of Interest Returns for Councillor MacAllister and for Councillor Rodda.

Council Resolution

That Council notes the tabling of updated Disclosure of Interest Returns for Councillor MacAllister and for Councillor Rodda.

Moved Cr Rodda, Seconded Cr. Elstone

CARRIED UNANIMOUSLY

9.9 DA2024/008 TWO (2) LOT BOUNDARY ADJUSTMENT LOT 5 DP 1253993 AND LOT 3 DP 1250369 POMONA

File Number: RPT/24/319

Responsible Officer: George Kenende - Acting Director Health & Planning

Responsible Division: Health and Planning

Reporting Officer: George Kenende - Acting Director Health & Planning

Objective: 3.0 Wentworth Shire is a community that works to enhance and protect its physical and natural environment

Strategy: 3.1 Ensure our planning decisions and controls enable the community to benefit from development

Summary

A development application (DA2024/008) was received by Council for a two (2) lot boundary adjustment at Lot 5 DP 1253993 and Lot 3 DP 1250369 Pomona.

Under the Wentworth Local Environmental Plan 2011 (WLEP 2011), this development is permitted with consent when located within the RU1 Primary Production zone.

The proposed development will adjust the existing boundaries between allotments to 4,871.8ha and 19.24ha.

The application was publicly notified for 14 days as per the Council Community Participation Plan. During the public notification four (4) submissions were received by Council objecting to the proposed development.

As per Council delegations, any development applications with three (3) or more submissions cannot be determined under delegated authority, and must be determined by Council.

Recommendation

That Council:

1. Approve DA2024/008 being a Two (2) lot boundary adjustment located at Lot 5 DP 1253993 and Lot 3 DP 1250369 Pomona.
2. Call a division in accordance with S375A of the Local Government Act 1993 (NSW)

That Council:

1. Approve DA2024/008 being a Two (2) lot boundary adjustment located at Lot 5 DP 1253993 and Lot 3 DP 1250369 Pomona.
2. Call a division in accordance with S375A of the Local Government Act 1993 (NSW)

Moved Cr. Crisp, Seconded Cr. Beaumont

Amendment

That Council defer Item 9.9 pending further information.

Moved Cr. Elstone, Seconded Cr. Nichols

CARRIED UNANIMOUSLY

Council Resolution

That Council defer Item 9.9 pending further information.

Moved Cr. Elstone, Seconded Cr. Nichols

CARRIED UNANIMOUSLY

In accordance with Section 375A of the Local Government Act the Mayor called for a division.

For the Motion : *Clr.s Beaumont, Crisp, Elstone, Linklater, Nichols and Rodda.*

Against the Motion: *Nil.*

9.10 DA2024/034 DEFERRED COMMENCEMENT FOR A DWELLING CREEK ROAD LOT 2 DP 1072364 CURLWAA

File Number: RPT/24/306

Responsible Officer: George Kenende - Acting Director Health & Planning

Responsible Division: Health and Planning

Reporting Officer: Georgie Martin - Cadet Planner

Objective: 3.0 Wentworth Shire is a community that works to enhance and protect its physical and natural environment

Strategy: 3.1 Ensure our planning decisions and controls enable the community to benefit from development

Summary

A development application (DA2024/034) was received by Council for a deferred commencement dwelling to be located at Creek Road Lot 2 DP 1072364, Curlwaa, within close proximity to Tuckers Creek.

Under the Wentworth Local Environmental Plan 2011 (WLEP 2011), this development is permitted with consent within the RU4 – Primary Production Small Lots zone as a dwelling.

The proposed deferred commencement dwelling is to be located on land that is presently used for grazing of rangeland goats and other agricultural purposes, but is under the 10ha minimum lot size, being only 8.8ha.

The minimum lot size under Clause 4.2B for erection of dwellings on the land is 10ha. As part of the assessment, a variation to the minimum lot size standard is required (referred to as a 4.6 variation).

Due to the variation being 12%, greater than 10%, the application cannot be determined under delegated authority, and must be determined by Council.

Recommendation

That Council:

1. Approve DA2024/034 being a deferred commencement dwelling located at Creek Road Lot 2 DP 1072364, Curlwaa.
2. Call a division in accordance with S375A of the Local Government Act 1993 (NSW).

That Council:

1. Approve DA2024/034 being a deferred commencement dwelling located at Creek Road Lot 2 DP 1072364, Curlwaa.
2. Call a division in accordance with S375A of the Local Government Act 1993 (NSW).

CARRIED

In accordance with Section 375A of the Local Government Act the Mayor called for a division.

For the Motion : *Clr.s Beaumont, Crisp, Elstone, Linklater and Rodda.*

Against the Motion: *Clr. Nichols.*

9.11 WENTWORTH LOCAL ENVIRONMENTAL PLAN 2011 PLANNING PROPOSAL TO REZONE RU5 LAND TO E4 AND INTRODUCE A 1000SQM MLS 48 CORBETT AVENUE BURONGA

File Number: RPT/24/317

Responsible Officer: George Kenende - Acting Director Health & Planning
Responsible Division: Health and Planning
Reporting Officer: George Kenende - Acting Director Health & Planning

Objective: 3.0 Wentworth Shire is a community that works to enhance and protect its physical and natural environment

Strategy: 3.1 Ensure our planning decisions and controls enable the community to benefit from development

Summary

Wentworth Shire Council resolved to proceed with a Planning Proposal to amend planning provisions in the Wentworth Local Environmental Plan 2011 (WLEP) that specifically relate to amendment to the Zoning and Minimum Lot Size (MLS) mapping.

The Department of Planning, Housing and Infrastructure (DPHI) issued a Gateway Determination to proceed on 19 February 2024.

The Planning Proposal sought to amend the following provisions:

- Rezone part of Lot 2 DP 1300239 from RU5 Village to E4 General Industrial
- Introduce a Minimum Lot Size (MLS) of 1,000sqm to part of Lot 2 DP 1300239 being rezoned to E4 General Industrial (Lot Size Map - Sheet LSZ_004F)

Public exhibition consultation was conducted in accordance with the Gateway Determination. No public submissions were received however one (1) state agency submission was received.

No amendments have been made to the Planning Proposal as an outcome of public exhibition.

This report seeks Council endorsement of the Planning Proposal and approval to proceed with finalisation of the amendment to the Wentworth Local Environmental Plan 2011 as Council are the plan-making authority.

Recommendation

That Council:

- a) Endorse the post exhibition documentation as outlined in this report.
- b) Support and resolve to proceed with the finalisation of the Planning Proposal in accordance with section 3.36 of the *Environmental Planning and Assessment Act 1979*.
- c) Call a division in accordance with S375A of the Local Government Act 1993 (NSW).

Council Resolution

That Council:

- a) Endorse the post exhibition documentation as outlined in this report.
- b) Support and resolve to proceed with the finalisation of the Planning Proposal in accordance with section 3.36 of the *Environmental Planning and Assessment Act 1979*.
- c) Call a division in accordance with S375A of the Local Government Act 1993 (NSW).

Moved Cr Crisp, Seconded Cr. Nichols

CARRIED UNANIMOUSLY

In accordance with Section 375A of the Local Government Act the Mayor called for a division.

For the Motion : ***Clr.s Beaumont, Crisp, Elstone, Linklater, Nichols and Rodda.***

Against the Motion: ***Nil.***

9.12 PROJECT & WORKS UPDATE - JUNE 2024

File Number: RPT/24/258

Responsible Officer: Geoff Gunn - Director Roads and Engineering

Responsible Division: Roads and Engineering

Reporting Officer: Jamie-Lee Kelly - Administration Officer

Objective: 3.0 Wentworth Shire is a community that works to enhance and protect its physical and natural environment

Strategy: 3.2 Ensure that community assets and public infrastructure are well maintained

Summary

This report provides a summary of the projects and major works undertaken by the Roads and Engineering Department which have been completed during the months of May 2024 and the planned activities for June 2024.

Recommendation

That Council receives and notes the major works undertaken in May 2024 and the scheduled works for the following month.

Council Resolution

That Council receives and notes the major works undertaken in May 2024 and the scheduled works for the following month.

Moved Cr Rodda, Seconded Cr Beaumont

CARRIED UNANIMOUSLY

10 NOTICES OF MOTIONS / QUESTIONS WITH NOTICE

10.1 NEW 40KM SIGNAGE

Cr Brian Beaumont requested that the new signage be looked at as there are visibility issues.

Director Roads and Engineering advised that works are being done to rectify and also that there will be pavement marking completed next week.

Cr Beaumont advised a publication called Afloat, June 2024 recognises Rodney Hobbs' model making.

10.2 PLANNING PORTAL

Cr Tim Elstone asked there was any truth in the rumour that the planning portal is going to be made easier.

The Acting Director Health and Planning advised that he hasn't had any information regarding updates of the portal.

10.3 DARLING RIVER FLUSH

Cr Tim Elstone advised the flush down the Darling River was a good outcome for all. He advised that Council, residents of Sunset Strip, Menindee, the South West Water User groups and Mayor Linklater all worked hard to get this result. Andrew McConville CEO of Murray Darling Basin Authority did a great job. Now we need to work toward making the process to receive a flush easier. Cr Elstone requested that thank you letters be sent to the groups.

Cr Rodda thanked Council, Coomealla Memorial Sporting Club, Wentworth District Community Bank for supporting the Why Not Winter in Wentworth campaign.

Cr Rodda reminded Councillors of the Smoke on the Water event at the Australian Inland Botanic Gardens on 13-14 July 2024

10.4 OLD SERVICE STATION BURONGA

Cr Susan Nichols asked how long the clean up of the service station will take and what will happen to the site.

The General Manager advised that there is only a Development Application for a demolition. He will reach out to the Contractor completing the work and ask for a timeframe.

Council Resolution

That Council adjourns into a closed session, that the recording of the meeting be paused, that members of the press and public be excluded from the meeting of the closed session, and that access to the correspondence and reports relating to the items considered during the course of the closed session be with-held unless declassified by separate resolution.

Moved Cr Crisp, Seconded Cr. Elstone

CARRIED UNANIMOUSLY

11 CONFIDENTIAL BUSINESS – ADJOURNMENT INTO CLOSED SESSION

Despite the right of members of the public to attend meetings of a council, the council may choose to close to the public, parts of the meeting that involve the discussion or receipt of certain matters as prescribed under section 10A(2) of the Local Government Act.

With the exception of matters concerning particular individuals (other than councillors) (10A(2)(a)), matters involving the personal hardship of a resident or ratepayer (10A(2)(b)) or matters that would disclose a trade secret (10A(2)(d)(iii)), council must be satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.

The Act requires council to close the meeting for only so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security being protected. (section 10B(1)(a))

Section 10A(4) of the Act provides that a council may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

Section 10B(4) of the Act stipulates that for the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that:-

- (a) a person may misinterpret or misunderstand the discussion, or
- (b) the discussion of the matter may -
 - (i) cause embarrassment to the council or committee concerned, or to councillors or to employees of the council, or
 - (ii) cause a loss of confidence in the council or committee.

Recommendation

That Council adjourns into Closed Session, the recording of the meeting be suspended, and members of the press and public be excluded from the Closed Session, and that access to the correspondence and reports relating to the items considered during the course of the Closed Session be withheld unless declassified by separate resolution.

This action is taken in accordance with Section 10A(2) of the Local Government Act, 1993 as the items listed come within the following provisions:-

12.1 Provision of Cleaning Services for Public Amenities and Transport for NSW Rest Areas - PT2324/15. (RPT/24/287)

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. On balance, the public interest in preserving the confidentiality of information about the tender outweighs the public interest in maintaining openness and transparency in council decision-making because disclosure of this information would reveal pricing and confidential information submitted via the tender process which if disclosed would prevent council from achieving its 'value for money' objectives.

12.2 Arumpo Road Reconstruction - Hire of Tip Truck & Super Dog Combinations. (RPT/24/314)

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for

business relating to (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. On balance, the public interest in preserving the confidentiality of information about the tender outweighs the public interest in maintaining openness and transparency in council decision-making because disclosure of this information would reveal pricing and confidential information submitted via the tender process which if disclosed would prevent council from achieving its 'value for money' objectives.

12.3 Waste Management Consultancy Services - PT2324/16. (RPT/24/253)

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. On balance, the public interest in preserving the confidentiality of information about the tender outweighs the public interest in maintaining openness and transparency in council decision-making because disclosure of this information would reveal pricing and confidential information submitted via the tender process which if disclosed would prevent council from achieving its 'value for money' objectives.

12.4 Buronga Landfill Expansion - PT2324/14. (RPT/24/279)

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. On balance, the public interest in preserving the confidentiality of information about the tender outweighs the public interest in maintaining openness and transparency in council decision-making because disclosure of this information would reveal pricing and confidential information submitted via the tender process which if disclosed would prevent council from achieving its 'value for money' objectives.

12.5 Buronga Landfill Expansion - Project Management - PT2324/18. (RPT/24/254)

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. On balance, the public interest in preserving the confidentiality of information about the tender outweighs the public interest in maintaining openness and transparency in council decision-making because disclosure of this information would reveal pricing and confidential information submitted via the tender process which if disclosed would prevent council from achieving its 'value for money' objectives.

Council Resolution

That Council adjourns into Closed Session, the recording of the meeting be suspended, and members of the press and public be excluded from the Closed Session, and that access to the correspondence and reports relating to the items considered during the course of the Closed Session be withheld unless declassified by separate resolution.

Moved Cr Crisp, Seconded Cr Beaumont

CARRIED UNANIMOUSLY

12 OPEN COUNCIL - REPORT FROM CLOSED COUNCIL

12.1 PROVISION OF CLEANING SERVICES FOR PUBLIC AMENITIES AND TRANSPORT FOR NSW REST AREAS - PT2324/15

File Number: RPT/24/287

Responsible Officer: Geoff Gunn - Director Roads and Engineering

Responsible Division: Roads and Engineering

Reporting Officer: Samantha Wall - Projects Administration

Objective: 3.0 Wentworth Shire is a community that works to enhance and protect its physical and natural environment

Strategy: 3.2 Ensure that community assets and public infrastructure are well maintained

REASON FOR CONFIDENTIALITY

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. On balance, the public interest in preserving the confidentiality of information about the tender outweighs the public interest in maintaining openness and transparency in council decision-making because disclosure of this information would reveal pricing and confidential information submitted via the tender process which if disclosed would prevent council from achieving its 'value for money' objectives.

The General Manager advised that Council in accordance with the provisions of the Local Government (General) Regulation 2021, Section 178(1) (a) accepts the tender from Karym Cleaning Services and subsequently authorised the Mayor and General Manager to sign the contract documentation and affix the seal for the recommended contractor to carry out all works as specified for PT2324/15 in the amount of \$ 221,430.55

12.2 ARUMPO ROAD RECONSTRUCTION - HIRE OF TIP TRUCK & SUPER DOG COMBINATIONS

File Number: RPT/24/314

Responsible Officer: Geoff Gunn - Director Roads and Engineering

Responsible Division: Roads and Engineering

Reporting Officer: Samantha Wall - Projects Administration

Jarrold Roberts - Manager Works

Objective: 3.0 Wentworth is a community that works to enhance and protect its physical and natural assets

Strategy: 3.2 Plan for and develop the right assets and infrastructure

REASON FOR CONFIDENTIALITY

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. On balance, the public interest in preserving the confidentiality of information about the tender outweighs the public interest in maintaining openness and transparency in council decision-making because disclosure of this information would reveal pricing and confidential information submitted via the tender process which if disclosed would prevent council from achieving its 'value for money' objectives.

The General Manager advised that Council in accordance with the provisions of the Local Government (General) Regulation 2005, Section 178(1)(a) awarded the following tenders authorising the use of contractors in accordance with their Evaluation Score as nominated.

Tip truck and Super Dog Combination hire rate:

- KW Earthmoving (28t) item 1
- KW Earthmoving (28t) item 2
- KW Earthmoving (28t) item 3
- KW Earthmoving (28t) item 4
- KW Earthmoving (28t) item 5
- KW Earthmoving (28t) item 6
- KW Earthmoving (28t) item 7
- KW Earthmoving (28t) item 8
- Bott Earthmoving (50t)
- Bulpunga Enterprises (28t)
- Doddy 4 Dirt Bulk Hauled item 1
- Doddy 4 Dirt Bulk Hauled item 2

12.3 WASTE MANAGEMENT CONSULTANCY SERVICES - PT2324/16

File Number: RPT/24/253

Responsible Officer: Geoff Gunn - Director Roads and Engineering

Responsible Division: Roads and Engineering

Reporting Officer: Geoff Gunn - Director Roads and Engineering

Objective: 3.0 Wentworth Shire is a community that works to enhance and protect its physical and natural environment

Strategy: 3.2 Ensure that community assets and public infrastructure are well maintained

REASON FOR CONFIDENTIALITY

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. On balance, the public interest in preserving the confidentiality of information about the tender outweighs the public interest in maintaining openness and transparency in council decision-making because disclosure of this information would reveal pricing and confidential information submitted via the tender process which if disclosed would prevent council from achieving its 'value for money' objectives.

The General Manager advised that Council in accordance with the provisions of the Local Government (General) Regulation 2021, Section 178(1) (a) accepted the tender from Waste and Management Services Pty Ltd and subsequently authorised the Mayor and General Manager to sign the contract documentation and affix the seal for the recommended contractor to carry out all works as specified for PT2324/16 at the hourly rate of \$297.00 GST Inclusive.

12.4 BURONGA LANDFILL EXPANSION - PT2324/14

File Number: RPT/24/279

Responsible Officer: Geoff Gunn - Director Roads and Engineering

Responsible Division: Roads and Engineering

Reporting Officer: Geoff Gunn - Director Roads and Engineering
Samantha Wall - Projects Administration

Objective: 3.0 Wentworth Shire is a community that works to enhance and protect its physical and natural environment

Strategy: 3.2 Ensure that community assets and public infrastructure are well maintained

REASON FOR CONFIDENTIALITY

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. On balance, the public interest in preserving the confidentiality of information about the tender outweighs the public interest in maintaining openness and transparency in council decision-making because disclosure of this information would reveal pricing and confidential information submitted via the tender process which if disclosed would prevent council from achieving its 'value for money' objectives.

The General Manager advised that Council in accordance with the provisions of the Local Government (General) Regulation 2021, Section 178(1) (a) accepted the tender from Waters Excavations Pty Ltd and subsequently authorised the Mayor and General Manager to sign the contract documentation and affix the seal for the recommended contractor to carry out all works as specified for PT2324/14 for \$10,750,222.91 GST Inclusive and that Council approved a contingency allowance of \$1,075,022.00 GST Inclusive.

12.5 BURONGA LANDFILL EXPANSION - PROJECT MANAGEMENT - PT2324/18

File Number: RPT/24/254

Responsible Officer: Geoff Gunn - Director Roads and Engineering

Responsible Division: Roads and Engineering

Reporting Officer: Geoff Gunn - Director Roads and Engineering
Samantha Wall - Projects Administration

Objective: 3.0 Wentworth Shire is a community that works to enhance and protect its physical and natural environment

Strategy: 3.2 Ensure that community assets and public infrastructure are well maintained

REASON FOR CONFIDENTIALITY

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. On balance, the public interest in preserving the confidentiality of information about the tender outweighs the public interest in maintaining openness and transparency in council decision-making because disclosure of this information would reveal pricing and confidential information submitted via the tender process which if disclosed would prevent council from achieving its 'value for money' objectives.

The General Manager advised that Council in accordance with the provisions of the Local Government (General) Regulation 2021, Section 178(1) (a) accepted the tender from Tonkin Consulting Pty Ltd subsequently authorised the Mayor and General Manager to sign the contract documentation and affix the seal for the recommended contractor to carry out all works as specified for PT2324/18 at the hourly rates listed in the tender Schedule for a total of \$307,950.00 GST Inclusive and that Council approved a contingency allowance of \$30,795.00 GST Inclusive.

13 Conclusion of the meeting

Meeting closed 8:37PM.

NEXT MEETING

17 July 2024

.....
CHAIR

6 OUTSTANDING MATTERS FROM PREVIOUS MEETINGS

6.1 OUTSTANDING MATTERS FROM PREVIOUS MEETINGS

File Number: RPT/24/372

Responsible Officer: Ken Ross - General Manager
 Responsible Division: Office of the General Manager
 Reporting Officer: Hannah Nicholas - Business Support Officer

Objective: 4.0 Wentworth Shire is supported by strong and ethical civic leadership with all activities conducted in an open, transparent and inclusive manner

Strategy: 4.2 A strong, responsible and representative government

Summary

The Outstanding Actions report provides details of activities raised at previous Council meetings that remain outstanding.

Officer Recommendation

That Council receives and notes the list of outstanding matters as at 10 July 2024.

Attachments

1. Outstanding Actions as at 10 July 2024 [↓](#)

7 MAYORAL AND COUNCILLOR REPORTS

7.1 MAYORAL REPORT

File Number: RPT/24/373

Summary

The purpose of this report is to advise Council of meetings, conferences and appointments undertaken by Mayor Linklater for the period of 27 June 2024 – 17 July 2024.

Recommendation

That Council receives and notes the information contained in the Mayoral report

Report

The following table lists the meetings attended by Mayor Linklater for the period of 27 June 2024 – 17 July 2024.

Date	Meeting	Location
2 July 2024	Mayoral Meeting	Wentworth
6 July 2024	2024 Wentworth Junction Rally Opening	Wentworth
6 July 2024	2024 Sunraysia Gang Show	Mildura
6 – 7 July 2024	2024 Wentworth Junction Rally	Wentworth
8-11 July 2024	Murray Darling Association Conference	Tamworth
12 July 2024	Pooncarie Sporting Reserve User Group Meeting	Pooncarie
16 July 2024	Mayoral Meeting	Wentworth
17 July 2024	Presentation by MASP to Councillor Group	Wentworth
17 July 2024	Pre Meeting Briefing	Wentworth
17 July 2024	Ordinary Council Meeting	Wentworth

Attachments

Nil

8 REPORTS FROM COMMITTEES

Nil

9 REPORTS TO COUNCIL

9.1 GENERAL MANAGERS REPORT

File Number: RPT/24/374

Responsible Officer: Ken Ross - General Manager
 Responsible Division: Office of the General Manager
 Reporting Officer: Hannah Nicholas - Business Support Officer

Objective: 4.0 Wentworth Shire is supported by strong and ethical civic leadership with all activities conducted in an open, transparent and inclusive manner

Strategy: 4.2 A strong, responsible and representative government

Summary

The General Manager's report details information pertaining to meetings attended and general information which are of public interest, and which have not been reported elsewhere in this agenda. Items of note in this report are:

1. OLG Circulars
Circulars 24-11, 24-12 and GC-153.
2. Meetings
As listed.
3. Upcoming meetings or events
As listed.
4. Other items of note
Nil.

Recommendation

That Council receive and note the information contained within the report from the General Manager.

Detailed Report

1. Circulars

Circular 24-11 ICAC guidance for Councillors on corruption risks associated with overseas travel

Key points

- ICAC's Operation Galley demonstrated that overseas travel poses corruption risks for Councillors. These risks include:
 - creating perceptions that development proposals have government backing,
 - misrepresenting or misunderstanding a Councillor's ability to influence development outcomes,
 - taking advantage of a lack of detailed understanding about NSW planning processes among foreign parties,
 - being placed in situations that are personally compromising or likely to lead to conflicts of interest,

- being offered gifts, benefits and hospitality, with an expectation of reciprocity,
- making inappropriate commitments regarding developments or being perceived as having made promises, and
- harming Australia's reputation as a reliable trading and investment partner.

Circular 24-12 Annual CPI adjustment to companion animal fees for 2024/25

Key points

- The NSW Pet Registry will be updated to include the new fees for online registration and permit payments made by pet owners from 1 July 2024.
- Both the old and new fee structures will be maintained on the CAR to allow councils to correct registration details for existing records and catch up on data entry backlogs (i.e., where fees have been receipted before 1 July 2024 but not entered on the Register).

GC-153 2024-2025 Financial Assistance Grants (FA Grants) – advance payment

Key points

- The grants are paid under the provisions of the Local Government (Financial Assistance) Act 1995 (Cth).
- The total amount of the annual FA Grants, and whether and when an advance payment is made, is determined by the Federal Government.
- Over the past 6 years, the FA Grants program has been transitioning to a revised funding model which provides an upper limit of +5% and lower limit 0% on an individual council's' general purpose component when compared year on year.
- No council has been receiving a lower general purpose grant than the previous year during transition.
- The NSW Grants Commission has been working in consultation with local councils on a strategy to restore the former upper and lower limits.
- The Commission has resolved to commence restoration of the former upper and lower limits in 2025-26, which is anticipated to be within a range of +6 to -4%.
- The FA Grants will remain in transition with a 0% lower limit in 2024-25.

2. Meetings

Following is a list of meetings or events attended by the General Manager for the period of 27 June 2024 – 17 July 2024.

Date	Meeting	Location
27 June 2024	Council Meeting Debrief	Wentworth
28 June 2024	FOSO Meeting w / Peter Alexander	Wentworth
2 July 2024	Meeting w / Rotary at Wentworth Gaol	Wentworth
2 July 2024	Mayoral Meeting	Wentworth
2 July 2024	Meeting w / NSW Standard representatives	Wentworth
3 July 2024	Meeting w / Landscape Architect for Buronga Sporting Masterplan	Wentworth

16 July 2024	Mayoral Meeting	Wentworth
17 July 2024	Presentation by MASP to Councillor Group	Wentworth
17 July 2024	Pre Meeting Briefing	Wentworth
17 July 2024	Ordinary Council Meeting	Wentworth

3. Events

Following is a list of upcoming events, conferences, or committee meetings, including out of region meetings where the Shire has been requested to attend in an official capacity from 18 July 2024 –14 August 2024.

Date	Meeting	Proposed Attendees	Location
18 July 2024	Opening of Australian Blind Bowlers Association Nationals	Mayor	Dareton
18 July 2024	Wentworth Shire Interagency Group Meeting	Cr Rodda	Buronga / Video Conference
19 July 2024	RAMJO General Managers Meeting	General Manager	Video Conference
24 July 2024	Heritage and History Advisory Committee Meeting	Deputy Mayor and Cr MacAllister	Wentworth
24 July 2024	Medal Presentation at Australian Blind Bowlers Association Nationals	Mayor	Dareton
24 July 2024	Closing Dinner for Australian Blind Bowlers Association Nationals	Mayor	Dareton
26 July 2024	MASP 30 year Celebration Dinner	Councillor Group and General Manager	Mildura
30 July 2024	Carramar Drive Sporting Complex User Group Meeting	Mayor, Cr MacAllister and Cr Rodda	Gol Gol
5 August 2024	Wentworth Regional Tourism Inc Meeting	Cr Rodda	Dareton
7 August 2024	Audit, Risk and Improvement Committee Meeting	Cr Beaumont and General Manager	Wentworth
8 August 2024	The Hon. Bob Nanva MLC	Mayor and General Manager	Sydney
9 August 2024	County Mayors Association August Meeting	Mayor and General Manager	Sydney
13 August 2024	Australian Inland Botanic Gardens Meeting	Cr MacAllister	Mildura

14 August 2024	Pre Meeting Briefing	Councillors	Wentworth
14 August 2024	Ordinary Council Meeting	Councillors	Wentworth

4. Other Items of Note

Nil

Attachments

1. Circular 24-11 [↓](#)
2. Circular 24-12 [↓](#)
3. Circular GC-153 [↓](#)

Department of Planning, Housing and Infrastructure
Office of Local Government



Circular to Councils

Subject	ICAC guidance for councillors on corruption risks associated with overseas travel
Circular Details	24-11 / 14 June 2024 / A902181
Previous Circular	Not applicable
Who should read this	Councillors / General Managers / Council Governance Staff
Contact	Council Governance/ (02) 4428 4100 / olg@olg.nsw.gov.au
Action required	Council to Implement

What's new or changing?

- The Independent Commission Against Corruption (ICAC) has issued Guidance for councillors on corruption risks associated with overseas travel (ICAC's Guidance). This can be accessed on the Office of Local Government's website [here](#) and on ICAC's website.
- ICAC's Guidance provides information to help councils understand the corruption, integrity and security risks posed by overseas travel by councillors and to mitigate those risks.
- Among other things, ICAC's Guidance provides information on:
 - existing statutory and other requirements relevant to overseas travel by councillors,
 - security risks for councillors when travelling overseas,
 - promoting council projects when overseas,
 - the potential for blackmail, and
 - the potential for corrupt conduct.
- ICAC's Guidance has been adopted by the Office of Local Government as a guideline under section 23A of the *Local Government Act 1993* (the Act).

Department of Planning, Housing and Infrastructure

Office of Local Government



What will this mean for council?

- Councils are required under section 23A of the Act to consider ICAC's Guidance when exercising their functions.

Key points

- ICAC's Operation Galley demonstrated that overseas travel poses corruption risks for councillors. These risks include:
 - creating perceptions that development proposals have government backing,
 - misrepresenting or misunderstanding a councillor's ability to influence development outcomes,
 - taking advantage of a lack of detailed understanding about NSW planning processes among foreign parties,
 - being placed in situations that are personally compromising or likely to lead to conflicts of interest,
 - being offered gifts, benefits and hospitality, with an expectation of reciprocity,
 - making inappropriate commitments regarding developments or being perceived as having made promises, and
 - harming Australia's reputation as a reliable trading and investment partner.

Where to go for further information

- ICAC's Guidance for councillors on corruption risks associated with overseas travel is available on OLG's website [here](#) and on ICAC's website.
- For further information please contact the Council Governance Team on 02 4482 4100 or by email at olg@olg.nsw.gov.au.
- For further information on managing corruption risks or to report corrupt conduct, contact ICAC at 02 8281 5999 or toll free on 1800 463 909 (for callers outside Sydney), by email at advice@icac.nsw.gov.au for advice, or via ICAC's [website](#) to report corrupt conduct.

Brett Whitworth
Deputy Secretary, Office of Local Government

Department of Planning, Housing and Infrastructure
Office of Local Government



Circular to Councils

Subject/title	Annual CPI adjustment to companion animal fees for 2024/25
Circular Details	Circular No 24-12 / 25 June 2024 / A898157
Previous Circular	23-06
Who should read this	Councillors / General Managers / Council finance staff / Companion Animal Enforcement and Administration Officers
Contact	Program Delivery Team – (02) 4428 4100 or 1300 134 460 pets@olg.nsw.gov.au
Action required	Council to Implement

What's new or changing?

Annual CPI Adjustment

- The 2024/25 fees payable for registration and permits for companion animals have been adjusted for inflation under clauses 18 and 27 of the Companion Animals Regulation 2018 (CA Regulation) calculated as prescribed under Schedule 2 of the Regulation using Consumer Price Index (CPI) by the Parliamentary Counsel.
- The new fees are effective from 1 July 2024.

Fee categories

- Category names have been amended to reflect the implementation of current legislation relating to registration that has been enabled by the new functionality of the Companion Animals Register (CAR) and new NSW Pet Registry, which allows for the individual payment of registration fees as prescribed under the CA Regulation, being:
 - Dog – Registration fee (by 12 weeks or when sold if earlier than 12 weeks of age)
 - Registration fee due at 12 weeks of age or when first sold (even if it is less than 12 weeks (clause 14 - CA Regulation)
 - Dog – Additional Fee (dog not desexed by 6 months)
 - Additional fee for a dog that is not desexed and not exempt from desexing by 6 months (clause 18 - CA Regulation) and an annual fee for a permit for a cat not desexed and not exempt from desexing by 4 months (clause 27 - CA Regulation)

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- A Registration late fee will apply to an animal not registered by 12 weeks of age (plus 28 days).

Online and in person payments

- Until the functionality upgrade on the new NSW Pet Registry is complete the following fees must be paid at council:
 - Dog – Additional Fee (dog not desexed by 6 months)
 - Cat (not desexed by four months of age)
 - Dangerous dog permit
 - Restricted dog permit
- The fees above will incur a late fee if not paid after an additional 28 days.

What will this mean for council?

- Council is to apply the adjusted 2024/25 financial year companion animal registration and annual permit fees from 1 July 2024.
- Council staff need to be aware of the new payment categories.
- Councils must continue to register eligible pound/shelter and approved rehoming organisation animals through the CAR. Free registration for these animals does not mean that registration is not required. The established process of ‘flagging’ an animal as being purchased from an eligible pound/shelter is required to validate a free registration.
- Councils can encourage members of the public to establish a NSW Pet Registry account via Service NSW to pay registration fees and receive push notifications.

Key points

- The NSW Pet Registry will be updated to include the new fees for online registration and permit payments made by pet owners from 1 July 2024.
- Both the old and new fee structures will be maintained on the CAR to allow councils to correct registration details for existing records and catch up on data entry backlogs (i.e. where fees have been receipted before 1 July 2024 but not entered on the Register).

Registration Category	New fee
Dog – Registration fee (by 12 weeks or when sold if earlier than 12 wk)	\$78
Dog – Additional Fee (dog not desexed by 6 months)	\$184
Dog – Registration Combined fees (for not Desexing dog by 6 months)	\$262
Dog – Registration (by eligible pensioner)	\$34
Dog – Desexed (sold/ transferred from pound/shelter or rehoming Organisation)	\$0
Dog – Registrations (not recommended)	\$78
Dog – Registration (not recommended eligible pensioner)	\$34
Dog – Registration (recognised breeder)	\$78

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Dog – Working	\$0
Dog – Service of the State	\$0
Assistance Animal	\$0
Cat – Registration fee (by 12 weeks or when sold if earlier than 12 wk)	\$68
Cat – Registration (eligible pensioner)	\$34
Cat – Desexed (sold/ transferred from pound/shelter or rehoming Organisation)	\$0
Cat – Registration (not recommended)	\$68
Cat – Registration (not recommended - eligible pensioner)	\$34
Cat – Registration (recognised breeder)	\$68
Registration late fee	\$22
Annual permit category	New fee
Cat (not desexed by four months of age)	\$96
Dangerous dog	\$230
Restricted dog	\$230
Permit late fee	\$22

Where to go for further information

- A list of registration categories, current fees and the new fees for 2024/25 is provided on the Office of Local Government's (OLG) website at www.olg.nsw.gov.au/public/dogs-cats/nsw-pet-registry/microchipping-and-registration.
- Information relating to the processing of registration fees is available in Companion Animals Guideline 1 – Registration Agents, available on OLG's website at www.olg.nsw.gov.au/councils/responsible-pet-ownership/nsw-pet-registry/the-cat-and-dog-register.
- Information on the new functionality and separate payments for registration and the additional fee for non-desexed animals that are not exempt can be found by contacting Pet Helpline 1300 134 460.
- Contact pets@olg.nsw.gov.au for information about the fees.

Brett Whitworth
Deputy Secretary, Office of Local Government

Department of Planning, Housing and Infrastructure
Office of Local Government



Circular to Councils

Subject/title	2024-25 Financial Assistance Grants (FA Grants) – advance payment
Circular Details	GC153 / 28 June 2024 / A902652
Previous Circular	GC152 / 28 June 2023 / A864741
Who should read this	Councillors / General Managers / Finance Managers
Contact	Helen Pearce / 02 4428 4131 / olg@olg.nsw.gov.au
Action required	Information

What's new or changing?

The Commonwealth Government has announced the advance payment of the preliminary 2024-25 FA Grants will represent approximately 85% of the amount councils are entitled to.

Further adjustments to the remaining payments will take into account:

- the determination by the Commonwealth Treasurer of the final adjustments for 2023-24
- the Local Government Grants Commission's (the Commission) final recommendations for 2024-25.

The Commission will advise councils of the recommendations when they have been finalised after the Commonwealth advises the amount of the final adjustments.

What will this mean for council?

- The advance payment amount, as set out in the attached schedule, will be paid to councils without delay.
- A media release advising of the Commonwealth's decision to make an advance payment is attached.
- The balance of the grants will be paid in quarterly instalments during 2024 25.

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- The first quarterly instalment is expected to be paid to councils in mid-August 2024, with subsequent instalments in November 2024, February 2025, and May 2025.
- All councils will be advised by letter of individual estimated entitlements for the 2024-25 FA Grants.

Key points

- The grants are paid under the provisions of the *Local Government (Financial Assistance) Act 1995* (Cth).
- The total amount of the annual FA Grants, and whether and when an advance payment is made, is determined by the Federal Government.
- Over the past 6 years, the FA Grants program has been transitioning to a revised funding model which provides an upper limit of +5% and lower limit 0% on an individual council's general purpose component when compared year on year.
- No council has been receiving a lower general purpose grant than the previous year during transition.
- The NSW Grants Commission has been working in consultation with local councils on a strategy to restore the former upper and lower limits.
- The Commission has resolved to commence restoration of the former upper and lower limits in 2025-26, which is anticipated to be within a range of +6 to -4%.
- The FA Grants will remain in transition with a 0% lower limit in 2024-25.

Where to go for further information

- Updates about the transition and general information are available on the Office of Local Government Website:
<https://www.olg.nsw.gov.au/commissions-and-tribunals/grants-commission>
- Please contact Helen Pearce, Executive Officer, if you require any further information.

A handwritten signature in blue ink that reads 'Helen Pearce'.

Helen Pearce
Executive Officer, Local Government Grants Commission

ADVANCE PAYMENT OF THE 2024-25 INDICATIVE PRELIMINARY LOCAL GOVERNMENT FINANCIAL ASSISTANCE GRANTS

85% of Estimate for 2024-25 from LGGC				
State	Council Name	GP	LR	Total
NSW	Albury City Council	5,149,124	1,656,985	6,806,109
NSW	Armidale Regional Council	4,813,583	2,577,346	7,390,929
NSW	Ballina Shire Council	3,477,118	1,640,016	5,117,134
NSW	Balranald Shire Council	3,647,775	1,474,753	5,122,528
NSW	Bathurst Regional Council	4,609,204	2,242,671	6,851,875
NSW	Bayside Council	3,964,880	1,298,588	5,263,468
NSW	Bega Valley Shire Council	5,716,132	2,311,141	8,027,273
NSW	Bellingen Shire Council	3,398,969	1,069,854	4,468,823
NSW	Berrigan Shire Council	3,950,505	1,512,668	5,463,173
NSW	Blacktown City Council	12,424,938	4,147,951	16,572,889
NSW	Bland Shire Council	5,506,360	3,356,164	8,862,524
NSW	Blayney Shire Council	2,181,137	963,627	3,144,764
NSW	Blue Mountains City Council	7,668,561	1,468,077	9,136,638
NSW	Bogan Shire Council	3,585,658	1,611,764	5,197,422
NSW	Bourke Shire Council	5,430,426	2,143,351	7,573,777
NSW	Brewarrina Shire Council	4,220,665	1,455,789	5,676,454
NSW	Broken Hill Council of the City of	5,380,102	591,448	5,971,550
NSW	Burwood Council	961,102	306,492	1,267,594
NSW	Byron Shire Council	2,332,594	1,366,446	3,699,040
NSW	Cabonne Shire Council	3,396,016	2,294,476	5,690,492
NSW	Camden Council of the City of	2,921,025	1,976,050	4,897,075
NSW	Campbelltown City Council	7,617,475	2,067,187	9,684,662
NSW	Canada Bay Council City of	1,980,089	675,481	2,655,570
NSW	Canterbury-Bankstown Council	8,229,965	2,848,760	11,078,725
NSW	Carrathool Shire Council	4,662,275	2,614,777	7,277,052
NSW	Central Coast Council (NSW)	21,970,122	4,853,996	26,824,118
NSW	Central Darling Shire Council	5,355,986	1,777,809	7,133,795
NSW	Cessnock City Council	5,715,791	2,075,874	7,791,665
NSW	Clarence Valley Council	7,973,135	3,787,674	11,760,809
NSW	Cobar Shire Council	4,985,407	1,914,487	6,899,894
NSW	Coffs Harbour City Council	5,455,885	2,526,024	7,981,909
NSW	Coolamon Shire Council	2,915,355	1,438,463	4,353,818
NSW	Coonamble Shire Council	3,415,943	1,825,164	5,241,107
NSW	Cootamundra-Gundagai Regional Council	4,246,467	1,744,912	5,991,379
NSW	Cowra Shire Council	3,772,995	1,619,837	5,392,832
NSW	Cumberland Council	5,926,826	1,960,030	7,886,856
NSW	Dubbo Regional Council	8,369,689	3,828,580	12,198,269
NSW	Dungog Shire Council	2,047,318	1,029,243	3,076,561
NSW	Edward River Council	4,614,746	1,687,685	6,302,431
NSW	Eurobodalla Shire Council	5,789,166	1,886,406	7,675,572
NSW	Fairfield City Council	6,869,973	1,850,191	8,720,164
NSW	Federation Council	5,127,110	2,499,439	7,626,549
NSW	Forbes Shire Council	4,123,356	2,154,336	6,277,692
NSW	Georges River Council	3,424,579	1,211,876	4,636,455
NSW	Gilgandra Council	3,183,852	1,490,127	4,673,979
NSW	Glen Innes Severn Council	3,369,323	1,529,284	4,898,607
NSW	Goulburn Mulwaree Council	3,819,970	2,009,941	5,829,911
NSW	Greater Hume Shire Council	3,826,771	2,343,244	6,170,015
NSW	Griffith City Council	4,611,358	1,807,501	6,418,859
NSW	Gunnedah Shire Council	3,513,656	1,796,085	5,309,741
NSW	Gwydir Shire Council	3,503,727	2,425,702	5,929,429
NSW	Hawkesbury City Council	2,508,670	1,862,987	4,371,657
NSW	Hay Shire Council	2,982,026	900,051	3,882,077
NSW	Hills Shire Council The	4,505,974	2,378,773	6,884,747
NSW	Hilltops Council	5,953,067	3,123,557	9,076,624

NSW	Hornsby Shire Council	3,338,395	1,547,894	4,886,289
NSW	Hunter's Hill Council	373,115	133,485	506,600
NSW	Inner West Council	4,080,542	1,427,969	5,508,511
NSW	Inverell Shire Council	4,631,572	2,471,455	7,103,027
NSW	Junee Shire Council	2,308,988	1,021,897	3,330,885
NSW	Kempsey Shire Council	4,838,037	2,115,840	6,953,877
NSW	Kiama Municipal Council	1,393,122	636,219	2,029,341
NSW	Ku-Ring-Gai Council	2,751,411	1,228,428	3,979,839
NSW	Kyogle Council	3,439,884	1,778,707	5,218,591
NSW	Lachlan Council	6,879,136	3,770,579	10,649,715
NSW	Lake Macquarie City Council	13,880,027	3,165,011	17,045,038
NSW	Lane Cove Municipal Council	950,050	316,294	1,266,344
NSW	Leeton Shire Council	4,023,586	1,164,141	5,187,727
NSW	Lismore City Council	4,674,153	2,172,505	6,846,658
NSW	Lithgow Council City of	4,015,563	1,394,275	5,409,838
NSW	Liverpool City Council	6,033,782	2,666,914	8,700,696
NSW	Liverpool Plains Shire Council	2,913,186	1,528,166	4,441,352
NSW	Lockhart Shire Council	2,695,981	1,502,666	4,198,647
NSW	Lord Howe Island Board	294,937	0	294,937
NSW	Maitland City Council	5,799,226	1,608,635	7,407,861
NSW	Mid-Coast Council	13,224,357	6,053,657	19,278,014
NSW	Mid-Western Regional Council	4,776,604	2,749,685	7,526,289
NSW	Moree Plains Shire Council	5,756,623	3,212,259	8,968,882
NSW	Mosman Municipal Council	768,612	249,087	1,017,699
NSW	Murray River Council	6,135,087	3,287,656	9,422,743
NSW	Murrumbidgee Council	3,541,244	1,818,900	5,360,144
NSW	Muswellbrook Shire Council	3,065,459	1,006,102	4,071,561
NSW	Nambucca Valley Council	3,260,185	1,384,067	4,644,252
NSW	Narrabri Shire Council	5,573,569	2,611,633	8,185,202
NSW	Narrandera Shire Council	3,795,843	1,762,508	5,558,351
NSW	Narromine Shire Council	3,460,272	1,610,148	5,070,420
NSW	Newcastle City Council	10,664,134	2,008,437	12,672,571
NSW	North Sydney Council	1,560,367	512,642	2,073,009
NSW	Northern Beaches Council	5,805,202	2,372,924	8,178,126
NSW	Oberon Council	2,177,465	1,075,304	3,252,769
NSW	Orange City Council	3,865,043	1,336,220	5,201,263
NSW	Parkes Shire Council	4,883,575	2,377,062	7,260,637
NSW	Parramatta Council City of	6,783,527	2,188,076	8,971,603
NSW	Penrith City Council	7,879,831	2,845,682	10,725,513
NSW	Port Macquarie Hastings Council	6,550,863	3,366,450	9,917,313
NSW	Port Stephens Council	5,604,826	1,390,028	6,994,854
NSW	Queanbeyan-Palerang Regional Council	3,797,244	2,873,956	6,671,200
NSW	Randwick City Council	3,104,071	983,730	4,087,801
NSW	Richmond Valley Council	4,016,725	1,750,502	5,767,227
NSW	Ryde Council of the City of	2,940,634	1,049,682	3,990,316
NSW	Shellharbour Council of the City of	4,416,724	1,144,088	5,560,812
NSW	Shoalhaven City Council	9,188,996	3,937,601	13,126,597
NSW	Silverton Village Committee Incorporated	37,187	0	37,187
NSW	Singleton Council	2,849,182	1,521,917	4,371,099
NSW	Snowy Monaro Regional Council	7,451,509	3,091,974	10,543,483
NSW	Snowy Valleys Council	4,989,495	1,548,306	6,537,801
NSW	Strathfield Municipal Council	1,106,312	331,140	1,437,452
NSW	Sutherland Shire Council	5,092,503	2,218,257	7,310,760
NSW	Sydney Council of the City of	5,007,068	1,419,454	6,426,522
NSW	Tamworth Regional Council	6,654,458	4,786,756	11,441,214
NSW	Temora Shire Council	2,814,358	1,458,677	4,273,035
NSW	Tenterfield Shire Council	3,871,998	1,852,440	5,724,438
NSW	Tibooburra Village Committee Incorporated	83,503	0	83,503

NSW	Tweed Shire Council	8,048,321	3,222,258	11,270,579
NSW	Upper Hunter Shire Council	3,678,157	2,173,678	5,851,835
NSW	Upper Lachlan Shire Council	3,383,686	2,233,331	5,617,017
NSW	Uralla Shire Council	1,989,811	1,037,641	3,027,452
NSW	Wagga Wagga City Council	7,274,470	3,672,567	10,947,037
NSW	Walcha Council	1,953,974	1,050,229	3,004,203
NSW	Walgett Shire Council	5,479,577	2,176,431	7,656,008
NSW	Warren Shire Council	2,390,379	1,157,649	3,548,028
NSW	Warrumbungle Shire Council	5,421,216	2,733,739	8,154,955
NSW	Waverley Council	1,547,366	463,857	2,011,223
NSW	Weddin Shire Council	2,246,449	1,129,493	3,375,942
NSW	Wentworth Shire Council	4,677,475	1,950,693	6,628,168
NSW	Willoughby City Council	1,687,339	628,318	2,315,657
NSW	Wingecarribee Shire Council	3,365,694	2,162,703	5,528,397
NSW	Wollondilly Shire Council	2,471,491	1,557,951	4,029,442
NSW	Wollongong City Council	16,658,757	2,714,840	19,373,597
NSW	Woollahra Council of the City of	1,184,348	448,665	1,633,013
NSW	Yass Valley Council	2,059,591	1,562,076	3,621,667
NSW Total	Total is a formula	602,491,370	247,925,346	850,416,716

NSW Total	Total copy paste Value only	\$602,491,370.00	\$247,925,346.00	\$850,416,716.00
	check	\$0.00	\$0.00	\$0.00

9.2 MEMORANDUM OF UNDERSTANDING WENTWORTH SHIRE COUNCIL AND WENTWORTH PIONEER HOMES COMMITTEE INC

File Number: RPT/24/375

Responsible Officer: Ken Ross - General Manager
 Responsible Division: Office of the General Manager
 Reporting Officer: Gayle Marsden - Executive Assistant

Objective: 4.0 Wentworth Shire is supported by strong and ethical civic leadership with all activities conducted in an open, transparent and inclusive manner

Strategy: 4.4 Provide strong leadership and work in partnership to strategically plan for the future

Summary

Wentworth Pioneer Homes Committee Inc have requested a Memorandum of Understanding be initiated with Wentworth Shire Council. This Memorandum of Understanding is to put in place an agreement for the ongoing collaborative relationship between the Shire and the Committee for the development and management of Tunkin Homes, a set of low-cost housing units, located on the corner of Armstrong Avenue and William Street Lot 710 DP 1297635 Wentworth.

Recommendation

That Council delegates authority to the Mayor and the General Manager to sign the Memorandum of Understanding between Wentworth Pioneer Homes Committee Inc and Wentworth Shire Council and affix the Council seal.

Detailed Report

Purpose

The purpose of this report is to put in place a written agreement between Wentworth Pioneer Homes Committee Inc and Wentworth Shire Council for the ongoing collaborative relationship between the Council and the Committee for the development and management of Tunkin Homes, a set of low-cost housing units, located on the Corner of Armstrong Avenue and William Street Lot 710 DP 1297635 Wentworth.

Report Detail

Council is the land owner of corner of Armstrong Avenue and William Street Lot 710 DP 1297635 Wentworth. The Tunkin Homes are built on this land. The history of the land is as follows:

Elizabeth Hannah Tunkin expressed concern that old men of town and bush retired to the area known as the "Police Paddocks" and set up camp and tents as they had nowhere else to live. Elizabeth had a dream to help and eventually chose the corner of Armstrong Ave and Williams St as a land parcel for the purpose of homes for the aged. Mr W.B. (Bill) Crang purchased it on her behalf and initially was Trustee. A brick cottage was built and occupied in 1938. Then Mr Crang suggested that it would be better if the Municipal Council became Trustees - which predates the Shire Council.

Last year the Committee approached Council with a plan to update and expand the homes. The Committee requested Council to amalgamate the two lots into one lot, which Council agreed to at a cost of \$15,000 and to secure support for any grant applications for funding to build the new units. To this end Council has been advocating various Ministers and agencies to try to secure funding.

Due to there being no agreement in place outlining each organisations responsibilities the Wentworth Pioneer Homes Committee Inc have requested and drafted the attached Memorandum of Understanding to ensure the ongoing relationship between the two parties. Mr David Tunkin and Mrs Kathy Collinson representing the Committee met with Councillors on 26 June 2024 and following that meeting amendments have been made to the draft MOU to more accurately specify each organisations responsibilities. Mr Tunkin has reviewed and agreed to the content of the draft agreement as it is now presented to Council for consideration.

Conclusion

Having consideration to the content of this report it is concluded that Council should enter into a Memorandum of Understanding with Wentworth Pioneer Homes Committee Inc.

Attachments

1. Amended Draft MOU Pioneer Homes Committee Inc [↓](#)

MEMORANDUM OF UNDERSTANDING (MOU)

Between: Wentworth Shire Council
26-28 Adelaide St
Wentworth, NSW 2648

And: Wentworth Pioneer Homes Committee Inc
71-73 Beverley St
Wentworth, NSW 2648 ABN 80 780 850 385

Date: 1 July 2024

Term: 1 July 2024 to 30 June 2034

This Memorandum of Understanding (MOU) is entered into on this 1st day of July 2024, by and between the Wentworth Shire Council, hereinafter referred to as "Council," and the Wentworth Pioneer Homes Committee Incorporated, hereinafter referred to as the "Committee."

1. Purpose and Scope: The purpose of this MOU is to establish a collaborative relationship between the Council and the Committee for the development and management of Tunkin Homes, a set of low-cost housing units located on the Corner Armstrong Avenue & William Street, Lot 710 DP 1297635 Wentworth.

2. Ownership and Usage Rights: The Council acknowledges that it is the owner of the land on which Tunkin Homes is situated. The Council grants the Committee the exclusive right to develop, manage, and utilize the said land for the purpose of providing low-cost housing to the community.

3. Development and Financial Autonomy: The Committee shall have the autonomy to develop and make financial decisions in its own right. This includes the authority to borrow funds for any necessary needs related to Tunkin Homes.

4. Wentworth Pioneer Homes Committee Inc Responsibilities: The Committee assumes full responsibility for the maintenance of all buildings within Tunkin Homes. This includes routine maintenance, repairs, and any necessary renovations to ensure the proper functioning and safety of the housing units. The Committee will pay water usage charges and domestic waste fees.

5. Wentworth Shire Council Responsibilities: The Council acknowledges the valuable service that the Committee provides to the community through Tunkin Homes. The Council commits to supporting the Committee by paying rates, filtered

and raw water access fees, sewer access fees and have the property covered under Council's insurance. Wherever possible, and when feasible, will extend assistance to ensure the successful operation of Tunkin Homes.

6. Duration of Agreement: This MOU shall be effective for a period of 10 years, commencing on the 1st day of July 2024 and concluding on the 30th day of June 2034.

7. Extension of Agreement: At the end of the initial 10-year period, the Committee shall have the option to apply for a further extension of 10 years. The extension will be subject to mutual agreement between the Council and the Committee.

8. Governing Law: This MOU shall be governed by and construed in accordance with the laws of New South Wales.

9. AMENDMENTS: Any changes or amendments to this MOU shall be made in writing and mutually agreed upon by both parties.

In witness whereof, the parties hereto have executed this Memorandum of Understanding as of the date first above written.

Wentworth Shire Council:

[Signature]
[Name and Title]

[Signature]
Name and Title

Wentworth Pioneer Homes Committee Incorporated:

[Signature]
[Name and Title]

9.3 REQUEST FOR SPONSORSHIP - 2024 SUNRAYSLIA SAFARI CROSS COUNTRY RALLY

File Number: RPT/24/248

Responsible Officer: Ken Ross - General Manager
 Responsible Division: Office of the General Manager
 Reporting Officer: Hannah Nicholas - Business Support Officer

Objective: 1.0 Wentworth Shire is a vibrant, growing and thriving Region
 Strategy: 1.2 Promote the Wentworth Region as a desirable visitor and tourism destination

Summary

Council is in receipt of a request to provide financial sponsorship and provision of the Wentworth Showgrounds (including in kind support of daily cleaning of toilets, showers and emptying of rubbish bins) for the 2024 Sunraysia Safari Cross Country Rally to be held from 2 September to 9 September 2024. Council approved financial sponsorship of \$20,000 and in kind support for the event in 2023.

Recommendation

That Council having considered the contents of the report and attachments choose one of the suggested options.

Detailed Report

Purpose

The purpose of this report is to inform Council of a request for financial sponsorship and provision of the Wentworth Showgrounds (including in kind support of free camping, daily cleaning of toilets, showers and emptying of rubbish bins) from 2 September to 9 September 2024 for the Sunraysia Safari Cross Country Rally.

Background

Financial sponsorship and provision of the Wentworth Showgrounds plus in kind support was requested and granted for the 2023 Sunraysia Safari Cross Country Rally. The Sunraysia Safari Cross Country Rally has been a longstanding local event, as it was first held within the LGA in 2017. In 2020 and 2021 the event was not held due to circumstances beyond the organisers control.

Report Detail

Council is in receipt of a request from Rally Management Australia for financial sponsorship and provision of the Wentworth Showgrounds (including in kind support of free camping, daily cleaning of toilets, showers and emptying of rubbish bins), a copy of which is attached for reference.

The request also includes information about the success of last year's event, including an approximately 500 attendees, a "raw" figure for economic benefit to the local community of \$614,000, academic research conducted with regards to the event's positive impact on mental health and the event's comprehensive media coverage. Much of the event reporting and data that is referred to within the request has not been provided as an annexure or attachment. However, the event organisers have provided their income and expenses pertaining to the previous event.

Based on the pending adoption of the 2024-2025 fees and charges, the following costs for in kind support would need to be considered:

- Access charges for the Showgrounds (including pavilion, arena and bar and lawns): \$188 per area/per day - \$3,948 (3 areas)
- Rubbish - Contractor: \$1,400
- Daily cleaning for shower and toilets - Contractor: \$3,000
- Camping: \$40.00 per day/per site with approximately 75 sites - \$21,000
- Power: \$36 per day - \$252
- TOTAL: \$30,000**

Options

Council can consider the following options:

- a) Approve the sponsorship of \$20,000 (ex GST) and in kind support (free access to the Showground, free camping, daily cleaning of toilets, showers and emptying of rubbish bins).
- b) Approve sponsorship of a differing amount and in kind support of a differing make up
- c) Decline sponsorship and in kind support
- d) Decline sponsorship and approve in kind support
- e) Approve sponsorship and decline in kind support.

Conclusion

Council is in receipt of a request to provide financial sponsorship and in kind support (free access to the Showground, free camping, daily cleaning of toilets, showers and emptying of rubbish bins) for the 2024 Sunraysia Safari Cross Country Rally to be held from 2 September to 9 September 2024. Council approved financial sponsorship and provision of Wentworth Showgrounds for the event in 2023.

Attachments

1. 2023 Report and Request for assistance of 2024 Sunraysia Safari Cross Country Rally [↓](#)
2. 2023 Sunraysia Safari Rally - Financials (Under Separate Cover) [⇒](#)
3. Further Correspondence - Commercial in Confidence (Under Separate Cover) [⇒](#)
4. File Note with attachments (Under Separate Cover) [⇒](#)



2023 SUNRAYSIA SAFARI REPORT TO COUNCIL, AND REQUEST FOR ONGOING ASSISTANCE IN 2024

Dear Councillors,

I am writing report back to you following the 2023 Sunraysia Safari, and submit a formal request for ongoing assistance for the 2024 edition of the Rally.

Once again I would like to begin by expressing my absolute gratitude, on behalf of all participants and stakeholders involved in the event, for the council's ongoing support and assistance. The event simply couldn't be conducted without it. The entire community; be it the landowners, businesses, local fundraising groups, and everyone involved in helping to run the Rally have partnered with us to establish an event that is totally unique and special, and is an absolute showcase of the Wentworth Shire. The 2023 Rally was a pivotal moment in our history, in that it took a massive leap forward in terms of the widespread appeal, recognition and popularity of the event on an international scale, and cemented its place on the Australian Motorsport Calendar. It has very much "announced" itself to the wider Motorsport world, and is acknowledged as a premier event not just in Australia, but globally, and a "must do" Rally for scores of competitors. Our entry data for 2024 very much supports this position.

Once again competitors and officials alike were deeply impressed and appreciative of the facilities available to them at the Wentworth Showgrounds. The venue was pristine, and the standard of amenities would be the envy of many other rallies in Australia. The pavilion in particular remains the focal point, and very much the "Jewel in the Crown" of the entire complex. The ability to efficiently and effectively manage the administration and operation of the Rally, whilst also having the kitchen providing amazing food, and enough seating capacity for everyone requiring a meal, all from the one building, is almost unheard of! The council's support in arranging the daily cleaning and rubbish removal from the precinct was greatly appreciated, and the pristine condition that our participants left the venue in on the Sunday after the Rally bears testament to the respect they have for the facility, and their appreciation in being able to use it. I must acknowledge the fantastic support of the Wentworth Show Society, and in particular Annette Fraser from the Wentworth Shire Council, for their ongoing assistance, support and advice.

As in 2022, we conducted our own reporting and documentation processes to gauge the levels of impact in terms of Economic benefit to the entire Wentworth Shire, as well as exposure of the event through our Social and Digital Media programs, and of course the TV Documentary, which was once again screened on



the Seven Network in Australia, and TV3 in New Zealand. We also requested competitors complete a brief survey, so that we could provide information to council with regard to the economic impact and additional benefits the Sunraysia Safari delivers to the Wentworth Shire. It should be pointed out that our findings are based on the data received from those surveys; whilst we are aware that not everyone completed a survey those people, their accommodation and expenditure have not been estimated in our figures, so the actual figures would be higher. Indeed, we have also not applied any coefficients to the estimated economic benefit (as is common practice with such reports to councils); our figures are “raw”.

Another exciting addition to our data collection for 2023 was research being conducted by Dr Pru Millear from the University of the Sunshine Coast, who specifically focused on the mental health aspects and sense of “community” felt by a wide range of participants (in all roles, not just competitors) in the 2023 Sunraysia Safari. With the current emphasis on Men’s Mental Health, Dr Millear was fascinated by what brings all of us together each year to Wentworth to be involved in the Safari!

The research looked at the potential benefits to long term wellness (in terms of stress management and occupational fatigue) by “escaping” the daily routine and participating in an event that requires complete focus, so as to completely detach from any thoughts, stresses etc. encountered in the normal work/life scenario. Dr Millear’s work is fascinating, and the results providing another perspective of the benefits to the community in having the Sunraysia Safari. I have attached a copy of Dr Millear’s condensed findings at the end of this report.

The 2023 Sunraysia Safari had a confirmed participation of at least 508 people, made up of competitors, officials, service/support crews, family members, and locals who assisted with the running of the event in some capacity. We had officials and competitors from every state and territory in Australia. The majority (once again) were from other parts of NSW (not local to the Sunraysia region), closely followed by Victoria, but this year also saw increased numbers from WA and SA.

The accommodation mix in 2023 was very similar to 2022, with slight increase to reflect the increased number of participants. There was an increase in camping at the Wentworth Showgrounds, but once again the vast majority stayed at Hotels/Motels, Caravan Parks, and short-term rentals (Air BnB, holiday rentals etc.). The event booked out the entire Coomealla Club Motel for officials, and there were actually more people having to stay over in Mildura this year, as all accommodation options in Wentworth were once again totally booked out. With competitors and others included, our data indicates the event generated 1207 Bed nights across the Wentworth region in the week of the event!



The economic impact of the event is once again most favourable, and demonstrates very clearly how much our event “punches above its weight” in terms of Return on Investment. Based on competitor surveys, and our own event budgeting, the 2023 Sunraysia Safari delivered over \$614,000 to the Wentworth region. Again, that is the “raw figure” (without any coefficient being applied), and does not capture the entire expenditure attributable to the Rally (due to not all participants submitting surveys, and other expenses we incur that are not spent locally).

We remain proud of our contribution to the local region, and the fact that it is distributed to businesses and community groups right across the Wentworth Shire, which is a unique aspect to our event that not many others can accomplish.

Our Social Media, Digital Marketing and TV Documentary once again delivered best ever figures, which supports our position that the Sunraysia Safari is now well and truly cemented as a World-Class Motorsport event. Our social media reach was over 67,000 Worldwide for the week of the Rally alone, which is almost double what we achieved in 2022. Given our program runs all year round we are also able to see a significant “spike” in interest for every new content creation, regardless of how mundane they may appear to be to us! Our average reach is around 2400, which can spike as high as 7350 for more significant updates/announcements.

The TV documentary continues to deliver results which far outweigh the cost of producing it. Once again it was screened multiple times in Australia on the Seven Network, and TV 3 in New Zealand. Whilst viewer figures are not available (they don’t monitor the viewer numbers across all the channels), the fact that we only schedule a single screening, and the network chooses to add “encore” screenings (due to the quality and popularity of the documentary), is yet another indication that we’re on the right track, and our popularity (and notoriety) will only continue to increase. Indeed, Seven have already been in touch to set our screening date for the 2024 event!

So, overall, the 2023 Sunraysia Safari was another resounding success, and we are thrilled that the event continues to grow and thrive in spite of all the challenges we have been presented with in previous years. As we look forward to the 2024 running of the Rally, entry numbers are already at a record high, to the point where we’ve had to create a “waiting list”, as we have already reached our maximum field capacity!

**REQUEST FOR ONGOING ASSISTANCE FOR THE 2024
SUNRAYSIA SAFARI**

Planning is already well advanced for the 2024 Sunraysia Safari, which the competitive sections being run from September 4-7. Our Course Surveys have commenced, and we are intending on running an entire day over in the Anabranch Region (to support the community there), which we haven't been able to do since 2018, due to drought, Covid, floods, and powerline works! We're already working with a variety of community groups and landowners in establishing our proposed course, and it's shaping up to hopefully be the best ever.

The increased costs we're encountering due to "cost of living pressures" and general inflation have had an impact on our budget, however we are hoping that the increased level of entries, and ongoing work to secure more sponsorship, will offset the increase. With that in mind, I would like to request that the Wentworth Shire Council maintains its very generous support of the Sunraysia Safari in 2024, with a cash contribution of \$20,000 (to assist with part of the cost of production of the TV documentary), and provision of the Wentworth Showgrounds from Monday September 2-Monday September 9 (including daily cleaning of toilets and showers, and emptying of rubbish bins) as "in kind" support. This request is for the same amount of sponsorship and "in kind" support that was requested and provided by the Wentworth Shire Council in 2022, and 2023.

I hope I have been able to demonstrate the absolute value the Sunraysia Safari continues to provide to the Wentworth Shire, and the communities within it; not just in a financial sense, but also in "Civic pride" and other social measures. We're extremely proud of the event that we've created, and equally proud to be conducting the event in this region every year.

If you have any further queries, please don't hesitate to contact me. I thank you once again for your ongoing support.

Yours Faithfully,

Troy Bennett

Event Director

Sunraysia Safari Rally





Where leisure meets recovery: Using the Serious Leisure Perspective to explore an off-road motorsport event as an expansion of recovery from work, and its implications for work-life balance.

Dr Prue Millear, University of the Sunshine Coast. 12 Feb 2024.

Introduction: Balancing all of the things associated with work, family, and leisure activities can sometimes be challenging, given the type of work they do, where someone is in their life (e.g., age and number of children, ageing parents), and what they do in their “spare time”. Recovery of work refers to the activities and experiences that help to balance the work role, and can be those done at night after work, on weekends, or when on longer holidays and vacations. However, recovery post-vacation can be often short-lived, and the current study proposes that the Serious Leisure Perspective (SLP) may offer another way to understand the benefits of holidays for an individual's long term health and well-being. The SLP recognises that “serious” leisure is distinguished from activities done more casually (that you just ‘dabble’ in) as those activities that need effort and perseverance, require greater levels of involvement and competence, that provide lasting benefits, have a unique ethos, and allows the person to build an identity around that activity.

As an amateur leisure activity, motorsport is open to anyone with appropriate experience, licences, and vehicles, and in competitions organised at the local club level and up to nationally organised events. Participation can range from the casual off-road weekend driver to professional drivers and crews taking on the most arduous, multi-day events. Preparation of the vehicle and for the driver/rider is key to finishing the event and this can take days to months before the event, particularly if the competitor is “serious” about doing as well as they possibly can. Off-road competitions may require additional preparation, to deal with more challenging terrain, fitness to finish an event, and distance from the competitor's home base.

The current study explores the intersection of serious leisure and recovery from work at the Sunraysia Safari, a navigational off-road motorsport event that was held over four days in September 2023 at Wentworth, in far south-western NSW in Australia. The research question explored whether serious leisure (as the person's holiday activity) may enhance and lengthen their recovery experiences. The focus was particularly on what increased enjoyment of the event, what made it fun, and what increased the likelihood to return again for the next event.

Methods: The organisers, the competitors, support crews, and volunteer officials who were involved with the 2023 Sunraysia Safari were invited to participate in the research. The rationale for the event was explored with the event organisers, then small numbers of competitors, support crew, and officials undertook brief interviews at the end of the competitive days (n=30), and/or longer interviews of motivations for attending the event (n = 3), and/or three linked surveys (n=23) before, immediately afterwards, and then 3 months later. These later



activities explored the personality factors (e.g., risk-taking, optimism), seriousness about motorsport (time/effort commitment, rewards of participation), preparation for the event, camaraderie, recovery experiences, and overall satisfaction with life domains, and the importance of the “place” (e.g., tracks, types of terrain) in which the event occurred. A final post-event survey was made available, with an additional sample ($n = 10$) reporting on their enjoyment, camaraderie, and recovery after the event.

Results: Firstly, the organisers spoke about the rationale of running a world-class event in Wentworth, as such an event could make the most of a combination of terrain, have a wide variety of options for the course, be close to amenities, and be done in a way that could bring additional benefits to the local community. The Sunraysia Safari, as a “place” for off-road racing, could therefore bring together excitement of competition in a manageable time frame in the otherwise busy lives of competitors, support crews, and officials, and fit within the farming year of the farms on which the Safari is run.

The interviews with competitors outlined how they managed and mitigated risks of competition (e.g., preparation of vehicles, course notes), how much they enjoyed the competition, and how they were able to balance motorsport, work, and family activities. In the end-of-day interviews, everyone reported deep satisfaction and enjoyment with their day, speaking about the strong camaraderie amongst those involved and the satisfaction that they knew that they could rely on fellow competitors for help if needed. Both these long and short interviews supported use of SLP to understand the enjoyment of the Sunraysia Safari, as the effort and perseverance to get to the end of the day was rewarded by the feeling of a strong community amongst the safari people, and a strong sense of competence for finishing each day and the event. In particular, that generosity of fellow competitors helped others to be able to finish the event and highlighted the egalitarian ethos of the group. Many spoke of how much they enjoyed the Safari as a “place” to compete, thanking the local property owners for giving them access to their land, and for the quality of the competitive and transport stages. Riding in the rain, however, was “*okay on the stage but hard on the way home*”!

A group ($n = 23$) of competitors, officials, and support crew completed three linked surveys just before, just after, and 3 months after the event. Most ($n = 20$) had come more than 500 km for the event, and they were very much looking forward to it (Mean = 8.35, on scale of 1 [*not much*] to 9 [*really looking forward to it*]). Although they were quite varied in how much preparation they had undertaken, most felt that their fitness had held up well. After the event, they reported they really enjoyed it (Mean = 8.79, scale of 1 [*not much at all*] to 9 [*thoroughly enjoyed it*]) and were looking forward to 2024 (Mean = 8.50, scale of 1 [*not at all*] to 9 [*very much so*]). Most reported that they had exceeded their expectations for the event (Mean = 7.95, scale of 0 [*far worse*] to 10 [*far exceeded expectations*]) and were planning to come to the 2024 event (Mean = 4.75, scale of 1 [*definitely not*] to 5 [*definitely yes*]). Interestingly for the serious leisure perspective, personal commitment and seriousness about motorsport remained high over time, but there had been a significant increase in how much time was being spent and how rewarding motorsport was seen to be. Finally, most



reported experiencing strong positive emotions during the event (e.g., excited, enthusiastic, active; Mean = 4.30, scale of 1 [*not at all*] to 5 [*extremely so*]) and which is likely to have contributed to many reporting that the holiday “glow” was still present 2 to 3 months post-event (and still “going strong” at 3 months for 30% of the people). When asked “what was most enjoyable”, “*the people*” were most often listed, then the fun of competition, and the bush and the stages, and for one person, it was just “*everything*”. Notably, despite saying they had considerable aches and pains at the end, one competitor said, “*the riding, navigation, and course were awesome*”.

In the survey of the event appraisal, participants also confirmed their overall enjoyment of the Safari, and the importance of camaraderie with other people attending the event. The findings of the interviews and surveys highlight that the fun of competition, the tracks, the people involved, and the event as a whole were all important to the success of the Sunraysia Safari and were strong reasons to return to Wentworth for the next event.

Discussion: Regardless of money, type of vehicle, or skill of the competitor, the Sunraysia Safari is egalitarian at its core, as everyone uses the same course, “opens the same gates”, and lines up together for meals. These benefits form the basis for a very enjoyable “holiday”, sharing an adventure with like-minded friends (new and old), as successfully completing a difficult task, which promotes and maintains personal well-being, and is done in a beautiful part of the Australia bush.

The components of the Serious Leisure Perspective were evident in all results, through the sustained effort involved in preparation and perseverance over the four competitive days. Interestingly, immersion in the event for the week pushed work well out of thought and enabled participants to feel more balanced about the work to which they were returning. In addition, this immersion appeared to reinforce the boundaries between work and non-work, sharpening appreciation of family support, and keeping work within manageable bounds. Having holidays doing something you are serious about makes these experiences more meaningful, fulfilling, and long-lasting, offering genuine respite from work, and bringing strong communities amongst others who are similarly enthusiastic about this leisure activity. Off-road racing is dangerous, arduous, and exhilarating in equal parts, and offers a valued identity outside work, making work-life balance more achievable. In the current context, serious leisure expanded on how recovery from work can be understood, offering avenues for future research on this important facet of the working life.

9.4 LGNSW 2024 ANNUAL CONFERENCE

File Number: RPT/24/381

Responsible Officer: Ken Ross - General Manager
 Responsible Division: Office of the General Manager
 Reporting Officer: Hannah Nicholas - Business Support Officer

Objective: 4.0 Wentworth Shire is supported by strong and ethical civic leadership with all activities conducted in an open, transparent and inclusive manner

Strategy: 4.2 A strong, responsible and representative government

Summary

The Local Government New South Wales 2024 Annual Conference is being held from Sunday 17 November 2024 to Tuesday 19 November 2024 at the Tamworth Regional Entertainment Conference Centre in Tamworth. This forum is the main local government policy making forum for Local Government New South Wales. In previous years Council has been represented by the Mayor and the General Manager at the conference. Councillors should also consider any motions to be put forward at the Conference, which will be considered by Council at the Ordinary Meeting in August.

Recommendation

That Council nominate the Mayor and General Manager to attend the Local Government New South Wales 2024 Annual Conference 17 November 2024 to Tuesday 19 November 2024 and that the mayor be Council's voting delegate.

Detailed Report

Purpose

The purpose of this report is for Council to consider:

- Attendees for the Local Government New South Wales Conference;
- Council's voting delegate; and
- to prompt Councillors to consider what motions could be put forward at the Local Government New South Wales Conference.

Background

The Local Government New South Wales 2024 Annual Conference is being held from Sunday 17 November 2024 to Tuesday 19 November 2024 at the Tamworth Regional Entertainment Conference Centre in Tamworth. This forum is the main local government policy making forum for Local Government New South Wales.

Report Detail

The Annual Conference is the main policy making event for the local government sector. Motions passed at the Conference become resolutions, which Local Government New South Wales will take forward on Council's behalf as part of their sectors advocacy agenda.

Wentworth Shire Council is entitled to one voting delegate, which is usually the Mayor. It is also advantageous to Council for the opportunity for the Mayor and General Manager to network with various Members of Parliament on a one to one basis. These networking opportunities are particularly useful when advocating for various issues.

A Draft Conference program is attached but is subject to change.

Following the tabling of this report, any proposed motions can be forwarded to the General Manager's Office by 1 August 2024, for inclusion in the August Ordinary Council Meeting Agenda for consideration.

Cost

At this stage exact costings for attending the conference are not available however, an estimated cost based on the MDA Conference also held in Tamworth is approximately \$6,000 for 2 attendees.

Conclusion

Council has previously been represented by the Mayor and General Manager at the Conference. It is recommended that the Mayor and General Manager attend the Local Government New South Wales 2024 Annual Conference. Councillors should also forward to the General Managers Office any proposed motions to be tabled at the conference by 1 August 2024, for inclusion in August Ordinary Council Meeting Agenda for consideration.

Attachments

1. LGNSW 2024 Annual Conference - Draft Program [↓](#)



Draft Program

* Correct as at 6 May 2024

Sunday 17 November 2024 - TRECC	
12.30pm-5.30pm	<p>12.30pm Registration operational in TRECC foyer</p> <p>1.00pm Trade Exhibition open</p> <p>12.30pm-2.00pm STAR Room off TRECC foyer Professional Development Session for mayors and councillors TBC</p> <p>2.30pm-3.00pm Afternoon Refreshments in Exhibition area</p> <p>3.00pm-5.00pm Plenary sessions AR Bluett Memorial Awards President's Welcome Reception address</p> <p>Coach transfers to Tamworth Town Hall (CBD - Tamworth)</p>
5.30pm-7.30pm	President's Welcome Reception - Tamworth Town Hall. Bus transfers to selected hotels.
Monday 18 November 2024 - Business Session Day 1 - TRECC	
7.30am-8.40am	ALGWA NSW Breakfast - Star Room (TRECC)
7.30am	Registration opens. Light refreshments in exhibition area. Registration desk open from 7.30am to 6pm.
9.10am	Conference Welcome Opening address



ANNUAL CONFERENCE

**Tamworth Regional Entertainment
and Conference Centre | 17 - 19 November 2024**



9.25am–5.30pm	<p>Opening of the Federal and State Conferences adoption of standing orders, business sessions and consideration of motions and conference business.</p> <p>Presentation of financial reports</p> <p>Start of consideration of motions and conference business</p> <p>Morning Refreshments</p> <p>Consideration of Conference Business continued</p> <p>Delegate lunch in Exhibition area</p> <p>Consideration of Conference Business continued</p> <p>Afternoon Refreshments in trade exhibition</p> <p>Consideration of Conference Business</p> <p>Networking in trade exhibition</p>
6.30pm–10.30pm	LGNSW Conference Dinner and entertainment. Presentation LG Service Awards.
Tuesday 19 November 2024 – Business Session Day 2 – TRECC	
7.30am	LGNSW Information Desk and Exhibition and light refreshments – operational
9.00am–1.00pm	<p>Plenary and panel sessions</p> <p>Morning Refreshments</p> <p>Announcement of location for Annual Conference 2025</p>
1.00pm	Grab and Go Lunch in trade exhibition Conference concludes at 1.45pm

9.5 MONTHLY FINANCE REPORT - JUNE 2024

File Number: RPT/24/357

Responsible Officer: Simon Rule - Director Finance and Policy

Responsible Division: Finance and Policy

Reporting Officer: Vanessa Lock - Finance Officer

Objective: 4.0 Wentworth is a caring , supportive and inclusive community that is informed and engaged in its future

Strategy: 4.1 Provide strong and effective representation, leadership, planning, decision-making and service delivery

Summary

Rates and Charges collections for the month of June 2024 were \$394,984.42. After allowing for pensioner subsidies, the total levies collected are now 94.84%. For comparison purposes 92.14% of the levy had been collected at the end of June 2023. Council currently has \$49,479,651.57 in cash and investments.

Recommendation

That Council receives and notes the Monthly Finance Report.

Detailed Report

The purpose of this report is to indicate to Council the position in relation to the rate of collections and the balance of cash books.

Reconciliation and Balance of Funds held as at 30 June 2024

The reconciliation has been carried out between the Cash Book of each fund and the Bank Pass Sheet as at 30 June 2024.

	Combined Bank Account
Cash Balance as at 1 June 2024	\$ 2,287,415.71
Add: Receipts for the Period Ending 30 June 2024 Rates, Debtors, Miscellaneous	\$ 13,341,186.90
Less: Payments for the Period Ending 30 June 2024 Cash Book entries for this Month	\$ 7,400,055.59
Cash Balance of Operating A/C as at 30 June 2024	\$ 8,228,547.02
Trust Fund Balance	\$ 1,718,643.15
Total Investments as at 30 June 2024	\$ 39,532,461.40
TOTAL FUNDS AVAILABLE	\$ 49,479,651.57

Collection of Rates and Charges

Rates and Charges collections for the month of June 2024 were \$394,984.42. After allowing for pensioner subsidies, the total levies collected are now 94.84%. A summary of the Rates and Charges situation as at 30 June 2024 is as follows:

Note: For comparison purposes 92.14% of the levy had been collected at the end of June 2023.

LEVIES	RATES & CHARGES	
Balance Outstanding at 30 June 2023 - Rates / Water	975,306.94	
Rates and Charges Levied 21 July 2023	10,341,585.36	\$ 11,316,892.30
+ Additional Water Charges	1,469,687.77	
+ Supplementary Rates and Charges	204,892.32	
+ Additional Charges	133,038.95	
- Credit Adjustments	33,101.15	
- Abandonments	35,942.36	\$ 13,055,467.83
DEDUCTIONS		
- Payments	12,224,489.58	
- Less Refunds of Payments	15,787.31	\$ 12,208,702.27
		\$ 846,765.56
- Pensioner Subsidy		
Government Subsidy	95,136.33	
Council Subsidy	77,838.81	\$ 172,975.14
RATES/WATER CHARGES OUTSTANDING 30 JUNE 2024		\$ 673,790.42

Rates/Water write offs and adjustments

The following rates or charges have been written off or adjusted under the delegated authority of the General Manager for the month of June 2024.

Account	Date	Amount	Comment
Rates			
218-2	17.6.2024	\$ 32.70	Adjustment to rate account as required under conservation agreement
114-04	20.5.2024	\$ 2,197.71	Adjustment to rate account as required under conservation agreement
153	20.5.2024	\$ 905.44	Adjustment to rate account as required under conservation agreement
203.3	20.5.2024	\$ 691.87	Adjustment to rate account as required under conservation agreement
2324.1	20.5.2024	\$ 138.58	Adjustment to rate account as required under conservation agreement

Council Loans Report

Name	Institution	Purpose	Interest Rate	Loan Amount	Amount Outstanding	Due Date
Loan 201	National Australia Bank	Buronga Landfill	4.55% Fixed	\$ 920,000.00	\$ 82,535.29	30/01/2025
Loan 202	ANZ Bank	Civic Centre	3.47% Fixed	\$ 850,000.00	\$ 532,748.13	21/10/2026
Loan 203	National Australia Bank	Midway Centre	3.586% Fixed	\$ 1,900,000.00	\$ 1,286,085.42	1/06/2033
Loan 204	Bendigo Bank	Buronga Landfill	5.29% Fixed	\$ 1,500,000.00	\$ 1,135,312.49	12/05/2037
CFWC310604	T-Corp	Trentham Cliffs Sewer	1.82% Fixed	\$ 750,000.00	\$ 538,910.03	4/06/2031
CFWC310624	T-Corp	Burong/Gol Gol Stormwater	1.79% Fixed	\$ 1,250,000.00	\$ 898,351.95	24/06/2031
Loan 205	National Australia Bank	Willowbend Caravan Park	2.2% Fixed	\$ 1,500,000.00	\$ 1,162,058.57	25/01/2027
Loan 206	Bendigo Bank	Buronga Landfill #3	1.85% Fixed	\$ 900,000.00	\$ 575,272.04	25/09/2028
Loan 207	National Australia Bank	Willowbend Caravan Park	1.933% Fixed	\$ 1,500,000.00	\$ 1,272,549.41	31/03/2028
Loan 207	National Australia Bank	Civic Centre	1.933% Fixed	\$ 1,500,000.00	\$ 1,500,000.00	31/03/2028
CFWC440209	T-Corp	Civic Centre	5.45% Fixed	\$ 4,000,000.00	\$ 4,000,000.00	9/02/2044
CFWC440523	T-Corp	Stormwater	5.73% Fixed	\$ 2,000,000.00	\$ 2,000,000.00	23/05/2044
				TOTAL	\$ 14,983,823.33	

Overtime and Travelling

Month	Jun-24	Pay Periods	25 & 26			
Overtime from 25 May 2024 to 21 June 2024						
Overtime						
	Time and a Half		Double Time		Total	2023/24 Accumulative Total
Department	Hours	Amount	Hours	Amount		
Animal Services	22.50	1,077.50	17.00	\$ 1,072.36	\$ 2,149.86	\$ 30,267.94
Assets					\$ -	\$ 302.45
Building Maintenance	3.00	194.80			\$ 194.80	\$ 1,084.85
BioSecurity Officer					\$ -	\$ 53.82
Civil	6.00	353.98	5.50	\$ 521.34	\$ 875.32	\$ 11,874.16
Customer Service Office					\$ -	\$ -
Depot Store					\$ -	\$ -
Finance	2.00	162.86			\$ 162.86	\$ 1,388.99
GM's Office	1.50	85.51			\$ 85.51	\$ 1,181.88
Health & Planning					\$ -	\$ 280.84
Indoor Engineers	8.75	676.24			\$ 676.24	\$ 20,985.19
IT Support	1.50	113.42			\$ 113.42	\$ 3,406.64
Landfill Transfer Stations	16.00	730.56	12.50	\$ 919.56	\$ 1,650.12	\$ 20,518.80
Library					\$ -	\$ 2,458.48
Parks & Gardens	8.00	370.36	12.00	\$ 740.72	\$ 1,111.08	\$ 24,182.73
Private Works					\$ -	\$ 7,096.41
Roads - Council	329.50	15,789.91	142.00	\$ 9,021.18	\$ 24,811.09	\$ 357,880.31
Roads - RMS					\$ -	\$ 34,832.44
Subdivision Officer					\$ -	\$ 154.36
Tourism & Promotion	8.25	424.89	3.75	\$ 271.28	\$ 696.17	\$ 23,504.72
Water & Waste Water	54.75	2,982.41	73.50	\$ 5,522.22	\$ 8,504.63	\$ 101,457.82
Workshop Manager	11.50	687.76			\$ 687.76	\$ 5,846.43
Workshop/Mechanics	1.50	75.26	0.50	\$ 39.87	\$ 115.13	\$ 1,021.55
Total	474.75	23,725.46	266.75	\$ 18,108.53	\$ 41,833.99	\$ 649,780.81
Travel Allowance						
Department	Kms	Amount				
Water & Waste Water	301.9	286.81				
Total	301.9	286.81				
Grand Total		\$ 42,120.80				

Conclusion

The report indicates to Council that its finances are in a favourable position.

Attachments

Nil

9.6 MONTHLY INVESTMENT REPORT - JUNE 2024

File Number: RPT/24/390

Responsible Officer: Simon Rule - Director Finance and Policy

Responsible Division: Finance and Policy

Reporting Officer: Bryce Watson - Accountant

Objective: 4.0 Wentworth Shire is supported by strong and ethical civic leadership with all activities conducted in an open, transparent and inclusive manner

Strategy: 4.5 Adopt practices of prudent asset, financial and human resource management across Council to ensure long-term sustainability and efficiency

Summary

As of 30 June 2024, Council had \$39 million invested in term deposits and \$10,479,651.57 in other cash investments. Council received \$183,964.97 from its investments for the month of June 2024.

In June 2024 Council investments averaged a rate of return of 5.06% and it currently has \$7,650,752.35 of internal restrictions and \$40,466,652.93 of external restrictions.

Recommendation

That Council receives and notes the monthly investment report.

Detailed Report

Purpose

The purpose of this report is to update Council on the current status of its investments as required by the *Local Government Act 1993* (NSW) and the associated regulation.

Matters under consideration

As of June 2024, Council had \$49,479,651.57 invested with Eleven (11) financial institutions and One (1) Treasury Corporation. This is an increase of \$3,905,370.75 from the previous month.

The investment of surplus funds remains in line with Council's Investment Policy. This ensures sufficient working capital is retained and restrictions are supported by cash and investments that are easily converted into cash.

Interest Received from Cash Investments in June 2024

Four (4) deposits and One (1) other account matured or provided interest in June earning Council \$183,964.97 in interest. The budget for June was \$125,000. Year to date Council has received \$1,879,411.72 in interest based on cash accounting. Expired investments are now shown in the attached report along with a summary of accrued interest. The budget for the financial year was set at \$1,500,000.00.

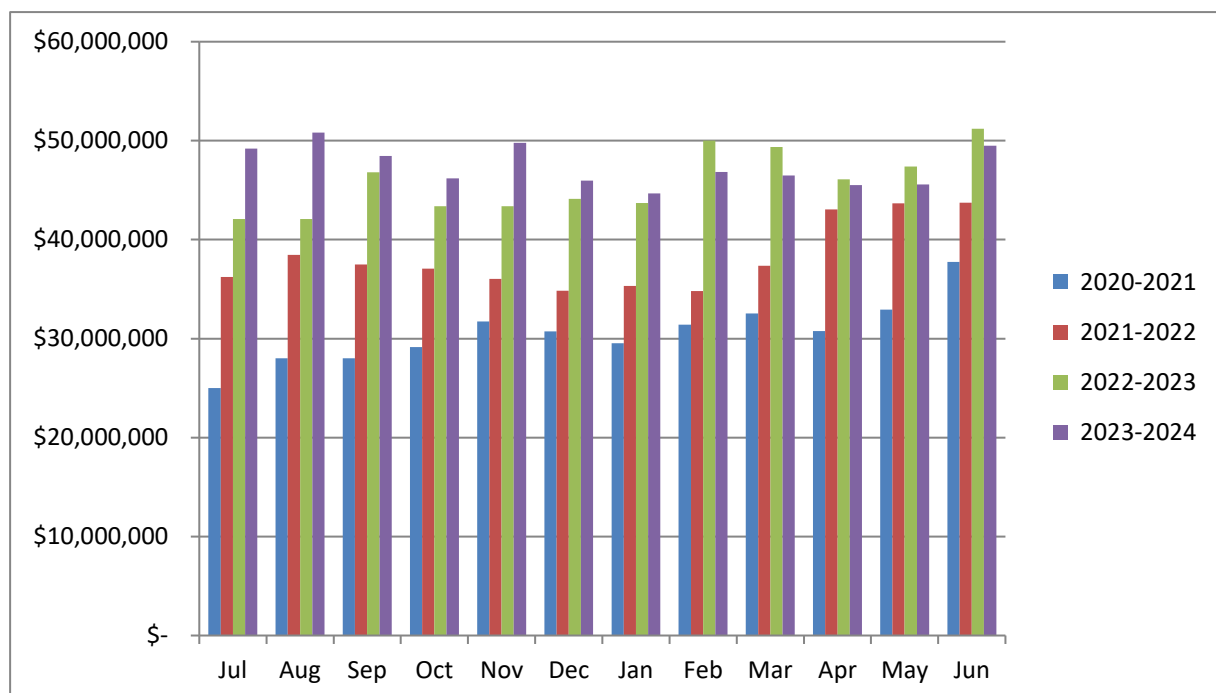
**Note the difference in interest received between this report and the Yield Hub report is from Council's at-call cash account which is paid monthly.*

Restrictions

Internal Restrictions		
- Employee Entitlements	\$2,308,162.00	
- Doubtful Debts	\$47,730.00	
- Future Development Reserve	\$1,076,217.20	
- Trust Account	\$1,718,643.15	
- Caravan Park Loan Facility	\$0	
- Capital Projects	\$1,000,000.00	
- Plant Replacement Reserve	\$1,500,000.00	\$7,650,752.35
External Restrictions		
- Water Fund	\$10,958,096.38	
- Sewer Fund	\$5,673,494.77	
- T-Corp Loan Balance	\$541,934.32	
- Developer Contributions Reserve	\$1,034,643.30	
- Unexpended Grants	\$21,469,801.16	
- Crown Reserves Reserve	\$208,296.22	
- Loan Guarantee Reserve	\$187.69	
- Prepayments Cemeteries	\$580,199.09	\$40,466,652.93
Day to Day Liquidity		\$1,362,246.29
Total Funds Available		\$49,479,651.57

*Loan reserve for the Caravan Park has now been fully expended and the reserve will close from this month.

Total Funds Invested



Summary – Unexpended Grants as at 30 June 2024

Grant	Amount
Crown Reserve Improvement Fund Astronomy Park	\$656,000.21
Fixing Local Roads Grants - Stage 3	\$211,305.90
Resources for Regions Round 8	\$205,987.57
Financial Assistance Grant	\$6,628,168.00
Transport for NSW Pothole Repair Program	\$534,557.75
Resources for Regions Round 9	\$2,172,161.07
Rural Local Road Repair Program	\$7,475,969.05
NSW Office of Local Government Flood Grants	\$651,777.80
Strong Start Cadetship Program Grant	\$25,000.00
JEV Mosquito Eradication Grant	\$22,013.56
SCCF Female Jockey Changerooms	\$6,551.00
Regional Leakage Reduction Program - Local Water Utility	\$17,138.77
Regional Fire Services Levy	\$26,015.70
Local Roads & Community Infrastructure Program Phase 4	\$587,957.14
RRUPP Arumpo 24km Upgrade	\$2,249,197.64
Total	\$21,469,801.16

Conclusion

The Director Corporate Services has certified that all investments have been made in accordance with the *Local Government Act 1993* (NSW), *Local Government (General) Regulations 2021* and Council's Investment Policy. Council is investing its funds prudently to optimise returns and reduce exposure to risk in accordance with legislation and its own investment policy.

Attachments

1. Yeild Hub Investment Report - June 2024[1](#)



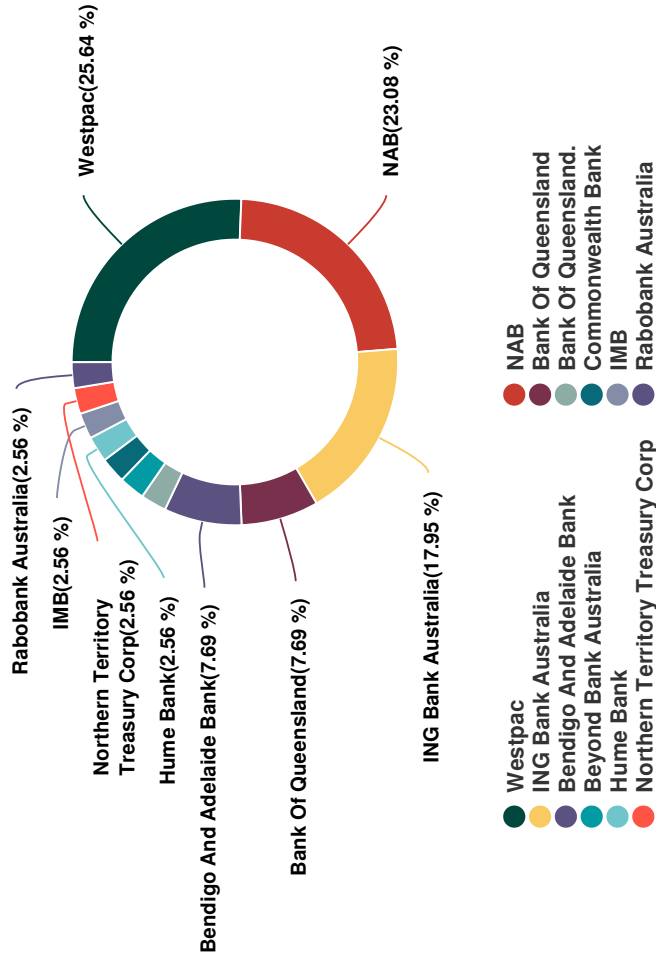
30 June 2024
Wentworth Shire Council - Monthly Report

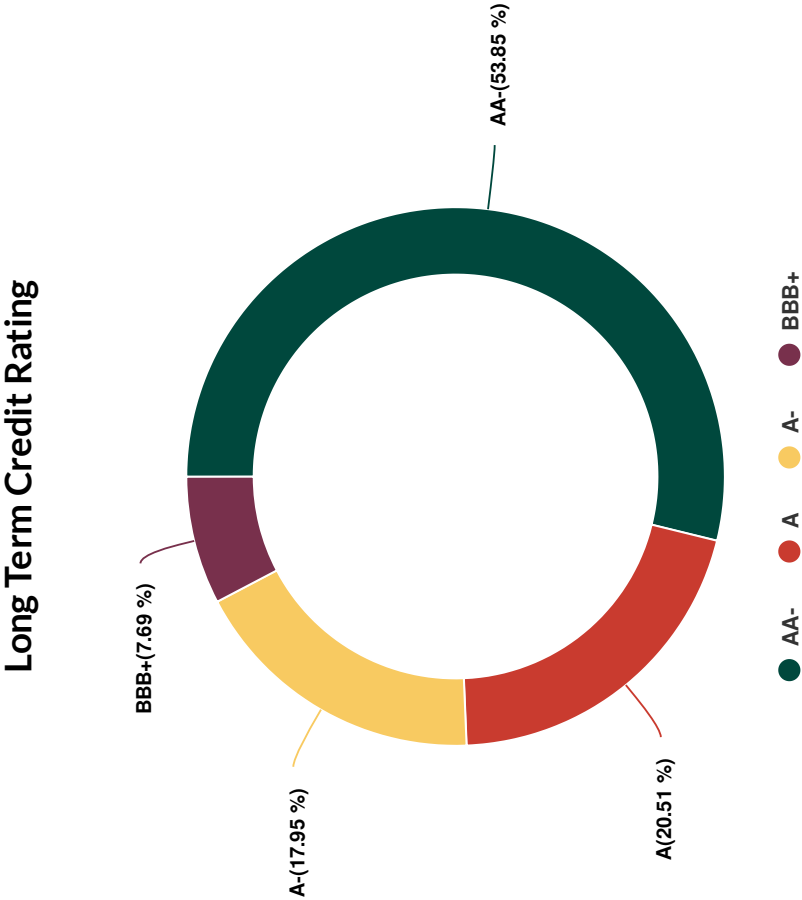
Summary

Total Cost	\$39,000,000.00
Total Portfolio Value	\$39,951,939.44
Weighted Average Term	190
Weighted Average Yield	5.00 %
90 day BBSW	4.45 %
Unrealised Capital Gain/Loss	\$0
Total Monthly Accrued Interest	\$155,076.20
Total Interest Received this month	\$176,305.48
Total Interest Received this FY	\$1,854,946.32
Total Interest Expected this FY	\$1,854,946.32
Interest Payments this month	3
Matured Investments this month	3
Total Funds Matured this month	\$4,000,000.00
Investments this month	2
Total Funds Invested this month	\$2,000,000.00
Compliant Portfolio	Yes



Counterparty





Wentworth Shire Council - Monthly Report

Report Date: 30 June 2024

Investment Type	ADI/Security Name	Amount	Settlement Date	Maturity Date	Term in Days	Yield	Short Term Rating	Long Term Rating
Term Deposit	Westpac	\$1,000,000	26/07/2023	26/07/2024	366	5.25 %	A-1+	AA-
Term Deposit	Westpac	\$1,000,000	27/07/2023	29/07/2024	368	3.27 %	A-1+	AA-
Term Deposit	Westpac	\$1,000,000	24/08/2023	26/08/2024	368	5.100 %	A-1+	AA-
Term Deposit	Westpac	\$1,000,000	24/08/2023	26/08/2024	368	5.100 %	A-1+	AA-
Term Deposit	NAB	\$1,000,000	29/08/2023	28/08/2024	365	5.200 %	A-1+	AA-
Term Deposit	NAB	\$1,000,000	04/09/2023	03/09/2024	365	5.12 %	A-1+	AA-
Term Deposit	NAB	\$1,000,000	07/03/2024	03/09/2024	180	5.07 %	A-1+	AA-
Term Deposit	NAB	\$1,000,000	05/09/2023	04/09/2024	365	5.17 %	A-1+	AA-
Term Deposit	IMB	\$1,000,000	11/06/2024	09/09/2024	90	5.14 %	NR	NR
Term Deposit	Bank Of Queensland	\$1,000,000	14/03/2024	10/09/2024	180	5.12 %	A-2	A-
Term Deposit	Beyond Bank Australia	\$1,000,000	11/09/2023	10/09/2024	365	5.200 %	A-2	BBB+
Term Deposit	Bank Of Queensland	\$1,000,000	03/10/2023	02/10/2024	365	5.200 %	A-2	A-
Term Deposit	Hume Bank	\$1,000,000	05/10/2023	04/10/2024	365	5.25 %	NR	NR
Term Deposit	Bank Of Queensland	\$1,000,000	09/02/2024	05/11/2024	270	5.0 %	A-2	A-
Term Deposit	Bendigo And Adelaide Bank	\$1,000,000	07/03/2024	20/11/2024	258	5.03 %	A-2	A-
Term Deposit	Bendigo And Adelaide Bank	\$1,000,000	23/02/2024	20/11/2024	271	5.02 %	A-2	A-
Term Deposit	Westpac	\$1,000,000	27/11/2023	27/11/2024	366	5.47 %	A-1+	AA-
Term Deposit	NAB	\$1,000,000	04/12/2023	03/12/2024	365	5.28 %	A-1+	AA-
Term Deposit	NAB	\$1,000,000	15/12/2023	16/12/2024	367	5.100 %	A-1+	AA-
Term Deposit	ING Bank Australia	\$1,000,000	19/12/2023	18/12/2024	365	5.23 %	A-1	A
Term Deposit	Bendigo And Adelaide Bank	\$1,000,000	22/12/2023	23/12/2024	367	5.0 %	A-2	A-
Term Deposit	Commonwealth Bank	\$1,000,000	30/01/2024	29/01/2025	365	5.02 %	A-1+	AA-
Term Deposit	NAB	\$1,000,000	09/02/2024	10/02/2025	367	5.100 %	A-1+	AA-
Term Deposit	Westpac	\$1,000,000	12/02/2024	12/02/2025	366	5.15 %	A-1+	AA-
Term Deposit	Westpac	\$1,000,000	12/02/2024	12/02/2025	366	5.15 %	A-1+	AA-
Term Deposit	NAB	\$1,000,000	20/02/2024	19/02/2025	365	5.14 %	A-1+	AA-
Term Deposit	Westpac	\$1,000,000	27/02/2024	27/02/2025	366	5.14 %	A-1+	AA-



Wentworth Shire Council - Monthly Report							Report Date: 30 June 2024	
Investment Type	ADI/Security Name	Amount	Settlement Date	Maturity Date	Term in Days	Yield	Short Term Rating	Long Term Rating
Term Deposit	Westpac	\$1,000,000	29/02/2024	28/02/2025	365	5.14 %	A-1+	AA-
Term Deposit	Westpac	\$1,000,000	11/03/2024	11/03/2025	365	5.03 %	A-1+	AA-
Term Deposit	ING Bank Australia	\$1,000,000	19/03/2024	19/03/2025	365	5.13 %	A-1	A
Term Deposit	ING Bank Australia	\$1,000,000	02/04/2024	02/04/2025	365	5.0 %	A-1	A
Term Deposit	ING Bank Australia	\$2,000,000	04/04/2024	04/04/2025	365	5.0 %	A-1	A
Term Deposit	Rabobank Australia	\$1,000,000	24/05/2024	23/05/2025	364	5.33 %	NR	A
Term Deposit	ING Bank Australia	\$1,000,000	27/05/2024	27/05/2025	365	5.27 %	A-1	A
Term Deposit	NAB	\$1,000,000	27/06/2024	26/06/2025	364	5.47 %	A-1+	AA-
Term Deposit	ING Bank Australia	\$1,000,000	04/01/2024	05/01/2026	732	5.14 %	A-1	A
Term Deposit	Bank Of Queensland	\$1,000,000	04/12/2023	03/12/2026	1,095	5.25 %	A-2	A-
Term Deposit	Northern Territory Treasury Corp	\$1,000,000	16/09/2021	15/12/2026	1,916	1.35 %	NR	NR
		\$39,000,000						



Wentworth Shire Council - Monthly Report

Report Date: 30 June 2024

Transaction Date	Contract Number	ADI/Security Name	Type	Amount	Credit/Debit	Long Term Rating	Designation	Comments	Maturity Date
27/06/2024	065770	ING Bank Australia	Interest	\$112,400	Debit	A	Unclassified		27/06/2024
11/06/2024	070994	IMB	Interest	\$13,367.40	Debit	NR	Unclassified		11/06/2024
06/06/2024	065640	Westpac	Interest	\$50,538.08	Debit	AA-	Unclassified		06/06/2024
Total				\$176,305.48					

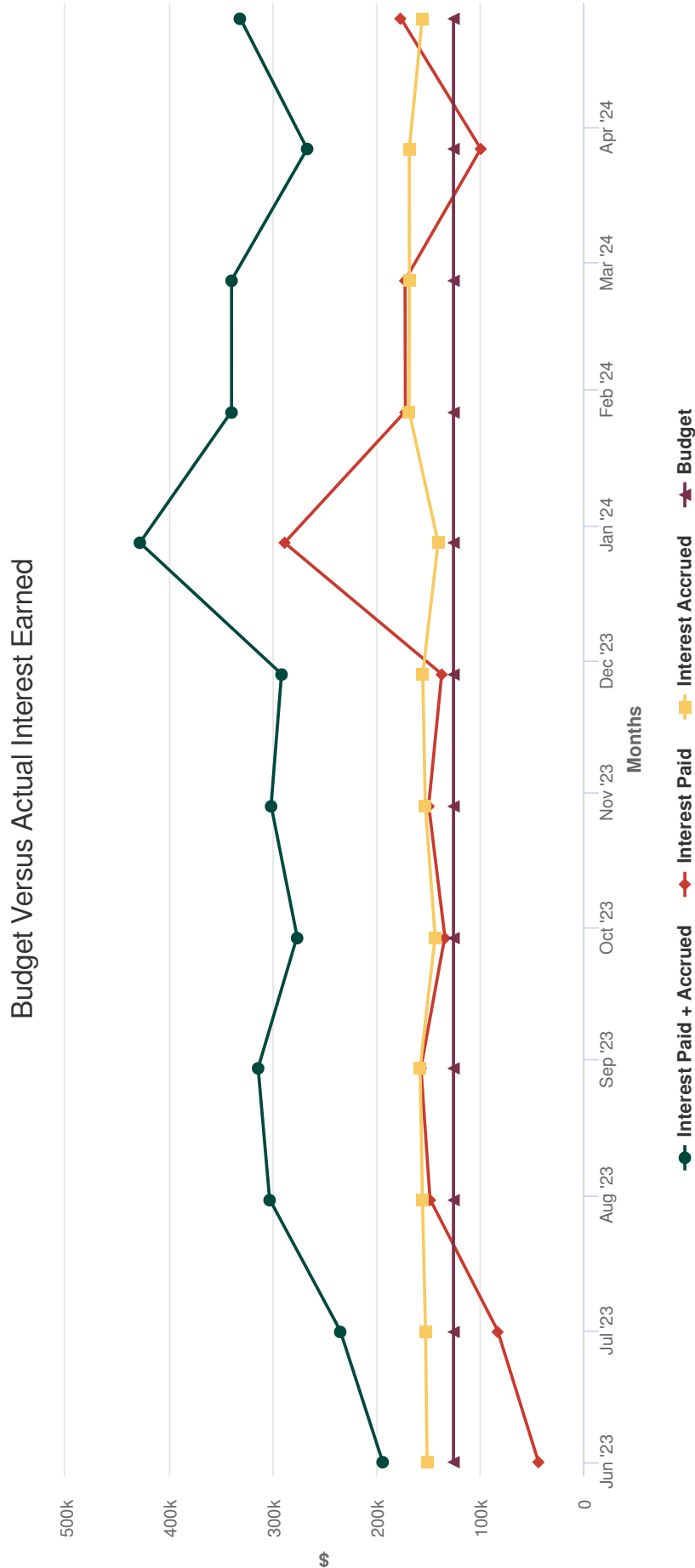


Account vs RBA Cash vs 3m BBSW vs Bloomberg AusBond Bank Bill Index

Term	Account	RBA Cash	3m BBSW	Outperformance	AusBond Bank Bill	Outperformance
1m	5.02 %	4.35 %	4.38 %	0.64 %	4.37 %	0.65 %
3m	5.00 %	4.35 %	4.37 %	0.64 %	4.35 %	0.65 %
6m	4.87 %	4.35 %	4.36 %	0.51 %	4.34 %	0.53 %
12m	4.68 %	4.27 %	4.31 %	0.38 %	4.27 %	0.41 %

Month End Performance





9.7 WENTWORTH MILITARY MUSUEM FINANCIAL ASSISTANCE REQUEST.

File Number: RPT/24/391

Responsible Officer: Simon Rule - Director Finance and Policy

Responsible Division: Finance and Policy

Reporting Officer: Simon Rule - Director Finance and Policy

Objective: 1.0 Wentworth Shire is a vibrant, growing and thriving Region

Strategy: 1.2 Promote the Wentworth Region as a desirable visitor and tourism destination

Summary

Council has received a request from the Wentworth Military Collection to provide financial assistance of \$640,000 to allow their Military Museum and Discovery Centre project become shovel ready.

According to the request, the proposed funding arrangement from Council to the Wentworth Military Collection would be that monies supplied by Council could be reclaimed through successful future grant applications providing funding for the construction and completion of the Wentworth Military Museum and Discovery Centre.

Discussions with the applicant have indicated that should they be unsuccessful with grant applications that they would be willing to enter into a repayment/loan arrangement with Council and are confident that they could repay the amount in 5 years. In order to achieve this, they would be looking at undertaking a significant fundraising drive.

Recommendation

That Council having considered the contents of the report and attachments choose one of the suggested options.

Detailed Report

Purpose

The purpose of this report is to present an application for financial assistance received from the Wentworth Military Musuem.

Background

Council has received a request from the Wentworth Military Collection to provide financial assistance of \$640,000 to allow their Military Museum and Discovery Centre project become shovel ready.

According to the request, the proposed funding arrangement from Council to the Wentworth Military Collection would be that monies supplied by Council could be reclaimed through successful future grant applications providing funding for the construction and completion of the Wentworth Military Museum and Discovery Centre.

Discussions with the applicant have indicated that should they be unsuccessful with grant applications that they would be willing to enter into a repayment/loan arrangement with Council and are confident that they could repay the amount in 5 years. In order to achieve this, they would be looking at undertaking a significant fundraising drive.

Matters under consideration

As mentioned above the applicant has indicated that they would be actively seeking grant funding to repay Council, however recent economic pressures, budget constraints and shifting funding priorities have led to a significant reduction in grant opportunities. This reduction in available grants has led to increased competition among applicants. There are

more organisations vying for fewer opportunities, making the grant process more competitive.

In addition to the above it is important to note that grant programs are designed to provide funding for future activities, projects or initiatives. Grants guidelines typically stipulate that only costs incurred after the grant approval date are eligible for reimbursement.

Grant programs require accurate forecasting of expenses to allocate funds appropriately. The inclusion of retrospective costs disrupts this process, making it challenging to manage budgets effectively. It also undermines the competitive evaluation of applications, as past expenses may not reflect the current needs or project scope. Whereas future costs can be monitored and verified against project milestones, enhancing accountability and transparency. Retrospective costs lack this level of oversight, making it difficult to ensure that funds are used as intended. Allowing retrospective costs complicates financial oversight, leading to potential misuse of funds.

Based on the above the applicant cannot rely on grant funding as a means of reimbursing Council should it approve the application for financial support.

This leaves a formal loan as the most realistic option for consideration by both parties. As indicated earlier in this report the applicant has indicated that he would feel comfortable being able repay a loan from Council in 5 years. A zero interest loan would require annual payments of \$128,000.

If Council were to invest \$640,000 for 12 months it can currently get interest rates of around 5.30% depending on the financial institution. An interest rate of 5.30% would add an additional \$90,000 to the principal amount resulting in annual payments \$146,000.

The applicant has indicated that they would commence a significant fundraising campaign including online crowdfunding, corporate support, philanthropic donations as well as traditional community fundraising efforts to fund the loan repayments.

An extensive fundraising campaign is inherently unpredictable. Success depends on public interest, effective marketing and donor willingness, all of which can vary significantly. Running a successful fundraising campaign requires substantial effort, resources and expertise. Factors such as campaign strategy, donor engagement and competition from other fundraising initiatives can affect the outcome.

Given that this option has only been considered as part of discussions with the applicant, Council has not been provided with a comprehensive funding strategy outlining how the applicant plans to secure the necessary funding to meet its financial commitments.

In order to apply for future grants and/or other alternative forms of financing the applicant will require a comprehensive funding strategy detailing how the project plans to mitigate the financial funding risk. The strategy needs to identify all available potential funding sources including but not limited to:

- Diversification of funding sources beyond grants, donations and fundraising
- Exploration of alternative financing options such as loans, lines of credit or public-private partnerships
- How they plan to engage with donors and funders
- Ideas for developing targeted fundraising campaigns in order to reach a broader audience and increase donation appeal to supplement traditional fundraising efforts.
- Contingency plan options should their preferred funding model not eventuate or fail to achieve desired results.

Options

Based on the information contained in this report, the options available to address this matter are to:

- a) Approve the request in full
- b) Approve an alternative amount
- c) Don't support the request
- d) Defer a decision pending the supply of further information from the applicant.

Legal, strategic, financial or policy implications

Both proposed repayment strategies rely on factors that are highly uncertain and unpredictable, leading to considerable financial risk to Council as there is no guarantee that the applicant will secure the necessary funds for repayment.

Conclusion

The application from the Wentworth Military Museum presents a number of significant uncertainties and risks that conflicts with Councils obligation to prudent financial management. The potential benefits in supporting the application must be weighed against the identified issues to determine whether the outcome justifies the associated risks.

Attachments

- 1. Letter from Wentworth Military Museum [↗](#)
- 2. Supporting Document (1) [↗](#)
- 3. Supporting Document (2) [↗](#)
- 4. Supporting Document (3) [↗](#)

Wentworth Military Collection
PO Box 387
Wentworth NSW 2648

To the Councilors of the Wentworth Shire
Wentworth Shire Council
26-28 Adelaide Street
Wentworth NSW 2648



3 July 2024

Re: Request for a funding plan for the Wentworth Military Museum
and Discovery Centre to become "Shovel Ready"

Dear Councilors,

The Wentworth Military Collection writes to you in request to provide financial assistance of \$640,000.00 for our Military Museum and Discovery Centre project to become Shovel Ready.

Having completed our Business Case and Strategy Development, (fully funded by Department of Regional NSW \$51,000.00) and successfully completed our project visuals and architectural design (fully funded by the Wentworth Military Collection \$18,500.00), we have now obtained costings for required works to be completed to bring our project to a "Shovel Ready" status, allowing to qualify our project for funding for the building and completion of the Wentworth Military Museum and Discovery Centre.

While we have actively submitted and been successful in submissions relating to components of our future project (Most recently NSW Department of Responsible Gambling - Expansion of the Marching Matilda Experience \$124,000.00) there is no funding directed to the completion of our required planning and consultation stage of the project. Available funding can only be applied for the project once having achieved a "Shovel Ready" status.

The proposed funding arrangement from Council to the Wentworth Military Collection would be that monies supplied by Council could be reclaimed through successful future grant applications providing funding for the construction and completion of the Wentworth Military Museum and Discovery Centre itself, with contingencies of being paid back through mutually agreed terms in the event of our project submission being unsuccessful.

The proposed Wentworth Military Museum and Discovery Centre will be of National significance and provide positive financial impacts into both the Wentworth Shire and the greater Murray Darling region, through both tourism and economic growth. It will be an established Military Museum and Historic Keeping Place, Veteran Support Provider for both Veterans and their Families as well as an employment provider to our local district.

I am happy to discuss both funding arrangements and proposed project plans with the Wentworth Shire Council at a time that is of convenience.

Yours Sincerely

President & Volunteer Curator
Wentworth Military Collection
Mobile: 0434 549 401



Wentworth Military Collection
PO Box 387
Wentworth NSW 2648



3 July 2024

Architect
Stage 1 (planning consent) \$28,000
Stage 2 (shovel ready) \$93,000

Structural Engineer
Stage 1 \$19,700
Stage 2 \$115,300

Services Engineer
Stage 1 \$51,340
Stage 2 \$152,901

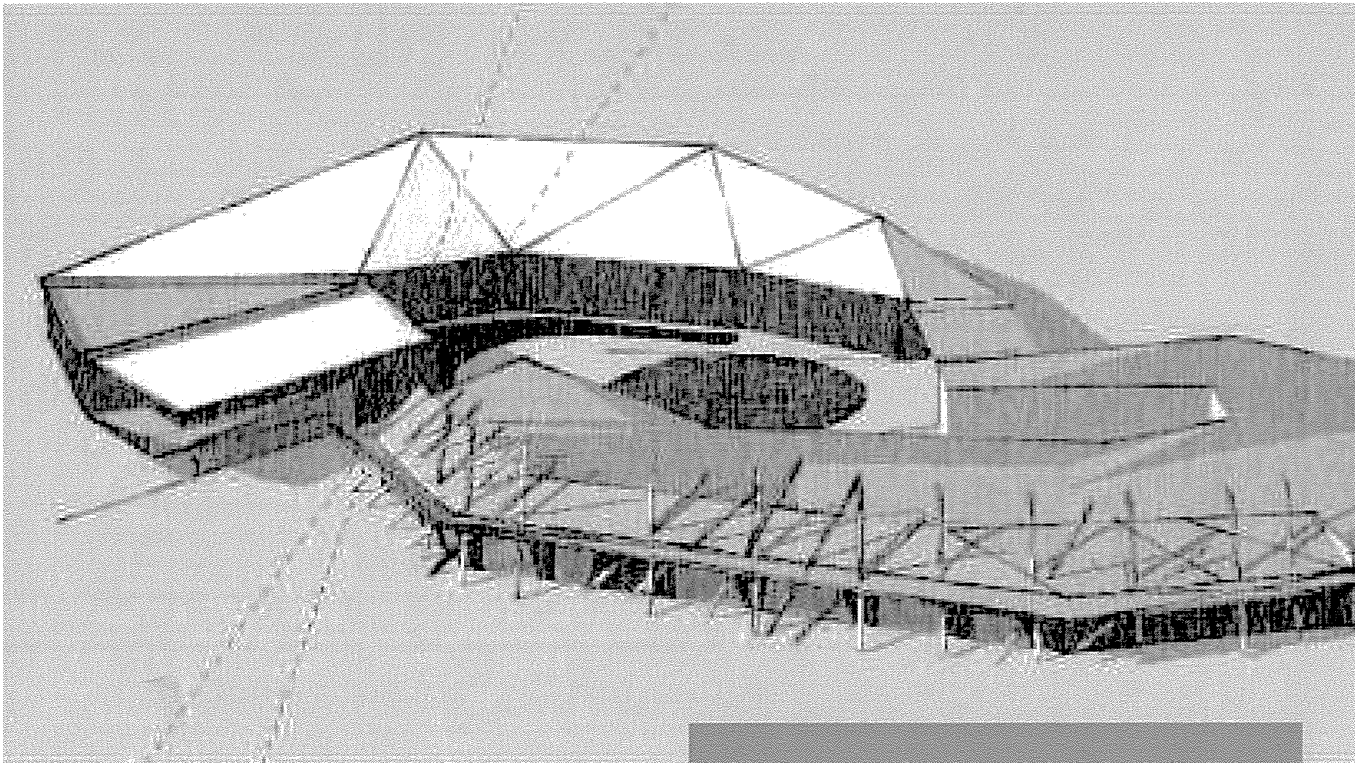
Total \$460,241 + gst

Total GST Inc. 506,265.10

Additional Costings Provided

Wentworth Shire Council - Assistance for NSW Development Application	\$40,000
Avant Group - Grant Development & Submission	\$12,800
Arterial Design Concept	\$46,804.45
Public & Industry Consultation & Marketing	\$28,300
	GST \$5830.45
	TOTAL \$133,734.90
Total Required for Shovel Ready	\$640,000.00





**Wentworth Military
Legacy Centre**
FEE PROPOSAL FOR
STRUCTURAL ENGINEERING
SERVICES

Prepared for Salt Studio

Reference A2024-13906

8th May 2024

BUILDINGS

LAND DIVISION

INFRASTRUCTURE

INDUSTRIAL

DEFENCE

Head Office

29 Young Street

Adelaide

South Australia 5000

08 8231 2832

mlei@mlei.com.au

mlei.com.au



Head Office 29 Young Street
Adelaide SA 5000
(08) 8231 2832 mlei@mlei.com.au
mlei.com.au

8th May 2024
Reference: A2024-13906

Attn: Andrew Pawlowski
Salt Studio
716 Anzac Highway, Glenelg SA 5045

Email: Andrew@saltstudio.net.au

Dear Andrew,

RE: PROPOSAL FOR STRUCTURAL ENGINEERING CONSULTANCY – WENTWORTH MILITARY LEGACY CENTRE

MLEI is delighted to have been given the opportunity to submit a proposal for the Structural Consultancy Services for the proposed development at Wentworth Military Legacy Centre.

We look forward to hearing from you and please do not hesitate to contact us should you require any further information.

Kind Regards,

MLEI Consulting Engineers

A handwritten signature in black ink, appearing to read 'Ben Rice'.

Ben Rice *B.E(Civil) MIEAust CPEng NER*

Director

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3. RELEVANT EXPERIENCE AND REFERENCE PROJECTS	10
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APPENDIX A: PROJECT PROFILES	20

1. INTRODUCTION

MLEI Consulting Engineers (MLEI) is a civil and structural consulting engineering firm founded on building long-term collaborative relationships with our clients to deliver efficient, sustainable and innovative design solutions.

Across diverse sectors, MLEI add real value to our clients with efficient, cost effective delivery out of our Adelaide, Melbourne and Darwin office locations. With significant civil and structural engineering experience for buildings, land development, infrastructure, defence and resource and industrial markets across Australia, our experienced team take a holistic approach that enrich clients and communities through economical solutions. MLEI is JAS/ANZ ISO 9001 certified for quality management and JAS/ANZ ISO 45001 certified for Occupational Health and Safety Management Systems. We are excited by the potential of assisting you with this project.

Tourism & Visitor Experience

To assist Salt Studio, Wentworth Military Collection and the design team, we are nominating a team who understands the client requirements and outcomes to deliver a cost effective and tailored structural solution. This includes experience with tourism and visitor experience as well as regional location projects:



Monarto Visitor Centre



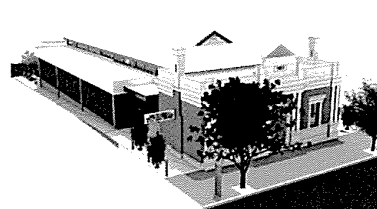
Hans Heysen Art Gallery



The Bend Motorsport Park



Wild Africa Hotel, Monarto



Loxton Library, Visitor & Cultural Centre



MASP, Mildura

Commitment

From our understanding of the site with our work done to date we understand the importance of a collaborative approach to delivery and a partner that is invested in the project with a 'cradle to grave' approach.

MLEI have provided an all inclusive consultancy offer, which includes all structural design, value engineering and detailed documentation.

We are committed to providing a team that will stay intimately involved through the journey of the project from award through to final post occupancy reviews to take a whole of project life approach.

Ben Rice as Project Director and Ryan Thyer as the nominate Project Lead, have made a commitment that they will always be contactable, responsive and will assist Intro and the design team through the entire project journey.

2. PROPOSED PROJECT TEAM

We have outlined the Key Team Members to assist Salt Studio and the Wentworth Military Collection understand that we are nominating the right team who will remain committed to the project from the briefing stage through to post occupancy:

WHY MLEI

- Individuals that have the enthusiasm and keenness to work on this project
- Client problems are our problems, we collaborate and don't work in silos
- Near enough isn't good enough (minimise errors and omissions)
- MLEI welcomes a client that has a clear brief and understanding of the required outcomes.
- The input of early effort and thinking in the planning, mobilisation and execution drives informed and considered outcomes
- We have already started interrogating the brief and looking at effective ways to develop the engineering solutions moving forward.

BENEFITS TO THE PROJECT

- Dedicated resources
- Strong capabilities
- Demonstrated project delivery experience.
- CAN DO ATTITUDE

THE TEAM

Our intention is to use the team that has successfully delivered the structural engineering services for other key visitor and tourism projects along with the relevant experience in the delivery of regional projects, community focused centre and other similar developments.

We have assembled the key team members based on their relevant experience and ability to work with the project team to develop positive and pragmatic outcomes.

Leadership

- | | |
|--------------------|------------|
| • Project Director | Ben Rice |
| • Project Leader | Ryan Thyer |

Structural Engineering

- | | |
|----------------------------|---------------|
| • Structural Team Leader | Jacques Maree |
| • Structural Engineer | Cameron Salt |
| • Lead Structural Designer | Thu Nguyen |

Review

- | | |
|---------------------|------------|
| • Structural Review | Jim Nayler |
|---------------------|------------|



CONSULTING ENGINEERS

Ben Rice and **Ryan Thyer** will be your key contacts during the project and work closely with Salt Studio and the broader team at all stages of the project. Ben and Ryan are well aware of the requirements involved in construction for regional tourism developments, through demonstrated successful outcomes on both buildings and infrastructure projects.

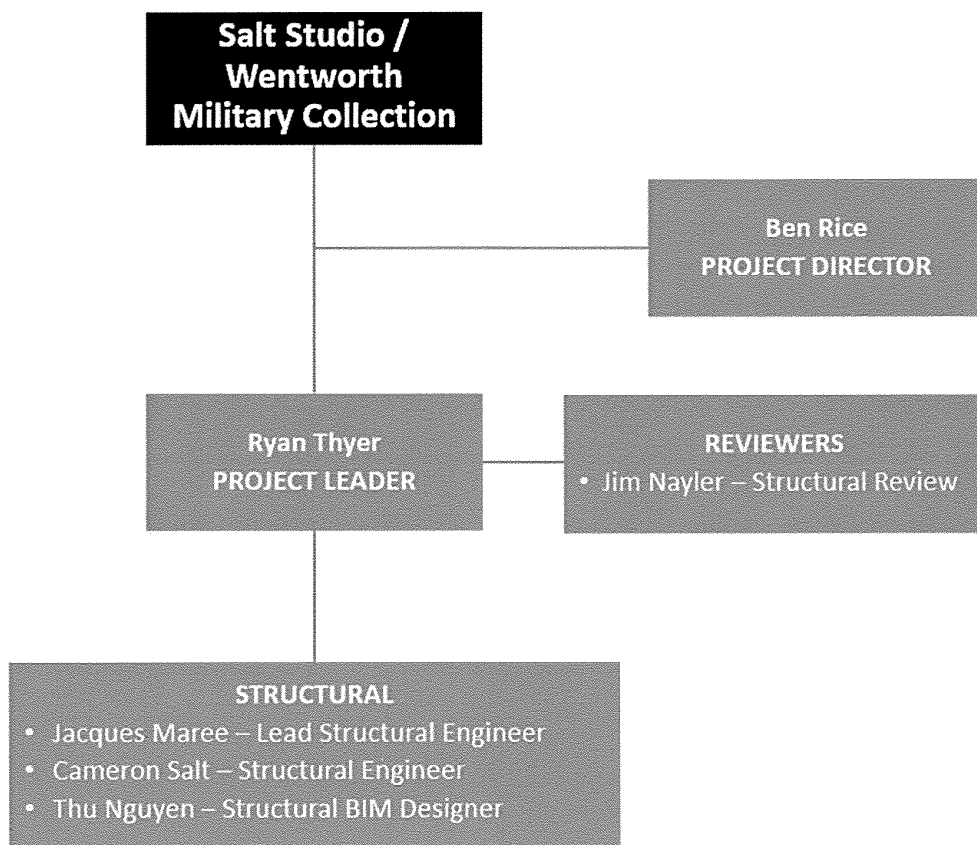
Ben brings 25+ years' experience in engineering management, team development/leadership and project delivery capability. Ben has a proven track record and has provided positive contributions to many successful South Australian and National projects in the built environment, regional visitor centres, hotels, health, infrastructure and industrial sectors.

He also brings highly effective leadership with various teams, Ben has facilitated the successful delivery of some notable projects which include Monarto Visitors Centre, Hans Heysen Art Gallery, The Bend Motorsport Park and Wild Africa Hotel.

Ryan has extensive experience in leading design teams and solving complex engineering challenges to suit multiple stakeholders. He has 15+ years' experience in the Australian market working on significant infrastructure and building projects. Ryan have successfully delivered many visitor and community buildings including Wild Africa Hotel, Loxton Library, Visitor and Cultural Centre and Hans Heysen Art Gallery. He has detailed experience on a range of building types, including regional developments in Port Augusta, Loxton, Monarto.

TEAM ORGANISATIONAL CHART

We provide the following organisation chart to assist Intro with the project team configuration:



KEY PERSONNEL

We have provided pen pics of the key team members for the project.

BEN RICE Project Director



MIEAust CPEng
NSW Registered Engineer – PRE
0001829

Ben has more than 25 years' engineering experience encompassing a considerable background in the design and project management of multi-storey residential, hotel, education, health, commercial, retail and industrial buildings; industrial structures, water-retaining and water-related structures; and civil infrastructure projects.

Ben has undertaken the concept design and optioneering of most structural floor systems. He will assist Ryan and Jacques to select the best floor plate options and ultimately optimise the chosen solution.

Ben will be involved in the Design Development phase to focus on the providing an efficient and structurally integrated scheme for the buildings and attend meetings. He will then pull back in later stages and provide an oversight, challenge and review role. Ben will also be the alternate point of contact for Ryan.

"This project provides an excellent opportunity for the MLEI team to showcase our skills in efficient structural design and work collaboratively with an experienced client to deliver outstanding results for all involved."

RELEVANT EXPERIENCE

- Monarto Safari Park Visitors Centre, Monarto SA | \$16.8M | 2018-
- The Bend Motorsport Park & Hotel, Tailem Bend SA | \$25M | 2016–2018
- Hans Heyesen Gallery, Hahndorf SA | \$9M | 2019-present
- Wild Africa Tourist Hotel, Monarto SA | \$35M | 2020-Present
- Aldinga Surf Life Saving Club, Silver Sands | \$2M | 2019-21
- Mallee Accommodation Support Program, Mildura VIC | \$5M | 2016-18

RYAN THYER Project Leader



MIEAust CPEng

Ryan is a Chartered Senior Structural Engineer with 16 years' engineering experience. Ryan graduated with a Bachelor of Engineering (Civil/ Structural) in 2008 from the University of South Australia and gained experience within various sectors of structural engineering and project management. Ryan has experience within multiple sectors including commercial buildings, multi-storey residential buildings and major civil infrastructure.

Ryan's sound understanding of construction processes allow for innovative and cost-effective solutions to be developed for the client. His responsibilities have varied from feasibility studies, detailed design, construction supervision, condition assessments and project management.

Ryan will be the main point of contact during the project and lead the team. He will ensure the team understand the key expectations for the project. He will ensure that deliverables are issued within the agreed time frames and that those deliverables meet the quality expectations.

"This provides an excellent opportunity for the MLEI team to be involved in another great project with an established developer and to work with within an exciting project delivery team."

RELEVANT EXPERIENCE

- Loxton Library, Visitor and Cultural Centre Upgrade, Loxton SA | 2022-2024
- Wild Africa Tourist Hotel, Monarto SA | \$36M | 2020-Present
- Hans Heyesen Gallery, Hahndorf SA | \$9M | 2019-present
- Barossa Co-op Centre Redevelopment | \$26M | 2017-19
- GU Filmhouse Redevelopment | \$10M | 2016-18
- Concordia College Redevelopment | \$26M | 2020-23

JIM NAYLER

Structural Review



FIEAust CPEng EngExec

Jim brings 30+ years' experience in engineering management, team development/ leadership and project delivery capability.

He has a proven track record and has provided positive contributions to many successful South Australian and National projects in the built environment, defence, infrastructure, and industrial sectors.

Jim is a highly effective leader with a proven track record. He has provided positive contributions to many successful South Australian and National projects in the built environment, defence, infrastructure, and industrial sectors. Notable South Australian projects include 10+ storey developments with multi-level basements, New Royal Adelaide Hospital PPP, Calvary Hospital, SA Police Headquarters and Festival Plaza Redevelopment.

Jim will use his vast experience in multi disciplinary buildings projects to review the design solutions proposed to ensure technical quality as well as ensuring we deliver on cost effectiveness.

"One of the key challenges on this project will be delivering an efficient and cost-effective structural design solution for the apartments."

RELEVANT EXPERIENCE

- Her Majesty's Theatre Redevelopment, Adelaide SA | \$66M | 2018–2020
- Loxton Library, Visitor and Cultural Centre Upgrade, Loxton SA | 2022–2024
- Alice Springs Desert Wildlife Park, Alice Springs NT | 2014–2016
- Clipsal 500 Race Event, Adelaide SA | \$100M | 2010–2013
- South Australian Police Headquarters, Adelaide SA | \$80M | 2009–2012.

JACQUES MAREE

Structural Team Leader



MIEAust CPEng

Jacques is registered professional engineer with over 18 years of experience in the structural engineering sector, with exposure to a variety of projects in the civil infrastructure, commercial, residential, industrial, leisure and hotel, retail, and educational sector.

Having worked for large international firms such as WSP and Aurecon in several countries, including South Africa, Swaziland, United Arab Emirates and Seychelles, he has successfully delivered fast-track, large scale projects within a diverse range of teams.

He has recently moved to Australia to join MLEI Consulting Engineers in their head office in Adelaide.

Jacques will lead the structural design team and will be responsible for delivering the structural technical design. He will liaise closely with the project design team in the detailed design stage to ensure close coordination is achieved.

RELEVANT EXPERIENCE

- Hans Heysen Gallery, Hahndorf SA | \$9M | 2019-present
- Lindelani/Siyakhathala Child and Youth Care Centre, Stellenbosch, SOUTH AFRICA | \$11.3M | 2021–2023
- German Business Park Hotel, Dubai UAE | 2010–2010
- The St. Regis Saadiyat Island Resort, Abu Dhabi UAE | \$720M | 2007 – 2011
- One & Only Hotel, Cape Town SOUTH AFRICA | \$32M | 2007 – 2007
- Eden Island Resort Marina, Mahé SEYCHELLES | \$440M | 2006 – 2007
- Mandela Rhodes Place, Cape Town SOUTH AFRICA | \$40M | 2004 – 2005.

CAMERON SALT

Structural Engineer



Cameron is a structural engineer with a strong knowledge in commercial design of low to mid-rise construction and experience across education, retail, recreational, defence and residential design and construction. With design experience across a wide variety of projects ranging from small scale boardwalks and retaining wall designs to large multi-storey apartment buildings he applies a wide range of skills and design solutions to each project he is involved with and is always keen to apply his knowledge and insight.

Cameron has honed his commercial design skills over the past 7 years to provide design solutions across both simple and complex projects. He has seen the completion of several school and apartment buildings as well as refits and extensions of existing buildings on projects he has designed and managed through the construction process. Cameron also has a history of residential design for bulk & bespoke residential design and small developments.

Relevant Experience

- Morphettville Racecourse Function Centre, SA | \$11M | 2020-23
- Mt Barker Aquatic Centre, Mt Barker SA | \$25M | 2022-23
- Murray Bridge Stables, Murray Bridge | \$8M | 2021-22
- Hilton RSL, Hilton SA
- Aldinga Sports Park Clubrooms, Aldinga SA
- Terrace Hotel, Adelaide SA

THU NGUYEN

Lead Structural BIM Designer



Thu is an experienced Revit user and has been completing projects in BIM for many years. She will be the lead the Documentation for both civil and structural deliverables and also undertaking the structural component.

Thu completed her diploma at TAFE SA in 2012 and has been working at MLEI since. She is proficient with a range of drafting software packages for civil and structural projects including AutoCAD and Revit.

Her completed list of projects includes large range of residential, commercial and civic projects in South Australia.

RELEVANT EXPERIENCE

- Loxton Library, Visitor and Cultural Centre Upgrade, Loxton SA | 2022-2024
- Wild Africa Tourist Hotel, Monarto SA | \$36M | 2020-Present
- The Bend Pit Building & Hotel, Tailem Bend SA | \$25M | 2016-2018.
- Rundle Mall Plaza, SA | \$25M | 2018-2019.
- Wirra Wirra Winery Hotel, McLaren Vale SA | \$25M | 2019-2022
- 162 Fullarton Road, Rose Park SA | \$15M | 2016-2021

3. RELEVANT EXPERIENCE AND REFERENCE PROJECTS

MLEI has provided the following project profiles overview to demonstrate our recent experience with visitor, community and museum projects. We have also provided some more detailed project Profiles under Appendix A which outlines further detail.

2.1 RELEVANT EXPERIENCE

MONARTO SAFARI PARK VISITOR CENTRE



LOCATION	Monarto, SA
CLIENT	Zoos SA
PROJECT PERIOD	2018–2022
PROJECT VALUE	\$16.8M

MLEI undertook the structural and civil engineering for the new Monarto Safari Park Zoo visitor centre. The new visitors centre replaced the existing facility and was located in a completely new location off Monarto Road to the north of the Zoo site.

The design included:

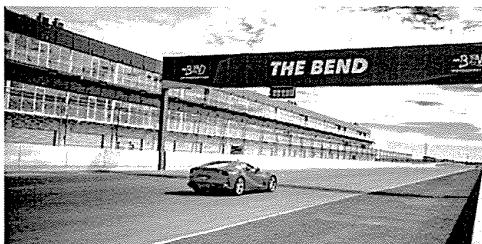
- Visitors centre complete with entry, ticketing, staff office, shop, café, restaurant, stores, and lookout
- 1,500 carpark including buses, motorhomes
- Drop off, service yards
- External amphitheatre with play equipment
- Drainage basin
- Extensive landscaping.

The visitors centre had a unique shape and used a variety of construction materials including rammed earth walls, blockwork, lightweight facades using Corten steel.

TEAM MEMBER INVOLVEMENT

- Ben Rice
- Tuan Nguyen

THE BEND MOTORSPORT PARK



LOCATION	Tailem Bend, SA
CLIENT	Peregrine Corporation
PROJECT PERIOD	2016-2018
PROJECT VALUE	\$25M

MLEI were responsible for the structural and civil engineering for the Pit Building and Hotel at the sports motor park at Tailem Bend. At 308m long, the building boasts garages for 34 racing vehicles, corporate viewing areas, restaurants, bars, race timing facilities, members lounge and a 40-bed hotel over 2 levels. The project was delivered under a strict budget and timeframe.

MLEI have also been involved with the wider project including purpose designed “Mancaves” for the storage of personal cars, Stadium Circuit Building for go-karting and drift racing, 4WD building for a purpose made 4WD track and many more items.

Team Member Involvement

- Ben Rice
- Thu Nguyen.

mlei

CONSULTING ENGINEERS

HANS HEYSEN ART GALLERY

LOCATION	Hahndorf, SA
CLIENT	Hans Heyesen Foundation
PROJECT PERIOD	2019-Present
PROJECT VALUE	\$9M

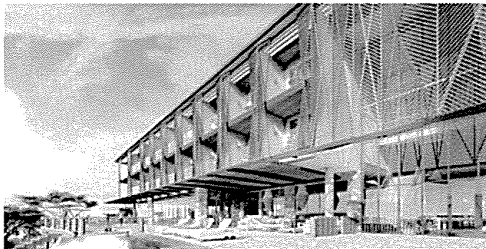
MLEI undertook the structural and civil engineering design for a new art gallery located at the existing residence of local artist Hans Heyesen, for the display of the work of renowned artists Hans and daughter Nora Heyesen.

The project included:

- Art gallery with restaurant, back-of-house areas including kitchen
- **Extensive retaining walls with the building cut into the side of the hill**
- **Green roof**, service dock
- Extensive landscaping and grounds
- Carparks and new access roads.

Team Member Involvement

- Ben Rice
- Jacques Maree
- Thu Nguyen

WILD AFRICA TOURIST HOTEL

LOCATION	Monarto, SA
CLIENT	CRW Constructions
PROJECT PERIOD	2020-present
PROJECT VALUE	\$36M

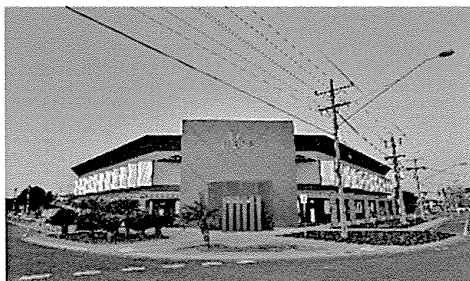
MLEI are undertaking the structural and civil engineering for this new accommodation facility adjacent to the Monarto Safari Park Zoo. The facility is linked to the new proposed Visitors Centre and accessed via Monarto Road to the north of the Zoo site.

The design includes:

- 3 storey 80 room facility with basement
- Carparking including drop off for cars and buses
- Resort style pools
- Decking and terraced landscaping
- Drainage basin
- Internal roads.

TEAM MEMBER INVOLVEMENT

- Ben Rice
- Ryan Thyer
- Pieter Nieuwoudt
- Thu Nguyen.

MASP, MILDURA

LOCATION	Mildura, VIC
CLIENT	MASP
PROJECT PERIOD	2016-2018
PROJECT PERIOD	\$5M

MLEI undertook the civil and structural engineering for this new office building for the Mallee Accommodation Support Program group in Mildura. The office is a 2 storey building including carparking at the rear.

TEAM MEMBER INVOLVEMENT

- Ben Rice
- Thu Nguyen.

4. SCOPE OF SERVICE

STAGE DETAIL

MLEI have allowed to undertake the following tasks within the stages as defined in the client brief:

Stage 1 – Design Development/Planning Application

- Attend design meetings (in Adelaide or online) x 4
- Review existing site information including survey and preliminary drawings
- Provide brief for geotechnical investigation
- Undertake geotechnical drilling and testing and provide an investigation report
- Advise on spatial requirements and inputs to inform architect's design
- Provide preliminary structural advice to inform floor to floor heights, column grids, transfer depths and potential structural systems
- Provide preliminary sketches costing
- Liaise with local council as necessary

Stage 2A – Design Development

- Attend design meetings (in Adelaide or online) x 16
- Develop concept structural framing sketches for review with options as relevant
- Coordinate with architect, building services engineers and sustainability consultant
- Confirm preferred structural option
- Commence modelling with preferred structural option
- Provide concept drawings for pricing

Stage 2B – Documentation

- Develop specifications
- Participate in model coordination with project team
- Undertake detailed analysis and calculations of the structural elements
- Progress structural design and detailing to 100%
- Develop structural calculation report for Building Certifier
- Undertake final model coordination with project team
- Issue documentation to Building Certifier for Review and respond to queries

Stage 2C – Tender Call & Assessment

- Issue Documentation For Tender
- Provide Technical specifications For Tender
- Respond to Tender queries from Contractors
- Assist with Tender Assessments

Stage 2B – Contract Admin Services

- Update documentation for Construction
- Undertake site inspections through construction (12)
- Review Shop fabrication drawings
- Respond to construction RFIs.

5. DIGITAL ENGINEERING OR BIM

There is a big difference between modelling in 3D and delivery a project under a BIM framework. BIM is the art of creating, capturing, and integrating data using a digital skillset. From drawings to simulations and 3D models, engineers are increasingly using advanced technologies to capture data and craft design in a digitised environment.

MLEI have been delivering projects in BIM for a number of years. We are experienced in using 3D modelling tools including Revit structural modelling and 12D for civil design.

MLEI are also experienced in using BIM tools such as BIM360 and Navisworks. We currently have licenses in both these platforms and can host projects in BIM360 if needed.

BIM incorporates data – physical, commercial, environmental, and operational – on every element of a development's design. Extended use of BIM can be demonstrated to add significant value to projects, and below are some of the benefits we believe can be achieved:

- Better outcomes
- Enhanced performance
- Optimised solutions
- Greater predictability
- Faster project delivery
- Reduced safety risk
- Fits first time
- Reduced waste
- Whole life asset management
- Continual improvement.

By taking advantage of the opportunities for advanced integration and communication afforded by BIM, we can deliver greater certainty, higher quality, and lower costs for your development, with overall much improved outcomes over traditional or partial BIM implementations.

While BIM is still largely seen as a modelling tool or a tool to support ease of documentation, our familiarity with BIM allows us to fully exploit its capability as an integration and risk management tool. In this sense we use BIM to identify project risks through modelling and simulation. We also use BIM to collaborate across disciplines, to make informed decisions that mitigate risk and are best for project rather than best for contract.

MLEI has allowed to produce documents using REVIT with the view of delivering the following quality of Building Information Modelling (BIM) according to the American Institute of Architects definitions of Level of Development (LOD):

Concept Phase

LOD 100 - At LOD 100 level, we define a conceptual model where parameters such as area, height, volume, location, and orientation are determined. Analysis and Site Monitoring. Massing studies. Preliminary creation of 3D models. Spatial relationships and zoning compliance.

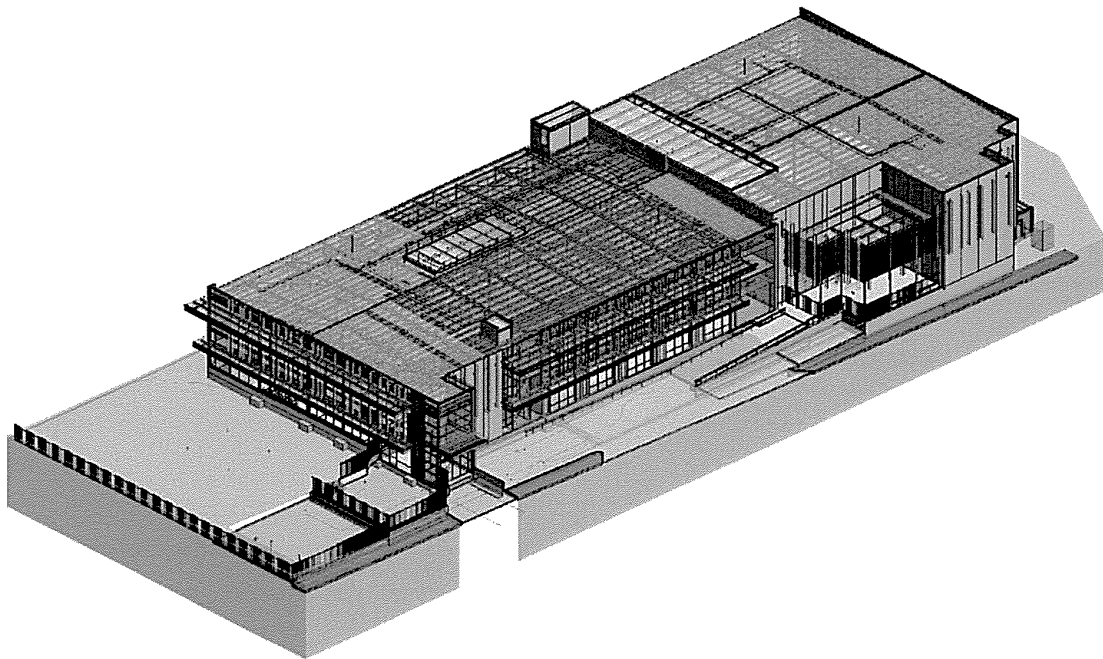
Design Development

LOD 200 - Generic placeholders, modelled elements are modelled as generalised systems or assemblies with approximate quantities, size, shape, location, and orientation. Non-geometric information may also be attached to the model elements.

Construction Documentation to 100%

LOD 300 - Specific assemblies, model elements are modelled as specific assemblies accurate in terms of quantity, size, shape, location, and orientation with detail necessary for cross-discipline/trade coordination and construction laying out. Non-geometric information may also be attached to the model elements. Intent is that the model is passed to the contractor and fabricator to be used in the production of shop drawings and construction.

MLEI has allowed to provide BIM models to the Lead Consultant who will manage and provide a Federated Navisworks model to enable upload into Open Space software at all project milestones and all revisions during construction.



Federated model for Jurlique International Project by MLEI

6. QUALITY, SAFETY & ENVIRONMENTAL SYSTEMS (QSE)

PROJECT MANAGEMENT AND QSE SYSTEMS

MLEI employ proven project management tools to successfully deliver all of our projects. We have a formal methodology that is to be adopted by all project teams to ensure that our quality procedures and requirements are met.

This is encapsulated in our Quality, Safety and Environmental (QSE) Management system which complies with international standards:

- ISO 9001: 2008 Quality Management Systems
- ISO 45001:2018 Occupational Health & Safety Management Systems
- ISO 14001: 2004 (Environment).

MLEI has ISO 9001:2008 and OHSAS 18001:2007 accreditations. MLEI is not yet ISO 14001:2004 accredited however please find our WHS Policy and our Environmental Policy in place (attached Appendix C).

The aim of the MLEI QSE Management System is to achieve the satisfaction of client requirements in the execution of each service provided and to instil a culture of continual improvement to benefit the MLEI team and each client and we seek to achieve 'Better' results for our customers.

The QSE Management System provides processes to help manage and minimise risk on project; commercial, professional, technical and environmental risks, and also those relating to Health & Safety. Our QSE implementation is audited internally by our Office Manager and externally by Equal Assurance for our Quality and Safety systems.

Our QSE System is integrated with our business processes that allows for specific tailoring of the quality process for any project.

As a particular example of the implementation of our QSE System, we use a process of creating, reviewing, approving and recording key project information in our Project Plan (PP). Our Project Plan incorporates information such as the team structure, work flow, methodology and project programme. The Project Plan is used as a project management reference document by all project staff.

Understand the Client Brief and delivering:

- Due Diligence (desktop and onsite survey works)
- Risk management review (risk & opportunities)
- Lessons learnt workshop (from all parties)
- Engage with the client and their key stakeholders (DIT, Council)
- Options Studies and Technical Working Papers
- Value management
- Compliance checks of the brief (Principal's Project Requirement)
- Statutory Requirements
- Regulatory Authorities.

BENEFITS TO Salt Studio

- Clearly defined process following established procedures will allow us to achieve the desired OUTCOMES that Salt aims to achieve
- Salt Studio expectations are satisfied.



Approach outlined in our response

- Project understanding – Principals Project Requirements
- Established service model
- Gated approach
- Formal reviews
- Due Diligence
 - Stakeholder liaison
 - “Safety first” approach - Safety in design
 - Risk identification and management strategy
 - BIM – Building Information Management
 - Site and Building investigations and other risk reducing studies.

BENEFITS TO Salt Studio

- Our team will work with Intro and the Design Team to review and explore options
- Salt Studio’s expectations are satisfied

Occupational Health, Safety and Welfare

MLEI is committed to the integration of safety into all areas of corporate activity and to implement a process of continual improvement in this regard. Safety is an important component of the MLEI QSE system.

As part of the contract start-up, Ryan Thyer (Project Manager) will complete a Health & Safety Risk Assessment to identify any risks to the project team. The project team are issued with a copy of this assessment and must ensure they comply with any guidance provided in terms of personal protection equipment, working conditions etc.

As part of our Monthly Project Reviews, it is necessary for the Project Manager to review any health and safety risks which may arise and deal with these accordingly, including reporting to the Project Director.

SUSTAINABLE PRINCIPLES

We will approach the project in an open, collaborative, pro-active and innovative manner to deliver engineering solutions and outcomes to suit the need of the project and the asset owner.

We have outlined below a few elements which may be relevant to the project and which we would be happy to explore during the project:



7. COMMERCIAL OFFER

FEES

STRUCTURAL

Stage 1 – Design Development	Totals (ex GST)
Design Development & Structural Advice	\$5,700
Soil Testing & Report#	\$9,000
Budget Preparation^	\$4,000
Council Liaison	\$1,000
Stage 1 Total	\$19,700

Budget allowance

^ This only allows for preparation of sketches. Cost estimates are excluded

Stage 2 – Project Documentation & Procurement	Totals (ex GST)
Design Development	\$38,400
Documentation	\$72,300
Tender Call & Assessment	\$4,600
Contract Admin	\$45,200
Stage 2 Total	\$160,500

CONDITIONS AND EXCLUSIONS

- Client shall provide architectural drawings in Model / Revit format
- Fees are based on our the construction budget provided of \$20.5m, should this be exceeded MLEI reserve the right to review our Offer
- Excludes civil engineering design and documentation
- Excludes design and documentation of façade engineering, temporary works, cost estimates and traffic engineering
- Excludes environmental investigations
- Strictly excludes building waterproofing design and specification
- Roof, balcony & podium drainage shall be part of the Hydraulics consultants scope
- No allowance has been made for underground service location and depthing
- Excludes survey. This should be supplied in 3D AutoCAD format
- Latent conditions through construction that require revised engineering shall incur additional fees
- No allowance for redesign due to contractor proposed alternatives post deliverables being Issued For Construction. Should this be required, additional fees shall apply.
- Excludes attendance at Site meetings
- No allowance to develop As Built documentation. This can be provided at rates if required.
- Application fees to service providers are excluded; and



- All deliverables will be issued by email only (PDF format and DWG). For hard copies refer to disbursements section below.

HOURLY RATES

Engineers	Fee (ex GST)	Drafter / Designers	Fee (ex GST)
Director	\$350	Lead Designer	\$230
Principal Engineer	\$325	Senior Designer	\$180
Lead Engineer	\$260	Designer	\$160
Senior Engineer	\$220	Drafter	\$140
Mid-Level Engineer	\$185	Junior Drafter / Designer	\$100
Engineer	\$160		
Graduate Engineer	\$140	Inspections	\$1,950 each

DISBURSEMENTS

This quotation allows for deliverables to be issued via email only. If hardcopies are required the following fees will apply:

- Supply of A1 drawings in colour per sheet (\$4.50 + GST).

TERMS & CONDITIONS

No Terms and Conditions have been provided so we suggest our standard Terms & Conditions. Should we engaged under different Terms and Conditions we request the opportunity to negotiate.

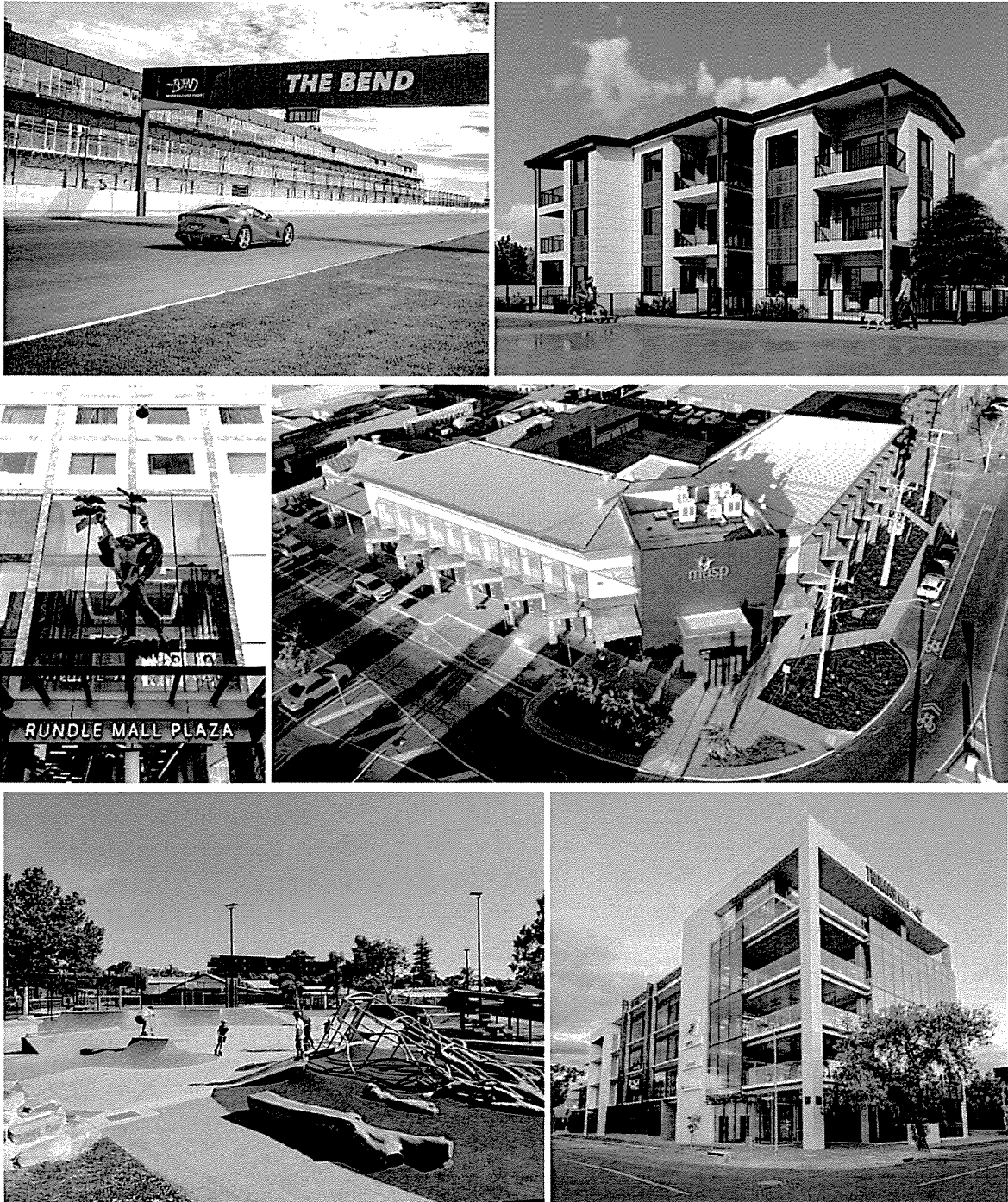
To confirm acceptance of the quoted conditions and fee above, please provide written authorisation to the undersigned at 29 Young Street, Adelaide SA 5000 or via email to brice@mlei.com.au. Any direction for MLEI to proceed with this engagement, in either written or oral form will constitute agreement to the 'Consultancy Agreement'.

This quotation is valid for 60 days from the date of this proposal.

MLEI confirms that we hold \$20M PL and \$10M PI Insurances.

Insurance Type	Policy#	Per incident \$	In Aggregate \$	Expiry Date	Insurer
Public Liability	SPX011418675	\$20M	\$20M	31/05/2024	Vero
Professional Indemnity	02-ENG-I-0018160	\$10M	\$20M	31/05/2024	Pacific Indemnity
Return to Work SA	30602707	NA	NA	30/06/2024	ReturntoWorkSA

APPENDIX A: PROJECT PROFILES



Russel James
 Wentworth Military Collection
 "The Marching Matilda Experience"
 11/1 Sandwych St, Wentworth NSW 2648



16 May 2024

FEE PROPOSAL

Re: "Wentworth Military Legacy Centre" Wentworth NSW

Wentworth Aerodrome - NSW

Dear Russell

Thank you, very much, for the opportunity to be involved with the next stages of the Wentworth Military Legacy Centre project. Please find below our offer for the provision of Architectural Services.

SCOPE OF WORK - STAGE 2: Project Documentation & Procurement

We understand that you require the project to move forward to obtain firstly Planning Consent and then full Development Approval.

This is in order to achieve "shovel ready" project status, ready to put out to tender and proceed to the construction phase as soon as grant funding is received.

To achieve this, our work will firstly involve the preparation of a Planning submission suitable to obtain council Planning consent, followed by full documentation suitable for Development consent, pricing by contractors, and construction.

The following is a list of architectural services required.

ARCHITECTURAL SERVICES

STAGE 2

Phase 1: Design Development & Planning Consent

1. Develop the preliminary project concept in preparation for a submission to achieve Planning consent
2. Consult with museum staff to finalise the floor plan and intended layouts for spaces.

ABN 36 806 191 62

Salt Studio Architecture
 Pathawilyangga
 716 Anzac Highway Glenelg SA
 Karna Country
salt@saltstudio.net.au

Libby Warwick FRAS
 041331997
 Andrew Pawlowski
 041470727

www.saltstudio.net.au

3. Consult with other consultants, Structural and Services Engineers, traffic & air services management to include key considerations into the Planning Approval.
4. Engage with the interpretive exhibition design team for interior and exterior spatial requirements and impacts.
5. Prepare all required drawings in order to lodge the Planning submission with the approving authority and respond to all requests for further information.

The following Phase 2 will proceed once Planning Approval is in place.

STAGE 2

Phase 2: Documentation Tender Call & Assessment

6. Prepare full Architectural working drawings, including Plans, Elevations, Sections & Details, as well as Schedules and Specifications for the project.
7. Coordinate the work of other consultants, conduct & minute regular design meetings (via Zoom)
8. Consult with other consultants, including Structural, Services & Civil Engineers
9. Coordinate the work of the interpretive exhibition design team for interior design.
10. Prepare detailed internal elevations and joinery details for office and community areas.
11. Prepare and coordinate all required drawings in order to lodge the submission for full Development Approval with the approving authority and respond to all requests for further information.
12. Call Tenders from selected contractors, issue RFIs and assess submissions.
13. Recommend a successful builder for the project and prepare contract documentation.

FEES

STAGE 2: Project Documentation & Procurement

Architect

Phase 1:	Design Development & Planning Consent	\$28,000 +gst
Phase 2:	Documentation	\$85,000 +gst
	Tender Call & Assessment	\$8,000 +gst
Phase 3:	Contract Admin	TBC

The above fees do not include budget advice. Consultants, including Services and Structural Engineering fees, Quantity Surveyor, landscape design and all authority's fees are also not included above.

All fees exclude GST.

HOURLY RATES (ex GST)

For additional works outside the scope of the project described above the following hourly rates will be applicable.

Architect

Principal \$220/hr

Senior Architect \$180/hr

AutoCad drafter \$140/hr

OTHER CONSULTANTS

Please find attached submissions from recommended consultants who have successfully worked with Salt Studio to achieve similar projects in the past.

We recommend that these consultants be engaged direct by the WMLC.

- Structural Engineers
- Services Engineers

THE PROJECT TEAM**Architect: SALT STUDIO ARCHITECTURE**

Andrew Pawlowski – Senior Architect, Principal

Libby Warwick – Senior Architect, Principal

Rebecca Brock – Architect, Drafting

Insurances: Salt Studio Architecture – PL \$20Mil / PI \$10Mil

Structural Engineers: MLEI CONSULTING ENGINEERS

Project Director Ben Rice

Project Leader Ryan Thyer

Structural Engineering	Structural Team Leader Jacques Maree
	Structural Engineer Cameron Salt
	Lead Structural Designer Thu Nguyen

Review	Structural Review Jim Nayleren Rice – Project Director
--------	--

Insurances: MLEI Consulting Engineers – PL \$20Mil / PI \$10Mil

Services Engineers: SYSTEMS SOLUTIONS ENGINEERING

Brad Maynard – Team Leader
Josh Margetts – Mechanical Services
Mark Dougray – Electrical Services
Rob Horn – Hydraulic Services
Lachlan Earl – Fire Services
Kyan Day – Drafting

Insurances: Systems Solutions Engineering – PL \$20Mil / PI \$10Mil

PROGRAM

Our understanding of the program is as follows:

Project Planning submission – Business Case	15 May 2024 (tbc)
Complete project delivered by	End 2026 (tbc)

We anticipate that we will be able to commence STAGE 2 Phase 1 consultancy services early June 2024 with the view to completing:

Phase 1 (Planning Approval submission) prior to the end of July 2024

Phase 2, (full Development Approval documentation) to be complete early 2025 with Tender call also early 2025.
Development Approval and Tenders received for assessment mid 2025 with the view to commence construction on site shortly thereafter.

We trust the above proposal is satisfactory. Please do not hesitate to call to discuss in detail if you have any further questions.

Yours sincerely,



SALT STUDIO Architecture
Andrew Pawlowski – Principal Architect

Attachments:**Consultants Fee summaries:**

- | | |
|---|--|
| 1. Structural Engineering Fee submission: | MLEI dated 8th May 2024 |
| 2. Services Engineering fee submission: | Systems Solutions Engineering dated 2 May 2024 |

Wentworth Military Legacy Centre

Consultants' Fee Summary

STAGE 2

Phase 1 – Design Development & Planning Consent

1/	Architectural (Salt Studio Architecture)	\$28,000
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Recommended Additional Consultants

2/	Structural Engineering (MLEI)	\$19,700	subtotal \$47,700
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3/	Services Engineering (Systems Solutions)	\$31,242 (to be confirmed)
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4/	Exhibition Design (Arterial Design)	\$ to be confirmed
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5/	Civil Engineering	by Shire Council
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6/	Traffic Engineering	by Shire Council
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Phase 2 – Documentation Tender Call & Assessment

7/	Architectural (Salt Studio Architecture)	\$93,000
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Recommended Additional Consultants

8/	Structural Engineering (MLEI)	\$160,500
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9/	Services Engineering (Systems Solutions)	\$ to be confirmed
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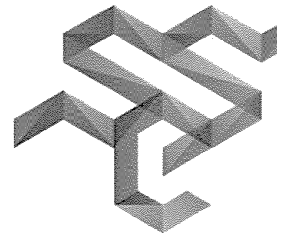
10/	Exhibition Design (Arterial Design)	\$ to be confirmed
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11/	Civil Engineering	by Shire Council
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12/	Traffic Engineering	by Shire Council
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Note: The minimum fee commitment required to achieve Stage 2 Phase 1 Planning Consent will be 1/ Architectural and 2/ Structural Engineering fees totalling \$47,700.

In addition, sufficient documentation will be required for civil and traffic engineering.



**SYSTEM
SOLUTIONS
ENGINEERING**

02 May 2024

Salt Studio
716 Anzac Highway
GLENELG SA 5045

Attention: Andrew Pawlowski

Dear Andrew

**RE: WENTWORTH MILITARY LEGACY CENTRE
ENGINEERING SERVICES, CONSULTANCY FEE OFFER**

m a i l @syssoleng.com.au
w w w syssoleng.com.au

2 Unit
2 4 5 Fullarton Road, Eastwood
5 0 6 3 South Australia
0 8 8 3 3 3 1 8 5 5 Telephone
6 1 0 0 7 6 5 4 9 7 1 ABN

We thank you for the opportunity to undertake the planning approval phase for the above project. The following information has been provided as an offer for your consideration.

SCOPE OF OUR SERVICES

1. Initial assessment of physical space requirements (plant room areas) for mechanical and electrical plant and equipment inside the buildings
2. Impacts on the roof structure, ie will space be required for roof mounted plant? (kitchen exhausts, PV, condensing units) if so what are likely visual impacts.
3. Prelim assessment of electrical loads to ascertain solar PV requirements (roof mounted ? or on adjacent land?). Can the project be independent of the grid ?
4. Prelim investigation into waste water, on site stand alone treatment? connection to existing if available?
5. Prelim fire services scope, street hydrants? sprinklers ? NSW RFS requirements ?
6. Other services related advice which may affect the overall plan layout and aesthetics of the project.

Briefing, Concept Design and Master Planning

- Site meetings for briefing discussions and collection of available information pertaining to the site.
- Source all services drawings that are available from local authorities, Dial Before You Dig and Contractors having had previous experience on the site.
- Participate in user group meetings to determine user requirements for this project.
- Provide feedback and present documentation within consultative forums as deemed appropriate.
- Team meetings for collaboration and sharing of knowledge found and discussions regarding any limitations identified.
- Prepare and issue reports covering engineering services including impacts, limitations and provide information for inclusion to the joint reporting submissions.

- Scope and size the requirements for the engineering services and conceptualise the ways in which services may be modified or distributed around the site.
- Provide a collaborative and lateral reviewing role for the ESD elements of the project including any contributions to the reporting processes.

We exclude any element not specifically identified in either discipline or scope of our service and we also exclude any Authorities fees and charges that may be levied against the project which would be treated as project costs and or disbursement's attracting a 5% administrative charge.

Our documentation will be produced in AutoCAD 2D. The creation of 3D documentation including renderings and isometric views is excluded.

System Solutions Engineering advises that costs incurred as a result of submitting invoices via a secondary platform will be charged at cost as part of our invoicing.

RECENT COMPANY EXPERIENCE RELEVANT TO THE PROJECT

Examples of our experience include:

- Old Parliament House Refurbishment
- New Parliament House Ongoing Services integration
- Port Adelaide Maritime Museum
- Glanville Community Centre Gas Powered A/C
- Carrick Hill Foyer A/C
- Carrick Hill Art Gallery A/C & Air Lock
- Birdwood Motor Museum, Administration Building
- Torrens House Feasibility Report
- BICE Building
- Allied Health RAH
- Women's Health RAH
- Margaret Graham RAH
- Repatriation General Hospital Old Wards
- Repatriation General Hospital SPF Hall
- State Library
- Buildings A, B & C at Repatriation General Hospital
- Thebarton Police Barracks
- Armoury Building North Terrace Precinct
- Ayers House Upgrades
- Ayers House Access Review

PROPOSED KEY PERSONNEL

The following senior personnel have been assigned to the project because of their experience, knowledge and past dealings with this type of project.

- Brad Maynard - Project Team Leader
- Josh Margetts - Mechanical Services
- Mark Dougray - Electrical Services
- Rob Horn - Hydraulic Services
- Lachlan Earl - Fire Services
- Kylan Day - Drafting Services

STATEMENT OF QUALITY ASSURANCE

System Solutions Engineering has a quality management system, created and operated in accordance with AS/NZS ISO: 9001-2015.

OCCUPATIONAL HEALTH AND SAFETY

System Solutions Engineering has ISO 45001-2018 registration and all Staff at System Solutions Engineering have current White Card Training.

INSURANCE'S

System Solutions Engineering currently holds in place insurance's for both Professional Indemnity \$10,000,000.00 and Public Liability \$20,000,000.00.

ENGAGEMENT

We understand that we will become a Secondary Consultant to Salt Studio and that day-to-day communication will be through Andrew Pawlowski or their nominee.

Fees for professional services are fixed and will be progressively claimed with payment expected within 14 days as for normal commercial practice. This fee submission is valid for 90 days from the date of submission. If submission exceeds the 90 day validity period, please contact us for fee verification.

ESTIMATED DISBURSEMENTS

- As listed above if required during the project investigations and meetings.

HOURLY RATES FOR SELECTED STAFF

- Brad Maynard \$290.00/hr
- Josh Margetts \$180.00/hr
- Mark Dougray \$250.00/hr
- Rob Horn \$200.00/hr
- Lachlan Earl \$250.00/hr
- Drafting \$120.00/hr

FEES FOR PROFESSIONAL SERVICES

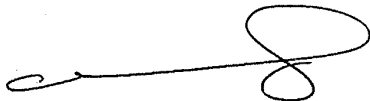
Our fees for **Professional Services** are set out below.

Stage 1 Design development			Stage 2 Project documentation and procurement		
	Budgeting and Scope Development	Concept Design & Drafting	Design, Tender Assistance, Construction Phase		Project Total
Project Hours by Discipline and Phase					
Meetings & Coordination	30	0	0	0	30
Electrical /lighting	40	24	0	0	64
Security	10	0	0	0	10
Mechanical Engineer	40	24	0	0	64
Senior Engineer/Director reviews	6	8	0	0	14
Hydraulic	21	24	0	0	45
Vertical transportation	0	0	0	0	0
Fire	24	30	0	0	54
Document review and revision		0			0.00
Sub Total (hours)	171	110	0	0	281
Project Fee (\$)	\$31,242.49	\$20,097.51	\$0.00	\$0.00	\$51,340.00
Structural PC Sum					\$0.00
Disbursements 2 site visits (per discipline) for inspections and meetings. (charged as used)	Mileage/flights and travelling time	Accommodation	Meals and allowance's		
	\$15,296.37	\$2,240.00	\$3,360.00		\$20,896.37
Total Fee					\$72,236.37

Above fees are GST exclusive.

We trust the above meets with your requirements; however should you have any further queries please do not hesitate to contact the undersigned.

Yours sincerely
System Solutions Engineering Pty Ltd



Tony Edmunds

M: 0488 994 415
 E: tedmunds@syssoleng.com.au

9.8 REQUEST TO BECOME REGULAR WEEKLY USER OF MIDWAY FUNCTION ROOM

File Number: RPT/24/393

Responsible Officer: Simon Rule - Director Finance and Policy
 Responsible Division: Finance and Policy
 Reporting Officer: Annette Fraser - Team Leader Customer Service

Objective: 2.0 Wentworth Shire is a great place to live
 Strategy: 2.4 A well informed, supported and engaged community

Summary

Council is in receipt of a request to become a regular user of Midway Function Room for weekly Pilates classes for 1 hour each Thursday morning, commencing 5 September 2024.

As per the 2024/2025 fees and charges, the hire fee is \$128.00 per hour. A regular user discount of 75% off the standard hourly rate for a 12 month agreement can be negotiated by Council. If agreed, this would reduce the hire fee to \$32.00 per hour.

Pilates classes will benefit the community and individuals. Refer attached testimony written by requester.

Recommendation

That Council having considered the contents of the report and attachment choose one of the suggested options.

Detailed Report

Purpose

The purpose of this report is to present a request to become a regular weekly user of Midway Function Room.

Matters under consideration.

Council does give discount to community groups and charities hiring facilities at Midway on a regular basis. It has not however, given discount to a private individual / business. It should also be noted that a participation fee will be charged therefore generating a commercial gain.

As per the 2024/2025 fees and charges, the hire fee is \$128.00 per hour. A regular user discount of 75% off the standard hourly rate for a 12 month agreement can be negotiated by Council. If agreed, this would reduce the hire fee to \$32.00 per hour.

Currently there are limited public facilities in the Buronga/Gol Gol area that an activity such as Pilates and exercise classes etc can take place. Under normal circumstances this request would be approved at an operational level, however as per the fees and charges for Midway, discounts don't apply for private individuals/business hence why this request has been brought to Council for a decision.

Options available for Council

- a) Not approve a regular user discount as per Council Policy
- b) In the interest of improving the health and wellbeing of our Community, approve a 50% discount, reducing the hire fee to \$64.00 per hour. This will cover heating, cooling, lighting and weekly cleaning costs.
- c) Council approve the full 75% regular user discount, reducing the hire fee to \$32.00 per hour

Conclusion

As per the fees and charges for Midway, this request would not be eligible for a discount.

Attachments

1. Pilates Testimony [J](#)

Annette Fraser

From: [REDACTED]
Sent: Wednesday, 12 June 2024 10:22 AM
To: Annette Fraser
Subject: [REDACTED]

Good Morning Annette,
 Hope you had a lovely weekend.

I viewed the function room & it's great. If I am accepted by council to hire the room, I was planning on starting in Spring, one Pilates class per week on a Thursday.

First class Thursday 5th Sept at 10am if that time is available. I would be teaching 8 participants per class, making sure there is ample space for Pilates mats & exercise space.

If the clients asked for a second class per week or there is more interested, I would approach council again to request a second day. Sometimes though not everyone(who is enrolled in both classes) shows up for both classes and numbers are short. So starting with one class would be best for now.

I may be surprised and get more interest than what I'm expecting.

I am Registered with AUSActive Professionals Australia. An organisation for exercise & active health professionals & businesses in Australia. As a member of AUSActive I am committed to industry standards & ongoing professional development. I complete 20 CECs (continual education credits) during the 2 year registration term, to maintain my registration.

I am Registered & Certified as a Group Exercise Instructor. I teach Aerobic Step classes, choreographed Aerobics with light hand weights, low impact aerobics, circuits & Pilates.

I am Certified with Studio Pilates International. Qualified to teach Matwork Pilates, Matwork Programming & Progressions & Advanced Matwork, & Reformer. Plus Pilates Sliders & Small Pilates Ball classes. I am currently enrolled in the Pilates Foam roller course.

I have a current Certification in First Aid/CPR with St John.

The Pilates class will benefit the community immensely. Pilates helps improve balance, flexibility, joint range of motion, it increases muscle strength & tone, strengthens weak muscles & stretches tight muscles - correcting muscle imbalances. We aim to strengthen & improve core stability, strengthening all the stabilising muscles we use in everyday tasks.

Very good for improving posture through muscle strengthening & stretching, plus correct body alignment throughout the exercises.

Pilates develops the body uniformly, corrects wrong posture, restores physical vitality, invigorates the mind & elevates the spirit - Joseph Pilates.

The clients in my classes I taught at Lockhart loved Pilates & how much stronger they became. Strengthening the Core muscles, including Pelvic floor is very important to help restore strength & maintain the muscle tone. Pilates does strengthen & tone the whole body.

Joining an exercise class also helps people make friends & its a great social get together, they usually go for coffee after class - therefore supporting the local cafes.

Annette, I guess we would approach council first to see if I am accepted and then I would ask if people are interested. However if I didn't get enough or any response would I just let council know I'm not going ahead. I didn't want to ask for client interest first incase I wasn't accepted by council. What are your thoughts on that ? Im happy to do a contract for 12 months. Would I pay monthly ?

Thank you so much for your time, really appreciate it.

Kind regards

[REDACTED]

9.9 A64 ANABRANCH HALL & ROAD REALIGNMENT ACQUISITION

File Number: RPT/24/290

Responsible Officer: George Kenende - Acting Director Health & Planning

Responsible Division: Health and Planning

Reporting Officer: Hilary Dye - Property and Land Tenure Officer

Objective: 3.0 Wentworth Shire is a community that works to enhance and protect its physical and natural environment

Strategy: 3.5 Infrastructure meets the needs of our growing Shire

Summary

A Council resolution is required to commence the compulsory acquisition from the NSW Department of Planning, Housing and Infrastructure (Crown Lands) of:

- Lots 642 and 643 Deposited Plan 1287475 (within Lot 498 Deposited Plan 761441) for the purpose of infrastructure constructed by Council relating to the Anabranh Hall and Tennis Courts Reserve 84989; and
- Lot 641 Deposited Plan 1287475 (within Lot 498 Deposited Plan 761441) for the purpose of a public road creating legal access to the Crown Reserve.

Recommendation

That Council

1. Proceed to acquire Lots 642 and 643 Deposited Plan 1287475 by the compulsory process under the terms of the *Land Acquisition (Just Terms Compensation) Act 1991 (NSW)* by authority contained in the *Local Government Act 1993 (NSW)*, for the purpose of public amenities infrastructure constructed by Council for the use of the community.
2. Proceed to acquire Lot 641 Deposited Plan 1287475 by the compulsory process under the terms of the *Land Acquisition (Just Terms Compensation) Act 1991 (NSW)* by authority contained in the *Roads Act 1993 (NSW)* for the purpose of a public road.
3. Approves any minerals are to be excluded from this acquisition.
4. Acquisition of the land is not for the purpose of resale.
5. Makes an application submitted to the NSW Minister for Local Government via the Office of Local Government and to the NSW Governor General for approval to compulsorily acquire the Crown land for the public purpose.
6. Authorises the General Manager and Mayor to give effect to this resolution and sign any documentation necessary to finalise the acquisition.

Detailed Report**Purpose**

The purpose of this report is to commence the land acquisition of Lots 641, 642 and 643 Deposited Plan 1287475 being part of the land within Lot 498 Deposited Plan 761441, as shown in the attached plan.

Background

The Anabranh Hall and Tennis Courts Reserve is the hub of the community, a place where the community and remote western land leasehold families have gathered for decades participating in social and recreational activities.

Whilst Council has undertaken improvements to the reserve, it was identified that several key buildings were not within the crown reserve boundary nor was there a legal access road leading to the reserve.

To address this issue Council engaged Public Works Advisory to prepare a plan of survey to rectify the access road (track in use) that traverses Lot 498 Deposited Plan 761441, being land owned by The State of New South Wales (Crown Land) as well as ownership of land upon which Council infrastructure is constructed (toilet & shower / amenities block).

Matters under consideration

The intention of the acquisition is to provide a legal access road approximately 1km in length, linking Anabranh Mail Road to the Anabranh Hall and to acquire land surrounding the reserve which contains Councils infrastructure relating to Anabranh Hall & Tennis Courts Reserve in Anabranh South.

Legal, strategic, financial or policy implications

The acquisition of Lots 641, 642 and 643 Deposited Plan 1287475 formerly within Lot 498 Deposited Plan 761441 is part of a Western Land Lease, owned by the State of New South Wales (Crown Land). As the land is leased crown land, Native Title is extinguished therefore compensation will only be payable to Crown Land for the market value of the land.

Council gained the written support of the adjoining landholder to request a boundary realignment to accommodate the extension to the hall and the toilets.

To rectify the land tenure issue Council needs to acquire the land that will accommodate essential public infrastructure and provide legal access to the reserve by the way of a public road.

The acquisitions are to occur under two separate Acts as follows:

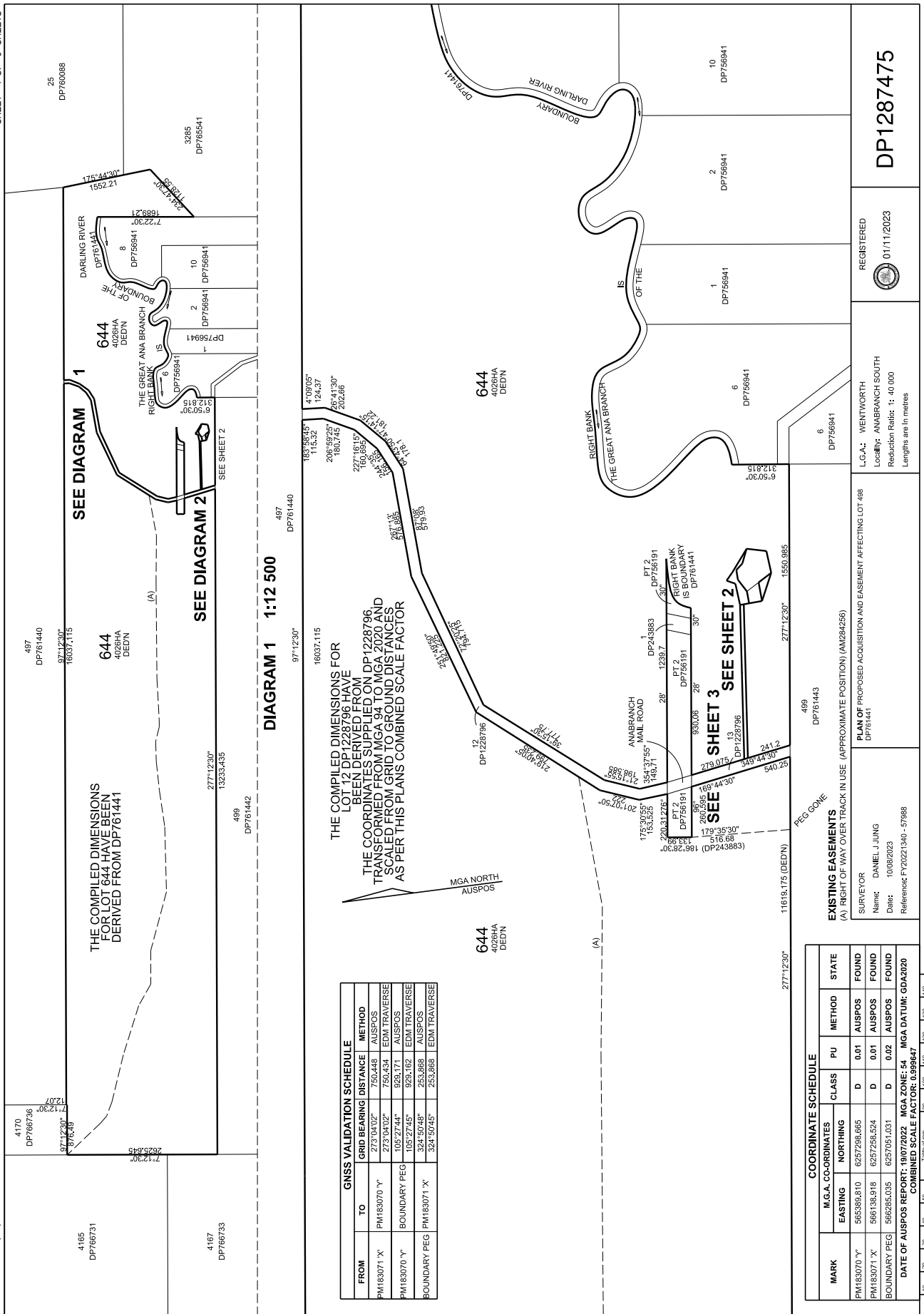
- Proposed Lot 641 to be acquired pursuant to the *Roads Act 1993*;
- Proposed Lots 642 & 643 to be acquired pursuant to the *Local Government Act 1993*.

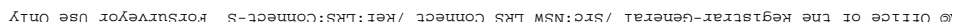
Conclusion

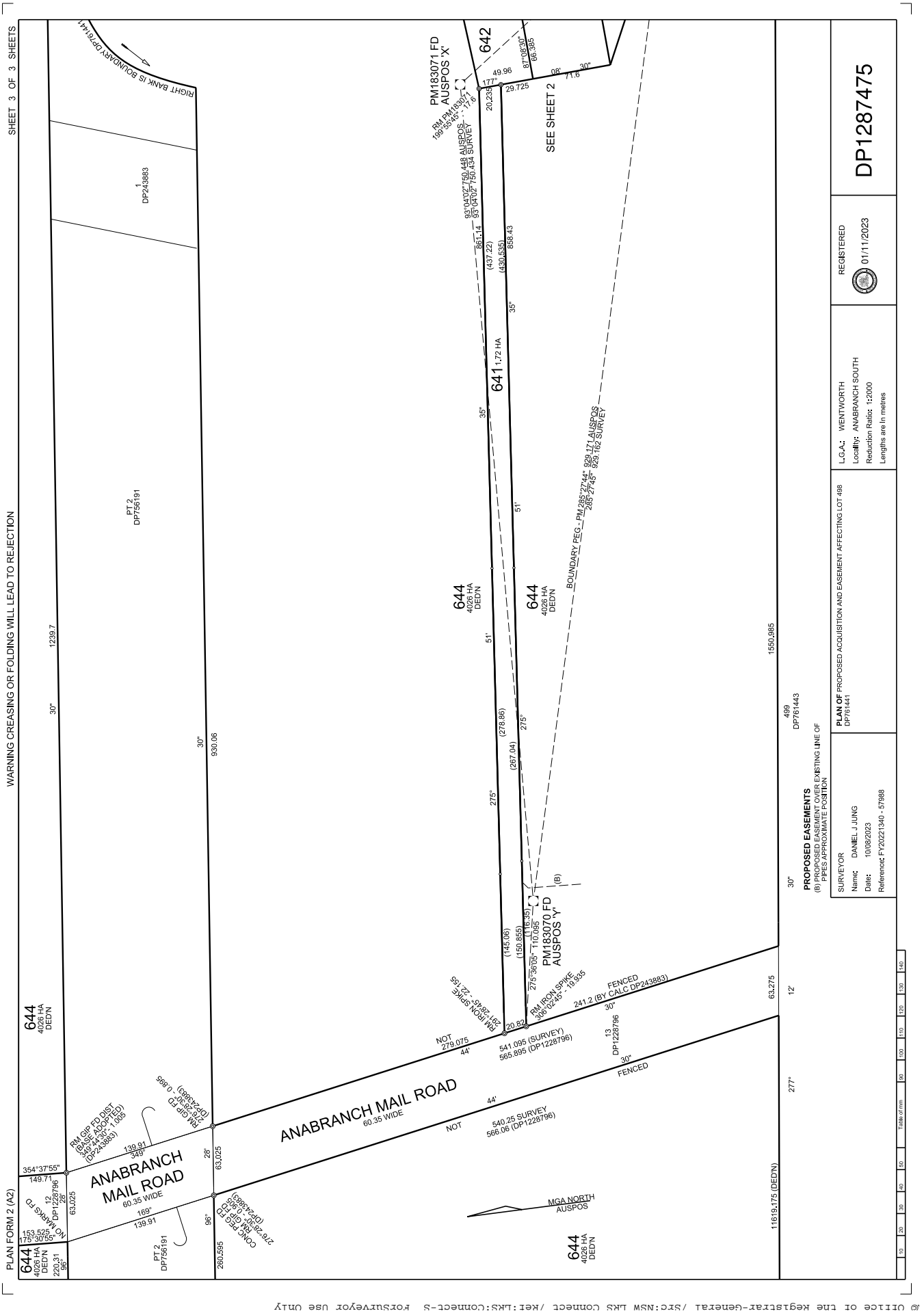
Having consideration to the content of this report it is concluded that the appropriate course of action is to approve the acquisition of the land upon which Council infrastructure is constructed and provide a public road to the Anabranh Hall and Tennis Courts Reserve 84989.

Attachments

1. Registered Deposited Plan 761441 [↓](#)
2. Site Map [↓](#)





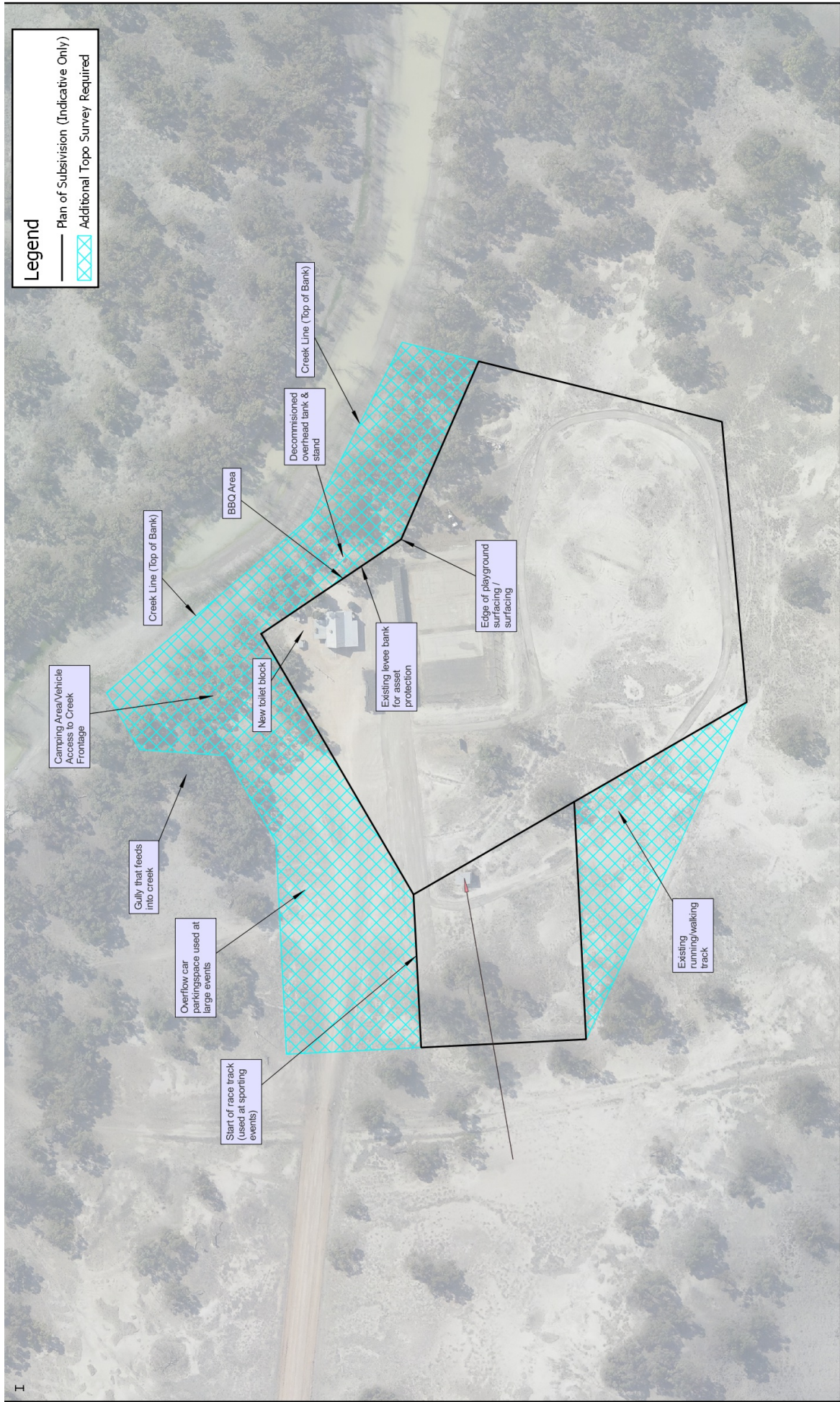


PLAN FORM 6 (2020)

WARNING: Creasing or folding will lead to rejection

DEPOSITED PLAN ADMINISTRATION SHEET		Sheet 1 of 2 sheet(s)
Registered:  01/11/2023 Title System: TORRENS	Office Use Only <div style="text-align: center; font-size: 2em; font-weight: bold;">DP1287475</div>	
PLAN OF PROPOSED ACQUISITION AND EASEMENT AFFECTING LOT 498 DP761441	LGA: WENTWORTH Locality: ANABRANCH SOUTH Parish: WILTON County: TARA	
<div style="text-align: center;">Survey Certificate</div> <p>I, DANIEL J JUNG..... of NSW PUBLIC WORKS a surveyor registered under the <i>Surveying and Spatial Information Act 2002</i>, certify that:</p> <p>*(a) The land shown in the plan was surveyed in accordance with the Surveying and Spatial Information Regulation 2017, is accurate and the survey was completed on, or</p> <p>*(b) The part of the land shown in the plan (*being/*excluding** LOTS 641 – 643) was surveyed in accordance with the <i>Surveying and Spatial Information Regulation 2017</i>, the part surveyed is accurate and the survey was completed on, ... 10/08/2023..... the part not surveyed was compiled in accordance with that Regulation, or</p> <p>*(c) The land shown in this plan was compiled in accordance with the Surveying and Spatial Information Regulation 2017.</p> <p>Datum Line: X-Y</p> <p>Type: *Urban/*Rural</p> <p>The terrain is *Level-Undulating / *Steep-Mountainous.</p> <p>Signature: Dated: 31/08/2023....</p> <p>Surveyor Identification No: 8860</p> <p>Surveyor registered under the <i>Surveying and Spatial Information Act 2002</i></p> <p><small>*Strike out inappropriate words.</small></p> <p><small>**Specify the land actually surveyed or specify any land shown in the plan that is not the subject of the survey.</small></p>	<div style="text-align: center;">Crown Lands NSW/Western Lands Office Approval</div> <p>I, (Authorised Officer) in approving this plan certify that all necessary approvals in regard to the allocation of the land shown herein have been given.</p> <p>Signature:</p> <p>Date:</p> <p>File Number:</p> <p>Office:</p>	
Plans used in the preparation of survey/compilation. CP24-1983 CP179-1983 DP760520 DP243883 DP761441 DP764619 DP1203445 DP1228796	<div style="text-align: center;">Subdivision Certificate</div> <p>I, *Authorised Person/*General Manager/*Registered Certifier, certify that the provisions of s.6.15 of the <i>Environmental Planning and Assessment Act 1979</i> have been satisfied in relation to the proposed subdivision, new road or reserve set out herein.</p> <p>Signature:</p> <p>Registration number:</p> <p>Consent Authority:</p> <p>Date of endorsement:</p> <p>Subdivision Certificate number:</p> <p>File number:</p> <p><small>*Strike through if inapplicable.</small></p>	
Statements of intention to dedicate public roads create public reserves and drainage reserves, acquire/resume land. IT IS INTENDED TO ACQUIRE LOT 641 UNDER THE ROADS ACT, 1993 IT IS INTENDED TO ACQUIRE LOTS 642 AND 643 UNDER THE LOCAL GOVERNMENT ACT, 1993		
Surveyor's Reference: FY20221340 - 57988	Signatures, Seals and Section 88B Statements should appear on PLAN FORM 6A	

PLAN FORM 6A (2019) DEPOSITED PLAN ADMINISTRATION SHEET Sheet 2 of 2 sheet(s)	
<div style="display: flex; justify-content: space-between; align-items: center;"> <div style="display: flex; align-items: center;"> <div style="margin-left: 10px;"> Registered: 01/11/2023 </div> </div> <div style="text-align: right; font-size: small;">Office Use Only</div> </div> <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> PLAN OF PROPOSED ACQUISITION AND EASEMENT AFFECTING LOT 498 DP761441 . </div> <div style="margin-top: 10px;"> Subdivision Certificate number: Date of Endorsement: </div>	<div style="text-align: center; font-size: 2em; font-weight: bold; margin-top: 20px;"> DP1287475 </div> <div style="margin-top: 10px; font-size: small;"> Office Use Only This sheet is for the provision of the following information as required: <ul style="list-style-type: none"> A schedule of lots and addresses - See 60(c) <i>SSI Regulation 2017</i> Statements of intention to create and release affecting interests in accordance with section 88B <i>Conveyancing Act 1919</i> Signatures and seals- see 195D <i>Conveyancing Act 1919</i> Any information which cannot fit in the appropriate panel of sheet 1 of the administration sheets. </div>
STREET ADDRESSES OF ALL LOTS ARE NOT AVAILABLE	
If space is insufficient use additional annexure sheet	
Surveyor's Reference: FY20221340 - 57988	



ANABRANTH HALL - ADDITIONAL TOPOGRAPHIC SURVEY
3324 ANABRANTH MAIL ROAD, ANABRANTH SOUTH

Created by: Hayden Baird
Date: 07/04/2022
Scale: 1:1,500
Datum/Projection: GDA94 / MGA 54



WENTWORTH
SHIRE COUNCIL
WORTH THE DRIVE

P.O. Box 81 Wentworth 2648
Tel: (03) 5027 5027 Fax: (03) 5027 5000
E: council@wentworth.nsw.gov.au
W: www.wentworth.nsw.gov.au

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Department of State Water NSW, PF, Geoscience Australia, Western Murray Irrigation Ltd. While every care is taken to ensure the accuracy of this product, Wentworth Shire Council and the Local / State / Federal Government do not accept any liability for any errors or omissions. The user acknowledges and agrees that the user is responsible for its own use of the product and for any consequences or damages (including indirect or consequential damages and costs) which may result from its use of the product. This map is not to be used as a substitute for a cadastral map.



Data Layer

×

CADASTRE DETAILS

Address

3324 Anabranch Mail Road
Anabranch South NSW 2648
Australia

Details

Area

25416.41 m²

Parcel Status

ITS Title

Parcel Type

-

Plan Number

2591/764619

Lot Number

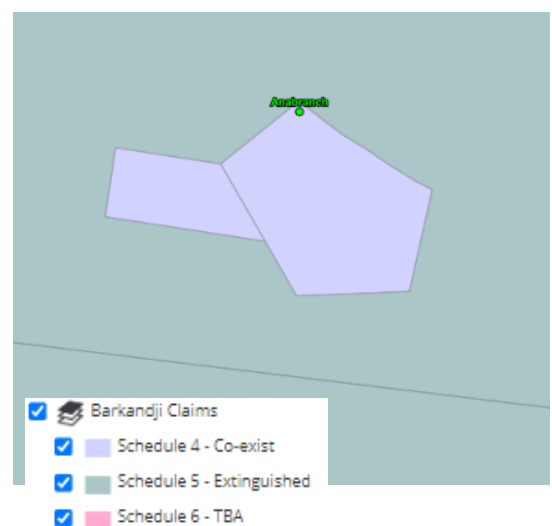
2591

Locality

Anabranch South

State

NSW



9.10 LAND ACQUISITION A65 GEORGE GORDON OVAL

File Number:	RPT/24/404
Responsible Officer:	George Kenende - Acting Director Health & Planning
Responsible Division:	Health and Planning
Reporting Officer:	Hilary Dye - Property and Land Tenure Officer
Objective:	3.0 Wentworth Shire is a community that works to enhance and protect its physical and natural environment
Strategy:	3.2 Ensure that community assets and public infrastructure are well maintained

Summary

A Council Resolution is required to commence the acquisition of Crown Land being Lot 650 Deposited Plan 1298337, being part of the land within Lot 711 Deposited Plan 1213849 at Dareton NSW, for the purpose of public recreational infrastructure constructed by Council relating to the George Gordon Sporting Complex Reserve 61503.

Recommendation

That Council

1. Proceeds to acquire Lot 650 Deposited Plan 1298337 by the compulsory process under the terms of the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW) and by authority contained in the *Local Government Act 1993* (NSW).
2. Acquires the land for the purpose of public recreational infrastructure constructed by Council, for the use of the community.
3. Approves that any minerals are to be excluded from this acquisition.
4. Acknowledges that the acquisition is not for the purpose of resale.
5. Will be responsible for Native Title compensation as determined by the Valuer General.
6. Will be responsible for compensation paid to Crown Lands for the acquisition of the subject land as determined by the Valuer General (market value) or agreed directly with Crown Lands via a valuation report to be obtained from a qualified valuer.
7. Makes an application submitted to the NSW Minister for Local Government via the Office of Local Government and to the NSW Governor General for approval to compulsorily acquire the Crown land for the public purpose.
8. Authorises the General Manager and Mayor to give effect to this resolution and sign any documentation necessary to finalise the acquisition.

Detailed Report**Purpose**

The purpose of the report is to commence the land acquisition of Lot 650 Deposited Plan 1298337 to fix the encroachment of the netball courts over a Western Murray Irrigation drainage reserve owned by the State of New South Wales (Crown Lands).

Background

In 2018 Council received funding to build additional netball courts at the George Gordon Oval Reserve. For safety reasons the courts were constructed end to end, however this alignment encroached a Western Murray Irrigation drainage reserve owned by Crown Lands, and privately owned freehold land.

Matters under consideration

The intention is to legitimise the encroachment of the netball courts which traverses over land owned by the State of New South Wales (Crown land) being a Western Murray Irrigation drainage reserve.

Legal, strategic, financial or policy implications

The acquisition of Lot 650 Deposited Plan 1298337 being part of the land within Lot 711 Deposited Plan 1213849 is listed in Schedule Four (co-existing native title) of the Barkandji Consent Determination - Barkandji # 8 Native Title Claim [2015] FCA 604 (Part A), which means the land has co-existing native title. Council as the acquiring authority will be responsible to pay:

- Compensation to the Barkandji Body Prescribed Corporate as determined by the NSW Valuer General.
- Compensation of the market value of the land shared between the State of NSW (Crown Lands) and Barkandji Body Prescribed Corporate.

Council has identified a need to rectify the land tenure status by acquiring the land that will accommodate public recreational infrastructure integral to the use of the George Gordon Oval recreation reserve.

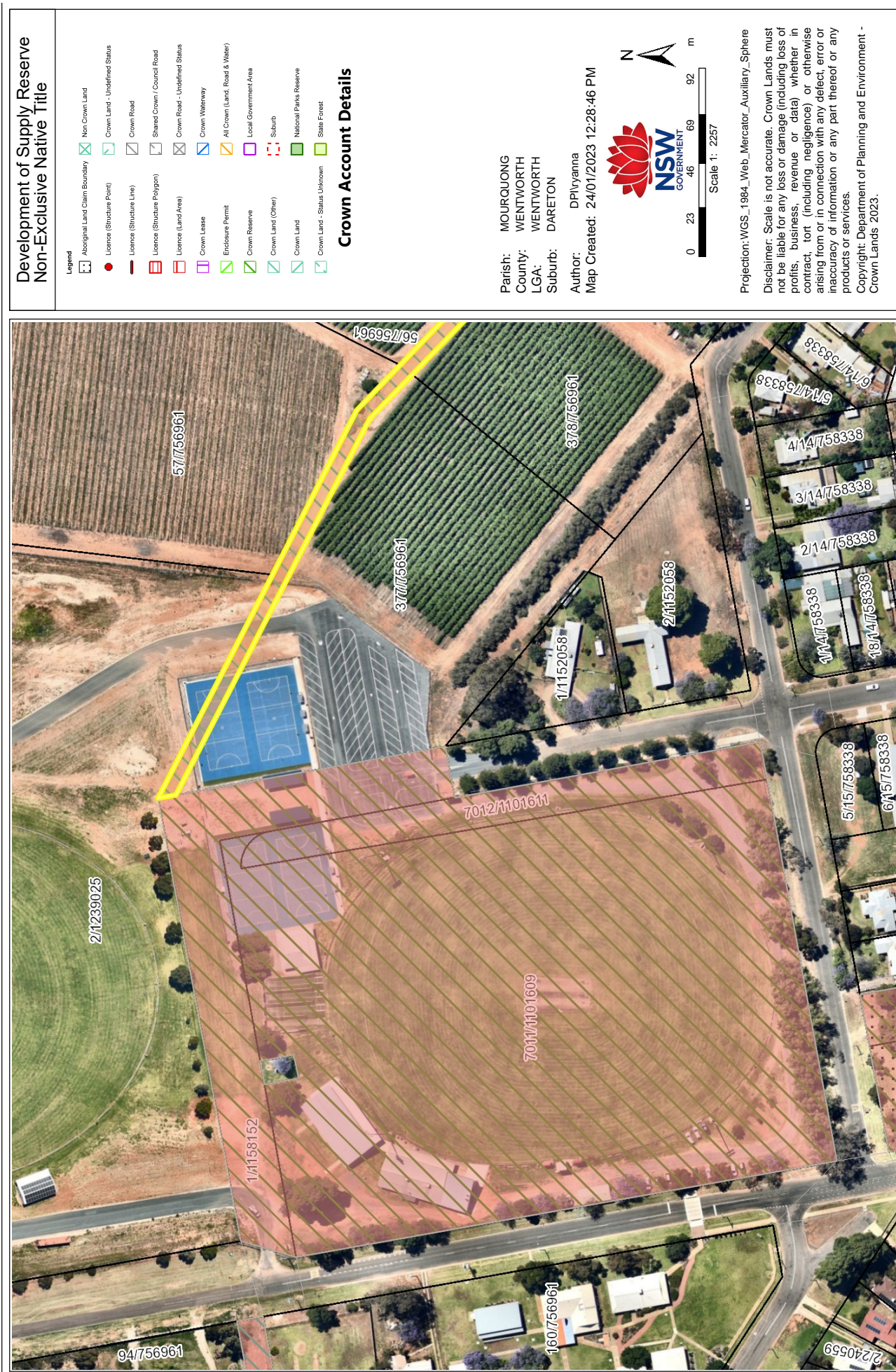
The acquisitions will be completed using the powers afforded to Council under the *Local Government Act 1993*.

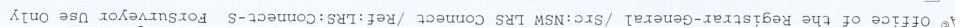
Conclusion

Having consideration to the content of this report it is concluded that the appropriate course of action is to approve the acquisition of the land upon which Councils public recreational infrastructure has been constructed.

Attachments

1. Netball Court Development [↓](#)
2. Deposited Plan 298337 [↓](#)





9.11 LIFTING OF ALCOHOL-FREE ZONE – WENTWORTH ROWING CLUB LAWNS AREA

File Number: RPT/24/342

Responsible Officer: George Kenende - Acting Director Health & Planning

Responsible Division: Health and Planning

Reporting Officer: George Kenende - Acting Director Health & Planning

Objective: 1.0 Wentworth Shire is a vibrant, growing and thriving Region

Strategy: 1.2 Promote the Wentworth Region as a desirable visitor and tourism destination

Summary

Council has received a request from the Wentworth District Rowing Club Inc to lift the alcohol free zone for the Wentworth District Rowing Club Lawns area for one event in Wentworth.

The Wentworth District Rowing Club has sought approval for the suspension of the alcohol free zone in past years for community events in the same area.

There have been no incidents or problems in past events that would warrant Council refusing the temporary lifting of the alcohol free zone as requested.

Recommendation

That Council:

- a) In accordance with Section 645 of the Local Government Act 1993, suspends the operation of the alcohol free zone in the area of the Wentworth District Rowing Club Lawns area as shown on the map attached to this report, on the 13th and 14th of September 2024 from 12:00 noon to 22:00.
- b) Advertises the suspension of the alcohol free zone in a locally circulated newspaper and, Councils website and other social media
- c) Advises the NSW Police of the details of the suspensions of the alcohol free zone.

Detailed Report

Purpose

The purpose of this report is for Council to consider the suspension of the operation of the alcohol free zone at the Wentworth District Rowing Club Lawns area for the following event:

- RFDS Rowathon from 12 noon to 22:00 on the 13th and 14th of September 2024.

The RFDS Rowathon event is expected to attract a number of visitors to Wentworth. The people attending are expected to be a responsible crowd, given the nature of the event.

Attachment 1: Map of Alcohol Free Zone – Wentworth Rowing Club and Lawns

Background

Council may, at the request of any person or body or of its own motion, suspend the operation of an alcohol free zone by publishing notice of suspension in a newspaper circulating in the area that includes the zone concerned. During the periods indicated in the notice as the period of suspension, the zone does not operate as an alcohol free zone.

The area identified in the attached map, being the area known as the Wentworth District Rowing Club Lawns, is the area, for which the alcohol free zone is requested to be lifted from 12 noon to 22:00 on the 13th and 14th of September 2024.

Council may suspend the operation of an alcohol free zone for a specified period by resolution and advertising the fact in a locally circulating newspaper.

Attachment 2: Alcohol free zone suspension request letter

Matters under consideration

Consideration needs to be made as to whether the lifting of the alcohol free zone for a specific event is warranted, or whether it poses an unacceptable risk of unruly or unsociable behavior due to the over consumption of alcohol in the location.

Options

Based on the information contained in this report, the options available to address this matter are to:

a) Grant the request for lifting of the alcohol free zone

Or

b) Refuse the request to lift the alcohol free zone.

Conclusion

The proposed lifting of the alcohol free zone will be a low risk matter for Council, with positive community benefits within the Wentworth Shire.

Attachments

1. Map of Alcohol Free Zone – Wentworth Rowing Club and Lawns [↓](#)
2. Alcohol free zone suspension request letter (Under separate cover) [⇒](#)



9.12 DA2024/066 DWELLING WITH GARAGE 221 POONCARIE ROAD LOT 7 DP 1270097 WENTWORTH

File Number: RPT/24/397

Responsible Officer: George Kenende - Acting Director Health & Planning

Responsible Division: Health and Planning

Reporting Officer: Georgie Martin - Cadet Planner

Objective: 3.0 Wentworth Shire is a community that works to enhance and protect its physical and natural environment

Strategy: 3.1 Ensure our planning decisions and controls enable the community to benefit from development

Summary

A development application (DA2024/066) was received by Council for a dwelling with garage to be located at 221 Pooncarie Road, Lot 7 DP 1270097, Wentworth, a property which backs on to the Darling River.

Under the Wentworth Local Environmental Plan 2011 (WLEP 2011), this development is permitted with consent within the R5 – Large Lot Residential zone as a dwelling.

The proposed dwelling with garage is to be located on land that has a pre-existing shed, and had prior to subdivision, been used for agricultural purposes.

The proposed development of a dwelling has a setback from the high bank of the river of 21.7m, not complying with Clause 7.6. However, the proposed development of a dwelling has a setback from the low bank of the river of 30m, which is permitted under Clause 7.9.

The required high bank setback under Clause 7.6 for dwellings is 30m. As part of the assessment, a variation to the high bank setback is required (referred to as a 4.6 variation).

Due to the variation being 28%, greater than 10%, the application cannot be determined under delegated authority, and must be determined by Council.

Recommendation

That Council

1. Approve DA2024/066 being a dwelling with garage located at 221 Pooncarie Road, Lot 7, DP 1270097, Wentworth.
2. Call a division in accordance with S375A of the Local Government Act 1993 (NSW).

Detailed Report

Purpose

The purpose of this report is to provide information to Council to determine Development Application DA2024/066, having consideration to the detail provided within this report and the attachments provided.

Background

A Development Application was lodged with Council on 17 May 2024 seeking consent for a dwelling with garage on the subject site.

The subject site is located in the R5 – Large Lot Residential zone under the Wentworth Local Environmental Plan (WLEP 2011).

The proposal seeks to develop a dwelling within the prescribed 30m high bank setback required under Clause 7.6. The variation is seeking approval to allow the dwelling within the 30m setback prescribed under Clause 7.6 of the WLEP 2011 for the zoning.

Under Clause 7.6, for dwellings to be developed on land in zone R5 with river frontage, they must comply with the required 30m setback applied to the land, which isn't met by this application.

It should be noted that although the setback of 30m from the high bank isn't complied with, compliance with the 30m setback from any bank of the river has been complied with in line with Clause 7.9.

Where an application cannot achieve the development standards required by a Local Environmental Plan, the applicant may apply to vary the development standard.

An application to vary a development standard is made under clause 4.6 of the WLEP 2011.

Under Clause 35B of the Environmental Planning and Assessment Regulation 2021, applications involving contravention of development standards must be accompanied by a document that sets out the grounds on which the applicant seeks to demonstrate that –

- Compliance with the development standard is unreasonable or unnecessary in the circumstances, and
- There are sufficient environmental planning grounds to justify the contravention of the development standard.

The consent authority must keep a record of all 4.6 variation assessments carried out.

Due to changes made by the NSW Government, Clause 4.6 of the Standard Instrument LEP has been reformed to make the planning system faster, simpler, and more transparent. The reform came into effect on 1 November 2023 and removes the requirement to obtain the Planning Secretary's concurrence for a variation with new reporting frameworks. As such, council has authority to approve or refuse 4.6 variation applications.

The WLEP 2011 identifies the required setback for river front areas as 30m from the high bank of the river. The proposed development is within the prescribed setback from the high bank and contravenes the standard by an encroachment of 8.3m. This encroachment creates a variation of 28%, and as this is greater than 10%, this application cannot be determined under delegated authority and is presented to Council for consideration.

Refer to attachment 1 – Development Application

Refer to attachment 2 – 4.6 Variation Request

Refer to attachment 3 – Site and Locality Plan

Matters under consideration

In determining a development application that requires consent, the consent authority must take into consideration matters prescribed in Section 4.15 of the Environmental Planning and Assessment Act 1979 as relevant to the development.

The proposed development was assessed and met the relevant provisions of Chapter 5 – River Murray Lands of the State Environmental Planning Policy (Biodiversity and Conservation) 2021.

The proposed development for a dwelling with garage is permitted with consent and meets the zone objectives of the R5 – Large Lot Residential zone under the WLEP 2011.

The proposed dwelling with garage does not comply with the required 30m setback from the high bank of the river and the 4.6 variation request by the applicant provides adequate justification for the contravention of development standard contained in Clause 7.6, while complying with Clause 7.9.

Due to the zoning and WLEP mapping impacting the land, the development application was assessed against Clauses 4.6, 5.16, 5.21, 7.1, 7.2, 7.4, 7.5, 7.6, 7.7, 7.8, and 7.9. The

development application was able to satisfy the matters for consideration under these clauses.

Due to the nature of the proposed development, it was assessed against Chapters 4 – Residential Development Controls of the Wentworth Development Control Plan (DCP) 2011. The development was able to comply with the provisions of these chapters.

Based on assessment of the application, it is determined that the proposed development is compliant with the relevant objectives of the R5 – Large Lot Residential zone, is able to meet the relevant provisions of the Wentworth Development Control Plan (DCP) 2011, is consistent with planning matters for consideration of the Wentworth Local Environmental Plan 2011 and the State Environmental Planning Policy (Biodiversity and Conservation) 2021.

Refer to attachment 4 – 4.15 Assessment Report

Refer to attachment 5 – 4.6 Variation Assessment Report

Refer to attachment 6 – Conditions of Consent

Options

Based on the information contained in this report, the options available to address this matter are to:

- Approve Development Application DA2024/066 subject to conditions

Legal, strategic, financial or policy implications

Should Council issue a determination to the application, the applicant has the right to submit a request for review of determination to Council under Section 8.2 of the Environmental Planning & Assessment Act 1987.

The applicant also has the right to appeal the decision made by Council to the Land and Environment Court pursuant to Section 8.7 of the Environmental Planning & Assessment Act 1987.

Conclusion

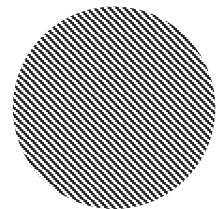
Having consideration of the consent of this report, it is concluded that the appropriate course of action is to approve the development approval for DA2024/066 subject to conditions in this report.

Attachments

1. Development Application (Under separate cover)⇒
2. 4.6 Variation Request↓
3. Site and Locality Plan↓
4. 4.15 Assessment Report↓
5. 4.6 Variation Assessment Report↓
6. Conditions of Consent↓



JACKSON
PLANNING



Planning Report

Dwelling and variation to LEP Standard
7.6

Lot 7 1270097

6-10-1-NH-1-0700

EXECUTIVE
SUMMARY

Proposal	Construction of a dwelling and variation to LEP standard 7.6
Street Address	Pooncarie Road, Wentworth
Formal Land Description	Lot 7 in Deposited Plan 1270097
Zone	R5 – Large Lot Residential
Relevant State Environmental Planning Policies	Not applicable



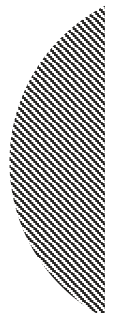


SUBJECT SITE AND SURROUNDING AREA

The subject site, Lot 7 DP 1242927, is a 5,000m² allotment located approximately 3.2km north-east of the township of Wentworth. The subject land is irregular in shape and currently contains an existing shed which is located at the front of the site. The northern boundary of the site directly abuts the Darling River, with small portions of existing native vegetation between the water line and location of the proposed dwelling. Access is currently provided from a carriageway easement which connects to Pooncarie Road to the south.

The surrounding area generally comprises similar sized large-lot residential allotments, with a number of the parcels already containing existing dwellings and associated structures.

The subject site appears to have access to reticulated electricity, telecommunications, water and effluent is managed onsite with a septic system.



Site Photos – Taken 24 April 2024



Figure 1: View of site from Poongcarie Road



Figure 2: View of the site from the west



Figure 4: View of the site from the Darling River



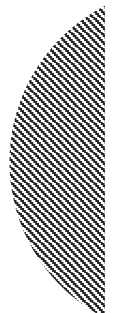
Figure 5: View of the site from the west

PROPOSAL DESCRIPTION

This application is for the construction of a dwelling, as summarised under the following points:

- The dwelling is single storey and contains four bedrooms (master with WIR and ensuite), open plan kitchen, meals and family area, butlers pantry, separate living room, store, bathroom and separate WC, laundry, outdoor living area and double garage.
- The external appearance of the dwelling is finished with a horizontal weatherboard cladding (Hardies Scyon Linea) on the walls. The roof will be clad in Colorbond iron.
- The dwelling has a maximum height of 6.5m above natural ground.
- An existing crossover will be utilised to provide access to the double garage.
- Due to the generous size of the site, over half will be available for landscaping and private open space.

This application proposes the dwelling to be 21.7 metres from northern boundary (High Bank); by doing so a variation to Standard 7.6 (Development on river front areas) is required.



PLANNING

CONTROLS AND ASSESSMENT

Wentworth Local Environmental Plan 2011 (LEP)

The subject site is within the Zone R5 – Large Lot Residential.

The objectives of the zone are:

- *To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.*
- *To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.*
- *To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To restrict the construction of new residential and other sensitive uses in flood prone areas*

The proposed dwelling is located within a recently established residential area and will provide for residential housing in a rural setting, in line with the objectives of the R5 Zone. The building is compatible with existing land uses in the surrounding area and will not unreasonably increase the demand for public services or public facilities. As such, the proposal supports the objectives of the R5 zone.

Variation to Standard 7.6

Development Standard to be Varied

Standard 7.6 – Development on river front areas.

Is the standard to be varied a development standard?

Yes, this standard is considered to be a development standard in accordance with the definition contained in section 1.4 of the Environmental Planning and Assessment Act 1979; and not a prohibition.

What are the objectives of the development standard?

- (a) to support natural riverine processes, including the migration of the Murray River's channels,
- (b) to protect and improve the bed and bank stability of the Murray River,
- (c) to maintain and improve the water quality of the Murray River,
- (d) to protect the amenity, scenic landscape values and cultural heritage of the Murray River and to protect public access to its riverine corridors,
- (e) to conserve and protect the riverine corridors of the Murray River, including wildlife habitat.

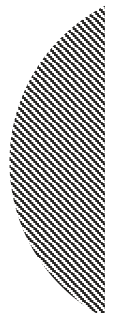
Note: In the WLEP2011, a reference to the Murray River also includes the Darling River.

What is the proposed numeric value of the development you are proposing?

It is proposed the erection of this dwelling and ancillary structures, will be 21.7 metres from the high bank of the river (encroachment of 8.3 metres). This represents a variation of 28 %.

Principles of Exceptions to Development Standards**Clause 4.6 Exceptions to Development Standards**

Clause 4.6 provides flexibility to vary the development standards specified within the Standard Instrument where it can be demonstrated that the development standard is unreasonable or unnecessary in the circumstances of the case, and where there are sufficient environmental grounds to justify the departure.



Clause 4.6 states the following:

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

“(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless—

(a) the consent authority is satisfied that—

(i) the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Planning Secretary has been obtained.

The requirement for consideration and justification of a Clause 4.6 variation necessitates an assessment of a number of criteria. It is recognised that it is not merely sufficient to demonstrate a minimisation of environmental harm to justify a Clause 4.6 variation, although in the circumstance of this case, the absence of any environmental impact is of considerable merit.

Accordingly, justification is set out in following assessment for the departure from the 30-metre setback control applicable under the WLEP2011. The purpose of the information provided is to demonstrate that strict compliance with this development standard is unreasonable or unnecessary in the circumstances of this particular case. It also demonstrates that there are sufficient environmental planning grounds for the departure from the 30-metre high bank setback as specified in the WLEP2011.

Justification for Variation

The 'Riverton' subdivision was the result of a site-specific planning proposal that was referred to several government agencies including:

1. NSW Aboriginal Lands Council
2. Lower Darling Catchment Management Authority
3. Office of Environment and heritage
4. NSW Department of Primary Industries - Agriculture
5. NSW Department of Primary Industries – Fishing and Aquaculture
6. NSW Department of Primary Industries – Minerals and Petroleum
7. NSW Department of Primary Industries – Catchment and Lands
8. NSW Rural Fire Service
9. NSW Office of Water
10. Transport for NSW
11. Transport for NSW Roads and Maritime Services
12. State Emergency Services

Essentially clause 7.9 was created using clause 4.6 to vary/amend clause 7.6 and further to this, Parliamentary Counsel drafted the amendment clauses.

This section addresses clause 4.6 (2), (3) and (4) and seeks to justify the departure of the development standards provided in 7.6, 7.9 and the 30-metre setback clause of a river front area so defined in the Dictionary using the 5-part test as stipulated in "Varying Development Standards: A Guide" published by the Department of Planning and Infrastructure (August 2011).

The Five Part Test

The Court has held that there are at least five different ways, and possibly more, through which an applicant might establish that compliance with a development standard is unreasonable or unnecessary (see *Wehbe v Pittwater Council* [2007] NSWLEC 827).

The five ways of establishing that compliance is unreasonable or unnecessary are:

1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
3. The objective would be defeated, thwarted or undermined (*Linfield Developments Pty Ltd v Cumberland Council* [2019] NSWLEC 131 at [24]) if compliance was required with the consequence that compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence the standard is unreasonable and unnecessary; and
5. The zoning of the land is unreasonable or inappropriate

It is sufficient to demonstrate only one of these ways to satisfy clause 7.6, 7.9 and the definition per *Wehbe v Pittwater Council* [2007] NSWLEC 827, *Initial Action Pty Limited v Woollahra Municipal Council* [2018] NSWLEC 118 at [22] and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130 at [28]) and *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [31].

TEST 1: The objectives of the development standard are achieved notwithstanding non-compliance with the standard

The following table considers whether the objectives of the development standard are achieved notwithstanding the proposed variation (Test 1 under *Wehbe*).

Table 1: Achievement of Objectives of Clause 7.6 of WLEP2011

Objective	Discussion/Comment
(a) to support natural riverine processes, including the migration of the Murray River's channels,	The subject site is located north of Wentworth on the Pooncarie Road. The variation to the standard is solely related erecting a dwelling closer to the river while maintaining a relevant riverfront buffer that will achieve this standard.
(b) to protect and improve the bed and bank stability of the Murray River,	There is no work proposed in this application that will affect the bed and bank stability of the river.
(c) to maintain and improve the water quality of the Murray River,	There is no work or land uses proposed in this application that will impact on the quality of the water in the river.
(d) to protect the amenity, scenic landscape values and cultural heritage of the Murray River and to protect public access to its riverine corridors	Not applicable due to the subject land being privately owned to the riverbank.
(e) to conserve and protect the riverine corridors of the Murray River, including wildlife habitat.	The Darling river in this portion is not observed to have a riverine corridor due to the historical use of the land for agricultural purposes. As such, any development inside the 30-metre setback from the high bank will still maintain level of protection for any natural assets that exist..

In this case, it is demonstrated below that Test 1 has been satisfied.

TEST 2: The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary

The underlying objective or purpose is relevant to the development and therefore this test is not relied upon.

TEST 3: The objective would be defeated, thwarted or undermined if compliance was required with the consequence that compliance is unreasonable

The underlying objective or purpose is relevant to the development and therefore this test is not relied upon.

TEST 4: The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence the standard is unreasonable and unnecessary

The standard has not been abandoned by Council actions in this case and so this reason is not relied upon.

TEST 5: The zoning of the land is unreasonable or inappropriate

The zoning of the land is reasonable and appropriate and therefore this test is not relied upon.

SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS

In *Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 118, Preston CJ observed that in order for there to be 'sufficient' environmental planning grounds to justify a written request under clause 4.6 to contravene a development standard, the focus must be on the aspect or element of the development that contravenes the development standard, not on the development as a whole.

In *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, Pain J observed that it is within the discretion of the consent authority to consider whether the environmental planning grounds relied on are particular to the circumstances of the proposed development on the particular site.

PUBLIC INTEREST

In this section it is explained how the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

It has demonstrated that the proposed development overall achieves the objectives of the development standard notwithstanding the variation of the development standard. The table below considers whether the proposal is also consistent with the objectives of the zone

Table 2: Consistency with Zone Objectives

Objective	Discussion/Comment
(a) To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality..	<p>This application proposes the development of a dwelling.</p> <p>This variation does not affect consistency with this objective.</p>
(b) To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.	<p>The development is proposed on an existing lot.</p> <p>This variation does not affect consistency with this objective.</p>
(c) To ensure that development in the area does not unreasonably increase the demand for public services or public facilities..	<p>All existing services are available for the land.</p> <p>This variation does not affect consistency with this objective.</p>
(d) To minimise conflict between land uses within this zone and land uses within adjoining zones	<p>The application proposes a use that is consistent with the adjoining land.</p> <p>This variation does not affect consistency with this objective.</p>
(e) To restrict the construction of new residential and other	The 'Riverton' subdivision was the result of a site-specific planning proposal.

sensitive uses in flood prone areas.	This variation does not affect consistency with this objective.
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Wentworth Development Control Plan

Chapter 4 – Residential Development Controls

4.1.1 Site Context and Analysis

The plans submitted with this application demonstrate how the proposed dwelling responds to site specific conditions and the site has been described in detail previously in this report. The site is within an established large lot residential estate which contains existing dwellings of a similar size, scale and sitting. The site does not have any specific constraints and the topography is relatively flat.

4.1.2 Streetscapes

The proposed dwelling will have a positive impact on the streetscape. The dwelling has a clearly identified entry from Pooncarie Road and windows have been limited on the west facing elevation to assist with reducing the harsh impacts of the afternoon sun. The external materials and colours of the dwelling will complement existing dwellings in the broader area which have external materials and colours that vary considerably.

4.1.3 Front Setback

The dwelling has a front setback of approximately 59.7m which is greater than 15m prescribed for dwelling houses in the development standards.

4.1.4 Side setbacks and Corner Lot Setbacks

The side setbacks of the proposed dwelling are 8m from the western boundary and 11.3m from the eastern boundary, thus meeting this control.



4.1.5 Rear setbacks

The proposed dwelling is located 21.7m from the rear boundary, thus meeting this control.

4.1.6. Walls on Boundaries

Not applicable.

4.1.7 Building heights and overshadowing

Given the size of the lot and distances from adjoining dwellings; the proposed dwelling is unlikely to overshadow the private open space of dwellings on adjoining lots due to the generous allotment size and setback distances.

4.1.8 Site Coverage

The site coverage is approximately 16%, which complies with this control.

4.1.9 Private Open Space

Due to the generous size of the site, private open space is well in excess of the 40sqm minimum requirement.

4.1.10 Energy Efficiency and Solar access

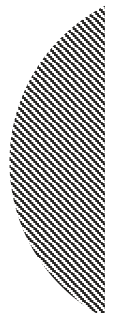
Appropriate solar access and energy efficiency is achieved given the orientation of the site. A BASIX is included with this application to demonstrate that the relevant energy efficiency requirements are met.

4.1.11 Daylight to existing windows

The proposed dwelling will not impact daylight to existing dwellings as there is a notable separation distance and between the proposed and existing dwellings.

4.1.12 North-facing windows

Not applicable – there are no existing north facing windows within 3m of the boundary.



4.1.13 Overlooking

Not applicable – the proposed dwelling is single storey and will not be notably raised above existing surface levels.

4.1.14 Fencing and Retaining Walls

No fences or retaining walls are proposed as part of this application.

4.1.15 Car Parking and Vehicle Access

The proposed dwelling contains a double garage which provides two covered car parking spaces for occupants. Numerous uncovered car parking spaces can be accommodated within the driveway, if required.

4.1.16 Cut and Fill

As the site is relatively flat, only minimal earthworks are anticipated and will not exceed 0.5m of cut or fill.

State Environmental Planning Policies (SEPP)

There are no SEPP's applicable to this application.

General Assessment

Visual Impacts

Please refer to DCP assessment.

Open Space

Please refer to DCP assessment.

Overshadowing and Privacy

Please refer to DCP assessment.

Noise

Only standard domestic mechanical plant will be associated with the proposed dwelling, which will emit noise typical for a residential area.

Erosion Control Measures

No specific erosion control measures are considered necessary for this development. Any minor earthworks will be appropriately battered and retained (if necessary).

Economic and Social Impacts

Albeit minor, the proposed dwelling will contribute to the economic and social wellbeing of the Wentworth township by increasing investment in the local area and social interaction with the local community.

Environmental Benefits

Due to the nature of this development, no significant environmental benefits are envisaged.

Disabled Access

Not applicable for this application. The proposed dwelling will be required to comply with the applicable National Construction Code requirements for disabled access.

Security, Site Facilities and Safety

Not applicable for this application.

Waste Management

Not applicable for this application – standard domestic waste services will be provided by Council.

National Construction Code

The National Construction Code will be assessed as part of the Construction Certificate process by a Building Surveyor.

**Traffic**

The proposed dwelling will result in standard domestic travel within the existing road network. This would have been anticipated and accounted for in the design of the subdivision.

Stormwater/flooding

The site is not subject to any identified natural hazards and stormwater will be retained onsite to Council's satisfaction.

CONCLUSION

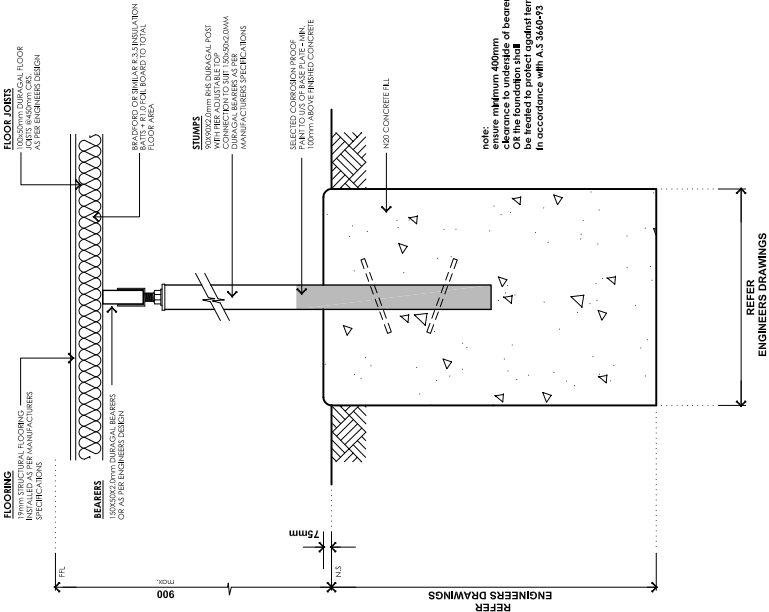
This report demonstrates that the proposal is consistent with the relevant provisions of the *Wentworth Local Environmental Plan 2011* and the Wentworth DCP.

The proposed dwelling is appropriate for the site as it:

- Supports the objectives of the Zone R5 - Large Lot Residential;
- Is appropriately located on the subject site;
- Will have an acceptable impact on the locality in terms of amenity and visual dominance; and
- Will not result in any detrimental impacts on the environment.

Additionally, compliance with the development standard 7.6 would be unreasonable and unnecessary in the circumstances of this case;

It is considered that the proposal is worthy of support, and it is therefore respectfully requested that the Wentworth Shire Council grant Development Consent for the construction of a dwelling as described in this report at Lot 7 DP 1270097 Pooncarie Road, Wentworth.



TYPICAL STUMP DETAIL 1:10

PROJECT: PROPOSED DWELLING

CLIENT: M. & J. LENTON

ADDRESS: No. 221, LOT 7 DP 1270097 POONCARE ROAD, WENIMBORH

SCALE: AS SHOWN

DESIGN: MCB

DRAWN: MCB

ISSUE: D.A.

DATE: SEPT 2023

SHEET NO: 6 OF 6

DRG NO: CD23 - 178

concept design

REGISTERED
ENGINEERING
DESIGNER

M. & J. LENTON
1/25/2023 12:56
MADE BAKER DP A02292

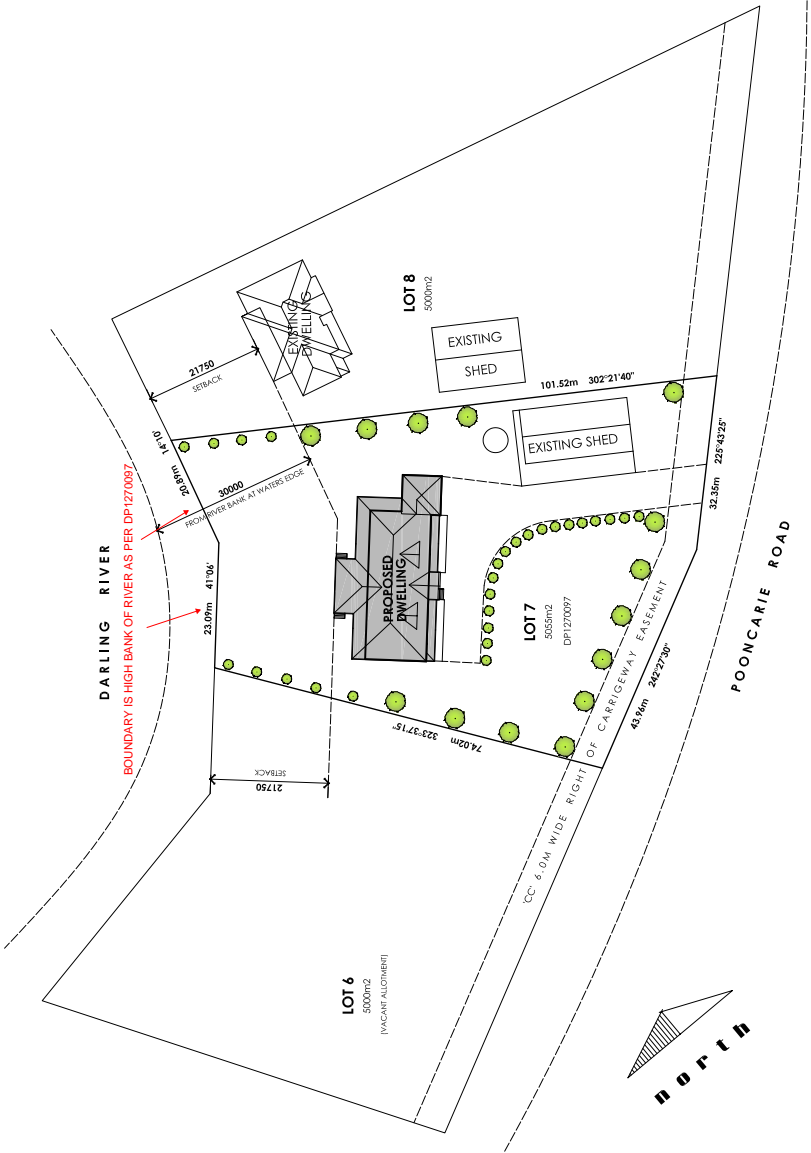
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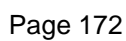
D.A. ISSUE ONLY




LOCALITY PLAN N.T.S.



SITE PLAN 1:500



 <p>Wentworth SHIRE COUNCIL</p>	<p>Health & Planning Department 26-28 Adelaide Street PO Box 81 WENTWORTH NSW 2648 Tel: 03 5027 5027 council@wentworth.nsw.gov.au</p>	<p>DA Assessment Report Section 4.15 Evaluation Environmental Planning & Assessment Act 1979 as amended</p>
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File Reference:	DA2024/066 & PAN 434409
Property Title & Address:	P493/082 221 Pooncarie Road Lot 2 DP 1270097 Wentworth
Property owner(s):	Joanne Lenton & Mark Raymond Lenton
Applicant(s):	JACKSON PLANNING MJJR PTY LTD – Matt Jackson
Proposal:	Dwelling with garage
Previous DAs:	DA2021/134 Storage shed
Cost of proposed development:	\$700,000.00

SITE AND SURROUNDING DEVELOPMENT

The subject site comprises of Lot 7 DP 1270097, 221 Pooncarie Road, Wentworth. The lot has an area of 5055m², and backs onto the river, with Pooncarie Road joining to Wentworth Street at the Perry Street E intersection, linking to the surrounding area.

The subject site is zoned R5 – Large Lot Residential under the Wentworth Local Environmental Plan (WLEP) 2011. The subject site is slightly irregular shaped and has a pre-existing shed on site. Adjoining lots are vacant or have pre-existing development (including dwellings and sheds). Many dwellings along Pooncarie Road already exist or have development applications approved for dwellings and associated structures.

The site does not contain a heritage item and is not located in the heritage conservation area. The site is not located in the floodway, bush fire, or urban release mapped areas. The subject site is located within the flood planning, terrestrial biodiversity and wetlands mapped areas.

DESCRIPTION OF PROPOSAL

The proposal seeks development consent to construct a new dwelling on the subject site. The proposed dwelling is to be single storey, containing four bedrooms (master with WIR and ensuite), open plan kitchen, meals and family area, butlers pantry, separate living room, bathroom and separate WC, laundry, outdoor living, and double garage.

The total area of the dwelling will be 522.38m², broken down into the following:
Dwelling – 307.04m², garage – 51.75m², alfresco – 121.65m², and portico – 41.94m².

HISTORY RELEVANT TO THE DEVELOPMENT APPLICATION

DA2021/134 Storage shed.

SECTION 4.15-MATTERS FOR CONSIDERATION

(1) The provisions of any environmental planning instrument and development control plan

State Environmental Planning Policy (Biodiversity and Conservation) 2021.

The proposed development is located on land under 1ha in size, with no vegetation removal proposed, land has been cleared previous to the shed being constructed, landscaping can be found on site. Site is not koala habitat, no assessments against Chapter 3 or 4 required. An assessment against Chapter 5, Clause 5.9 of the SEPP are as follows:

Access

- Development will not change access to river. No existing public access.

Bank Disturbance

- The development is proposed to be situated 21.7m from high bank of the river, with no bank disturbance anticipated from development, no vegetation being removed.

Flooding

- The development site is identified as flood planning land/flood liable; assessment as follows:
 - Proposed development will not hinder evacuation if needed during flood event, driveway and dwelling exits will be clear,
 - Development will be conditioned to withstand effects of the 1 in 100 flood event (AEP),
 - A qualified structural engineer should assess or draft plans and be involved in construction.

Land Degradation

- Native vegetation will not be removed,
- Cut and fill to be conditioned,
- No water pollution expected.

Landscape

- Vegetation and riparian landscape along riverbank will not be impacted by development.

River Related Uses

- Shed pre-existing on site is set back from riverbank,
- Dwelling will impede on the 30m setback – variation is being sought.

Settlement

- Land doesn't compromise crop and pastureland, not agricultural or farming land.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

The proposed development meets the requirements of the State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 as demonstrated by the BASIX certificate.

Wentworth Local Environmental Plan (LEP) 2011

The proposed dwelling with garage is permitted with consent and meets the zone objectives of R5 – Large Lot Residential under which the subject site is located.

Objectives of zone;

- To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.
- To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.
- To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To restrict the construction of new residential and other sensitive uses in flood prone areas.

Table 1: Achievement of Objectives of Land Use in Zone R5 – Large Lot Residential WLEP 2011.

Objective	Discussion/Comment
To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.	The proposed development will be on land that is zoned R5 – Large Lot Residential and backs onto the river. The high bank of the river is under 30m from the proposed development placement. Area is not considered environmentally sensitive and scenic quality should not be impacted if development approved as many dwellings and associated structures are now situated along Pooncarie Road.
To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.	<i>Applicant: The proposed dwelling is located within a recently established residential area and will provide for residential housing in a rural setting, in line with the objectives of the R5 Zone. The building is compatible with existing land uses in the surrounding area and will not unreasonably increase the demand for public services or public facilities. As such, the proposal supports the objectives of the R5 zone.</i>
To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.	There is a sewer line running along Pooncarie Road for developments and subdivision existing in the area. No filtered, raw or storm water connections available. Sites are large enough to support water tanks and septic/AWTS if needed.
To minimise conflict between land uses within this zone and land uses within adjoining zones.	Land use is purely residential along the river side of Pooncarie Road where developments are occurring with no conflicting land use following the Riverton subdivision. RU1 and SP2 zoning also occur in the

	area but SP2 zoning is not impacted by dwellings or associated structures in the area.
To restrict the construction of new residential and other sensitive uses in flood prone areas.	The subject site is wholly impacted by flood planning mapping, and as such the residential development proposed for this lot does not completely meet this objective as construction in the area has not been restricted.

Clause 4.6 Exceptions to Development Standards

Although compliance with the development standard hasn't been shown to be unreasonable or unnecessary as other developments in the area have been able to comply with clause 7.6, clause 7.9 allows for development within 30m of any riverbank, and in this instance the low bank has been utilised by the applicant. The following information provided by the applicant supports their setback.

The Darling River in this portion is not observed to have a riverine corridor due to the historical use of the land for agricultural purposes. As such, any development inside the 30-metre setback from the high bank will still maintain level of protection for any natural assets that exist.

There is no work proposed in this application that will affect the bed and bank stability of the river.

Officers comment: by allowing variation to be approved, it would create a precedent in the area for noncompliance with legislation and planning grounds. It could be recommended that the dwelling be moved further back from the high bank towards the front of the site by 8.5m, as figures 1 and 2 of the planning report show space between grass and dirt slab that could accommodate the development to be moved forwards and comply with the development standard. There is also room between the side of the dirt slab and grass to the west to accommodate development movement sideways by up to 3m to allow space between proposed garage and pre-existing rainwater tank.

While non-compliance is seen through clause 7.6 high bank setback of 30m, clause 7.9 allows for non-compliance as the low bank has been utilised for the 30m setback as any bank of the river can be the basis of the setback.

Clause 7.9 was created via a planning proposal to allow dwellings closer to the highbank specifically for the Riverton subdivision area.

Standard being varied – 7.6.

The dwelling is proposed to be located within the 30m high bank of river setback at 21.7m, an encroachment of 8.3m, being a variation of 28%.

Approving 4.6 Variations

Under Clause 35B of the Environmental Planning and Assessment Regulation 2021, applications involving contravention of development standards must be accompanied by a document that sets out the grounds on which the applicant seeks to demonstrate that –

- Compliance with the development standard is unreasonable or unnecessary in the circumstances, and
- There are sufficient environmental planning grounds to justify contravention of the development standard.

The consent authority must keep a record of its assessment carried out.

The variation proposed is greater than 10% (28%), due to changes made by the NSW Government, Clause 4.6 of the Standard Instrument LEP has been reformed to make the planning system faster, simpler, and more transparent.

The reform came into effect on 1 November 2023 and removes the requirement to obtain the Planning Secretary's concurrence for a variation with new reporting framework. As such, Council has authority to approve or refuse 4.6 variation applications.

4.6 VARIATION ASSESSMENT

4.6 Exceptions to development standards

Information provided by applicant:

Development Standard to be Varied

Standard 7.6 – Development on river front areas.

Is the standard to be varied a development standard?

Yes, this standard is considered to be a development standard in accordance with the definition contained in section 1.4 of the Environmental Planning and Assessment Act 1979; and not a prohibition.

What are the objectives of the development standard?

- (a) to support natural riverine processes, including the migration of the Murray River's channels,*
- (b) to protect and improve the bed and bank stability of the Murray River,*
- (c) to maintain and improve the water quality of the Murray River,*
- (d) to protect the amenity, scenic landscape values and cultural heritage of the Murray River and to protect public access to its riverine corridors,*
- (e) to conserve and protect the riverine corridors of the Murray River, including wildlife habitat.*

Note: In the WLEP2011, a reference to the Murray River also includes the Darling River.

What is the proposed numeric value of the development you are proposing?

It is proposed the erection of this dwelling and ancillary structures, will be 21.7 metres from the high bank of the river (encroachment of 8.3 metres). This represents a variation of 28 %.

Principles of Exceptions to Development Standards

Clause 4.6 Exceptions to Development Standards:

Clause 4.6 provides flexibility to vary the development standards specified within the Standard Instrument where it can be demonstrated that the development standard is unreasonable or unnecessary in the circumstances of the case, and where there are sufficient environmental grounds to justify the departure.

Clause 4.6 states the following:

- 1) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- 2) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Development consent must not be granted for development that contravenes a development standard unless—
 - (a) the consent authority is satisfied that—
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - (b) the concurrence of the Planning Secretary has been obtained.

The requirement for consideration and justification of a Clause 4.6 variation necessitates an assessment of a number of criteria. It is recognised that it is not merely sufficient to demonstrate a minimisation of environmental harm to justify a Clause 4.6 variation, although in the circumstance of this case, the absence of any environmental impact is of considerable merit.

Accordingly, justification is set out in following assessment for the departure from the 30-metre setback control applicable under the WLEP2011. The purpose of the information provided is to demonstrate that strict compliance with this development standard is unreasonable or unnecessary in the circumstances of this particular case. It also demonstrates that there are sufficient environmental planning grounds for the departure from the 30-metre high bank setback as specified in the WLEP2011.

Justification for Variation

The 'Riverton' subdivision was the result of a site-specific planning proposal that was referred to several government agencies including:

1. NSW Aboriginal Lands Council
2. Lower Darling Catchment Management Authority
3. Office of Environment and heritage
4. NSW Department of Primary Industries - Agriculture
5. NSW Department of Primary Industries – Fishing and Aquaculture
6. NSW Department of Primary Industries – Minerals and Petroleum
7. NSW Department of Primary Industries – Catchment and Lands
8. NSW Rural Fire Service
9. NSW Office of Water
10. Transport for NSW
11. Transport for NSW Roads and Maritime Services
12. State Emergency Services

Essentially clause 7.9 was created using clause 4.6 to vary/amend clause 7.6 and further to this, Parliamentary Counsel drafted the amendment clauses.

This section addresses clause 4.6 (2), (3) and (4) and seeks to justify the departure of the development standards provided in 7.6, 7.9 and the 30-metre setback clause of a river front area so defined in the Dictionary using the 5-part test as stipulated in "Varying Development Standards: A Guide" published by the Department of Planning and Infrastructure (August 2011).

The Five Part Test

The Court has held that there are at least five different ways, and possibly more, through which an applicant might establish that compliance with a development standard is unreasonable or unnecessary (see *Wehbe v Pittwater Council* [2007] NSWLEC 827).

The five ways of establishing that compliance is unreasonable or unnecessary are:

1. The objectives of the development standard are achieved notwithstanding noncompliance with the standard;
2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
3. The objective would be defeated, thwarted or undermined (*Linfield Developments Pty Ltd v Cumberland Council* [2019] NSWLEC 131 at [24]) if compliance was required with the consequence that compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence the standard is unreasonable and unnecessary; and
5. The zoning of the land is unreasonable or inappropriate.

It is sufficient to demonstrate only one of these ways to satisfy clause 7.6, 7.9 and the definition per *Wehbe v Pittwater Council* [2007] NSWLEC 827, *Initial Action Pty Limited v Woollahra Municipal Council* [2018] NSWLEC 118 at [22] and *RebelMH Neutral Bay Pty Limited*

v North Sydney Council [2019] NSWCA 130 at [28]) and SJD DB2 Pty Ltd v Woollahra Municipal Council [2020] NSWLEC 1112 at [31].

The following table considers whether the objectives of the development standard are achieved notwithstanding the proposed variation (Test 1 under Wehbe).

Table 1: Achievement of Objectives of Clause 7.6 of WLEP2011.

<i>Objective</i>	<i>Discussion/Comment</i>
<i>(a) to support natural riverine processes, including the migration of the Murray River's channels,</i>	<i>The subject site is located north of Wentworth on the Poongarie Road. The variation to the standard is solely related erecting a dwelling closer to the river while maintaining a relevant riverfront buffer that will achieve this standard</i>
<i>(b) to protect and improve the bed and bank stability of the Murray River,</i>	<i>There is no work proposed in this application that will affect the bed and bank stability of the river.</i>
<i>(c) to maintain and improve the water quality of the Murray River,</i>	<i>There is no work or land uses proposed in this application that will impact on the quality of the water in the river.</i>
<i>(d) to protect the amenity, scenic landscape values and cultural heritage of the Murray River and to protect public access to its riverine corridors</i>	<i>Not applicable due to the subject land being privately owned to the riverbank.</i>
<i>(e) to conserve and protect the riverine corridors of the Murray River, including wildlife habitat.</i>	<i>The Darling River in this portion is not observed to have a riverine corridor due to the historical use of the land for agricultural purposes. As such, any development inside the 30-metre setback from the high bank will still maintain level of protection for any natural assets that exist.</i>

In this case, it is demonstrated below that Test 1 has been satisfied.

TEST 1: The objectives of the development standard are achieved notwithstanding non-compliance with the standard.

TEST 2: The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary The underlying objective or purpose is relevant to the development and therefore this test is not relied upon.

TEST 3: The objective would be defeated, thwarted or undermined if compliance was required with the consequence that compliance is unreasonable The underlying objective or purpose is relevant to the development and therefore this test is not relied upon.

TEST 4: The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence the standard is

unreasonable and unnecessary The standard has not been abandoned by Council actions in this case and so this reason is not relied upon.

TEST 5: The zoning of the land is unreasonable or inappropriate The zoning of the land is reasonable and appropriate and therefore this test is not relied upon.

SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS

In Initial Action Pty Ltd v Woollahra Council [2018] NSWLEC 118, Preston CJ observed that in order for there to be 'sufficient' environmental planning grounds to justify a written request under clause 4.6 to contravene a development standard, the focus must be on the aspect or element of the development that contravenes the development standard, not on the development as a whole.

In Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90, Pain J observed that it is within the discretion of the consent authority to consider whether the environmental planning grounds relied on are particular to the circumstances of the proposed development on the particular site.

PUBLIC INTEREST

In this section it is explained how the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

It has demonstrated that the proposed development overall achieves the objectives of the development standard notwithstanding the variation of the development standard. The table below considers whether the proposal is also consistent with the objectives of the zone.

Table 2: Consistency with Zone Objectives

Objective	Discussion/Comment
<i>(a) To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.</i>	<i>This application proposes the development of a dwelling. This variation does not affect consistency with this objective</i>
<i>(b) To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.</i>	<i>The development is proposed on an existing lot. This variation does not affect consistency with this objective.</i>
<i>(c) To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.</i>	<i>All existing services are available for the land. This variation does not affect consistency with this objective.</i>
<i>(d) To minimise conflict between land uses within this zone and land uses within adjoining zones.</i>	<i>The application proposes a use that is consistent with the adjoining land. This variation does not affect consistency with this objective.</i>
<i>(e) To restrict the construction of new residential and other sensitive uses in flood prone areas.</i>	<i>The 'Riverton' subdivision was the result of a site-specific planning proposal. This variation does not affect consistency with this objective.</i>

In conclusion, given that the LEP contains a clause that allows the development at the proposed setback (Standard 7.9), it considered acceptable for the proposed application to vary Standard 7.6 requirements of 30 metres from the highest bank.

Consideration of the applicants written request – Clause 4.6(4) (a) (i) and (ii) (b)

Does the written request adequately address those issues at Clause 4.6(4)(a)(i):

Clause 7.9 states that a dwelling house cannot be within 30m of any bank of a river.

The proposed dwelling is within 30m of the high bank as per clause 7.6 but not within 30m of the low bank, utilizing the low bank setback, which is just over 30m from the proposed development, this will be complying with Clause 7.9.

Alternatively, there is no river front building line for the property, and as the site is within the riverfront area, where dwellings cannot be built within 30m of the high bank of the river as per Clause 7.6.

It can be seen that the applicants written request adequately demonstrates that compliance with the 30m high bank setback of the river restriction as unreasonable and unnecessary in this case as the applicant identifies the clause 7.9 - Riverton Subdivision as the reason for variation as it is site specific, as well as the absence of any environmental impact being of considerable merit.

The applicant identifies two case references, being *Initial Action Pty Ltd v Woollahra Council [2018] NSWLEC 118* and *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90*. Although these cases are mentioned, they are not utilised optimally alongside planning grounds from the Wentworth Local Environmental Plan 2011 to provide support directly for the variation request as only the five (5) part test, achievement of objectives of Clause 7.6 and consistency with zone objectives are relied upon.

In line with changes to the Guide to Varying Development Standards made in November 2023, public interest is no longer utilised for variations and should not be referenced as part of assessment and as such will not be.

The proposed development will not be contravening clause 7.9 which is site specific and allows for the proposed setback but will be contravening 7.6. Clause 7.9 will be relied upon more due to the nature and location of the development and the availability of the site specific setback from the low bank.

The Five Part Test

Answers:

1. The applicants written request to vary Clause 4.6 Exceptions to Development Standards in the Wentworth Local Environmental Plan 2011 indicates achievement of the development standards notwithstanding the proposed variation through the following:
 - Development will provide housing in a rural setting while minimising impacts on environmentally sensitive location and scenic quality,

- Development is permitted with consent in the R5 – Large Lot Residential zone,
- Development will not affect amenity, scenic landscape values and cultural heritage of the Murray River as it is a privately owned site.

Officer comment: N/A as above comments are my own based on evidence provided by applicant and review of legislation (WLEP 2011).

2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary shown through the following:
Applicant: The underlying objective or purpose is relevant to the development and therefore this test is not relied upon.

Officer comment: Although the objective of 7.6 is relevant, as the site has site specific planning grounds, it can be allowed in this instance.

3. The objective would be defeated, thwarted, or undermined if compliance was required with the consequence that compliance is unreasonable.
Applicant: The underlying objective or purpose is relevant to the development and therefore this test is not relied upon.

Officer comment: Development will not alter use of land as residentially zoned, dwellings permitted with consent but non-compliance with 30m setback of clause 7.6 seen which can be disputed by clause 7.9 setback of 30m from any bank of the river.

4. The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.
Applicant: The standard has not been abandoned by Council actions in this case and so this reason is not relied upon.

Officer comment: No evidence to show standard has been abandoned by Council.

5. The zoning of the land is unreasonable or inappropriate.
Applicant: The zoning of the land is reasonable and appropriate and therefore this test is not relied upon.

Officer comment: the zoning of the subject site is R5 – Large Lot Residential and permits dwellings with consent as per the WLEP 2011.

Clause 5.16 Subdivision of, or **dwellings** on, land in certain rural, residential or conservation zones

Subdivision of land not occurring, development consent for the erection of a dwelling to compliment with pre-existing shed sought. Land is already cleared and shed already on site being utilised by landowners. Development not expected to have significant impact on land use. Dwellings permitted with consent in R5 zone.

Clause 5.21 Flood Planning

The proposed development is located on a site that is in the flood planning mapped area, and backs onto the river, however, due to the high bank, is not floodway mapped. Controls to be conditioned to have development built above the 1% AEP flood level and to have development constructed of durable material that can be inundated with water for prolonged periods of time if located below the 1 in 100 year flood level.

(2)

- a) It is to be conditioned that building material be able to experience inundation in flood events, land will be compatible with flood function as it will prevent damage from flood and development will not negatively affect flood behaviour,
- b) Detrimental impacts not anticipated from flooding, flood behaviour not expected to increase flood effect on surrounding properties as the whole area is flood planning mapped and backs onto the river, all developments in area should be conditioned for flood,
- c) Safe evacuation in flooding can occur as riverine flooding allows for evacuation,
- d) Measures such as evacuation roads available in event of flood,
- e) Development will not adversely effect environment by causing erosion, siltation, destruction of riparian vegetation or affect the riverbank due to the high bank.

(3)

- a) The subject site is in the flood planning area which implements conditions for building, these conditions will ensure that if flooding occurs then the development will be able to withstand the effects of the event, consideration for future changes in flood patterns to be taken into account,
- b) The size of buildings to be developed on the site from development are suited for the sites size, and design will not impact or impede on the area,
- c) Development will be conditioned for flood events by building above the 1% AEP flood level
- d) No plans or information provided by applicant surrounding ability to modify, relocate or remove building from development site.

Clause 7.1 Earthworks

Any earthworks will be conditioned and form part of the approval.

Clause 7.2 Essential Services

Connection of services is available to the development site or if not, can be managed on site.

Clause 7.4 Terrestrial Biodiversity

- Whole of subject site is impacted by terrestrial biodiversity,
- No proposed removal of native flora, native fauna not expected to be impacted from development as subject site has already had a shed developed with consent authority previously,
- No adverse impact on ecological condition or value of site expected,

- Development is designed to be centralised on the subject site, not causing fragmentation or disturbance of biodiversity structure.

Clause 7.5 Wetlands

- No native flora on land to be retained as subject site has been cleared previously for subdivision and development of shed,
- Development of dwelling is centralised on property which will attribute to the avoidance of potential adverse environmental impacts, none of which are expected either way,
- Development is not expected to impact groundwater characteristics of site such as water quality, natural flows, or salinity.

Clause 7.6 Development on River Front Areas

Development on river front areas

(1) The objectives of this clause are as follows—

- (a) to support natural riverine processes, including the migration of the Murray River's channels,*
- (b) to protect and improve the bed and bank stability of the Murray River,*
- (c) to maintain and improve the water quality of the Murray River,*
- (d) to protect the amenity, scenic landscape values and cultural heritage of the Murray River and to protect public access to its riverine corridors,*
- (e) to conserve and protect the riverine corridors of the Murray River, including wildlife habitat.*

(2) Despite any other provision of this Plan, development consent may only be granted to development on land in a river front area for the following purposes—

- (a) boat building and repair facilities, boat launching ramps, boat sheds, charter and tourism boating facilities or marinas,*
- (b) the extension or alteration of an existing building that is wholly or partly in the river front area, but only if the extension or alteration is to be located no closer to the river bank than the existing building,*
- (c) environmental protection works,*
- (d) extensive agriculture and intensive plant agriculture,*
- (e) walking trails, cycleways, picnic facilities, recreation facilities and recreation facilities (outdoors),*
- (f) water recreation structures.*

(3) Development consent must not be granted under subclause (2) unless the consent authority is satisfied of the following—

- (a) that the appearance of the development, from both the Murray River and the river front area will be compatible with the surrounding area,*
- (b) that the development is not likely to cause environmental harm, including (but not limited to) any of the following—*
 - (i) pollution or siltation of the Murray River,*
 - (ii) any adverse effect on surrounding uses, riverine habitat, wetland areas or flora or fauna habitats,*
 - (iii) any adverse effect on drainage patterns,*

- (c) that the development is likely to cause only minimal visual disturbance to the existing landscape,*
- (d) that continuous public access, and opportunities to provide continuous public access, along the river front and to the Murray River are not likely to be compromised,*
- (e) that any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land is to be maintained.*

Note: In the WLEP2011, a reference to the Murray River also includes the Darling River.

River front area means the land between the river front building line and the highest bank of the Murray River or, if there is no river front building line, the land within 30 metres of the highest bank of the River.

Variation to clause 7.6 is sought by applicant to depart from the 30m setback control to encroach on the high bank of the river by 8.3m, representing a variation to this clause by 28%.

Development proposed is not identified development in line with (2) of Clause 7.6, extensions or alterations aren't occurring to a pre-existing development as no development apart from a shed outside the 30m setback is on site.

In line with (3) the proposed development is likely to be compatible in design with other developments in the area while only having minimal visual disturbance to the landscape.

Public access is not relied upon as the subject site is privately owned to the river.

Clause 7.7 Riparian Land and Murray River and Other Watercourses – General Principles

(2) This clause applies to land—

- (a) identified as "Watercourse" on the Natural Resource—[Watercourse Map](#), and*
- (b) situated within 40 metres of the top of the bank of a watercourse (being a watercourse situated on land referred to in paragraph (a)).*

The proposed development is inside the designated setback distance of 40m from the top bank of a watercourse (Darling River), being residential development impact is expected to be minimal.

- Anticipated environmental impacts will be managed through conditions,
- Water flow and quality will not be impacted through development,
- Aquatic and riparian species, habitats and ecosystems will not be impacted through development,
- Stability of bed, shore and bank of watercourse will not be impacted through development,
- Fish passages will not be impacted through development,
- Future rehabilitation of watercourse will be able to occur as development will not impede on bed, shore, or bank,
- Water extraction will not increase through development.

Clause 7.8 Additional Provisions—Development on Riverbed and Banks of the Murray River

- Development meets objectives of the R5 – Large Lot Residential zone, mainly being to provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.
It can be argued that as the subject site is in the flood planning area, the objective to restrict the construction of new residential and other sensitive uses in flood prone areas is not met.
- Development is not expected to contribute to high levels of erosion,
- Development is not expected to negatively impact riverine habitat of flora and fauna species,
- Development is not expected to have negative effects on drainage or flow patterns of the waterway as water management will be conditioned upon approval,
- Development can be seen as compatible with the eclectic appearance of the area,
- Development does not include mooring.

Clause 7.9 Riverton Farm Development, Wentworth*Riverton Farm development, Wentworth*

(1) This clause applies to certain land at Riverton Farm, 107 Poongarie Road, Wentworth, being Lot 1, DP 1193385.

(2) Despite any other provision of this Plan, development consent must not be granted to the erection of a dwelling house on land to which this clause applies unless—

- (a) the lowest floor level is 35.35 metres above the Australian Height Datum, and*
- (b) the dwelling house is not within 30 metres of any bank of a river, and*
- (c) the land has an area of at least 5,000 square metres.*

- Conditions of consent will indicate floor level at 35.35m,
- The proposal meets the requirements of having a 30m setback from any bank of the river, low bank is 30m from where dwelling will be situated on site,
- Subject site meets MLS of 5000m² as lot is 5055m².

Wentworth Development Control Plan (DCP) 2011

The proposed development is acceptable against the relevant provisions of the Wentworth Development Control Plan (DCP) 2011 as outlined in the table below.

Wentworth DCP	Chapter	Y	N	N/A	Further information
	Chapter 4 4.1.1 Site context	X			The proposed dwelling & garage meets requirements.
	4.1.2 Streetscape	X			As the proposed dwelling & garage are in keeping with surrounding sites and are back from the street. Building materials will suit the area and be similar to existing development in area.
	4.1.3 Front Setback	X			Approx. 59.7m – meets.

	4.1.4 Side setbacks	X			East 11.3m – meets, West 8m – meets.
	4.1.5 Rear setback	X			21.7m – meets but encroaches high bank set back.
	4.1.6 Walls on Boundaries			X	N/A no walls on boundaries.
	4.1.7 Building heights and overshadowing			X	N/A as proposed development not for double storey dwelling.
	4.1.8 Site Coverage	X			Well under 60% site coverage as large lot.
	4.1.9 Private open space	X			Site offers room for private open space.
	4.1.10 Energy & solar access	X			Dwelling complies with BASIX requirements.
	4.1.11 Daylight to existing windows	X			Access to daylight adequate.
	4.1.12 North facing windows	X			Solar access not compromised.
	4.1.13 Overlooking			X	N/A as single storey dwelling.
	4.1.14 Fencing and retaining walls			X	Proposal does not include fencing or retaining walls.
	4.1.15 Car parking and vehicle access	X			Site offers adequate room for parking and manoeuvrability of vehicles.
	4.1.16 Cut and fill	X			Soil management to be conditioned if approved.

Development Control	WDCP 2011 requirement for R5 Large Lot Residential zone	Proposed dwelling and garage
Front setback	15m	59.7m
East side setback	1m minimum	11.3m
West side setback	1m minimum	8m
Rear setback	3m minimum	21.7m

(2) The provisions of any draft environmental planning instrument

There is/is no Division 3.4 draft environmental planning instrument that affect the proposed development. (Post 1 July 2009 LEP amendments).

(3) Any matters prescribed by regulations

There are/are no further matters prescribed by regulations.

(4) The likely impacts of the development

There are no likely impacts from the proposal as discussed in the table below.

Impact item <i>(insert an 'x' in the relevant section)</i>	Acceptable	Not acceptable	Not relevant	Comment
Context and setting	X			A dwelling & garage are compatible with development in the surrounding area
Public domain & Streetscape	X			The proposed dwelling & garage are designed and sited to blend in with other large lot residences in the area
Landscaping	X			Landscaping not part of this DA – conditions to include native vegetation in future landscaping
Stormwater	X			Stormwater management to form part of conditions if approved
Heritage			X	No heritage listing on this site
Soils & Soils Erosion	X			Soil management to be conditioned as part of consent if approved
Air and microclimate	X			No impact anticipated
Water Resources		X		Distance between waterway and proposed development does not comply with WLEP 2011 distance of 30m from high bank of river
Biodiversity (Flora & Fauna)	X			No clearing of native vegetation to be carried out prior to construction
Land Resources	X			None located on the site expected to impact the proposed development
Utilities	X			Utilities available to the site
Access & Parking	X			Access to the site and parking space available
Roads & Traffic	X			No new roads proposed, traffic increase only anticipated during construction
Solar Access and Energy Efficiency	X			Meets BASIX
Overshadowing			X	Not relevant. Adequate distance between the proposed dwelling with garage & storage shed with nearest dwelling of adjoining neighbour
Privacy & Overlooking			X	Not relevant. Adequate distance between proposed dwelling with storage shed and nearest neighbouring dwelling

Flooding	X			Land is flood impacted but is in the flood planning mapped area, conditions will reflect need for 1% AEP consideration in building materials.
Bushfire Prone Area	X			Not in a bushfire prone area
Noise	X			Some noise increase anticipated during construction, reducing to residential noise. Hours of work conditioned to reduce effects on surrounding neighbours
Technological hazards	X			None anticipated
Safety, Security & Crime Prevention	X			Development not anticipated to adversely affect safety or security in the area
Social and Economic Impacts	X			There are no social or economic impacts anticipated from the development

(5) The suitability of the site for development

The site is suitable for the proposed dwelling with garage as development is not expected to have any adverse effects on the local environment. The proposed development is permitted in the R5 – Large Lot Residential zoning under the Wentworth Local Environmental Plan (WLEP) 2011. The proposed development will be in keeping with existing development structures in the surrounding area.

From assessment against clauses of the WLEP 2011, the proposed development meets requirements of Clause 7.9 as not being within 30m of ANY riverbank as the proposed development will be 30m from the low bank, but does not meet setback requirements of Clause 7.6, with the development being within the high bank setback of 30m, a variation 4.6 request has been received to develop at 21.7m, an encroachment of 8.3m, representing a variation of 28%.

Assessment against clause 7.6 Development on River Front Areas indicates that compliance with this cause is met and justification not fully adequate as to why non-compliance is necessary. It is noted, however, that the subject site is privately owned, therefore, public access to this site is not relied upon for assessment, as well as the proposed development planning to be in keeping with the eclectic nature of dwellings along Pooncarie Road and within the Riverton subdivision area.

Assessment against clause 7.9, area specific Riverton Farm Developments on Pooncarie Road, indicates development consent mustn't be granted for a dwelling house unless "it is not within 30 meters of any bank a river". As the development is not within 30m of the low bank it can be seen that compliance with Clause 7.9 is met.

(6) Any submissions made in accordance with this Act or Regulation

The application was notified for 14 days. No submissions were received.

(7) The public interest

The proposed development is consistent with public interest as it will have no detrimental effect on the surrounding area. Moreover, no objections were made by the surrounding neighbours.


COMMENTS FROM COUNCIL INTERNAL DEPARTMENTS


Department	Referred Y/N	Comments
Building	N	
Subdivision Engineer	N	
Roads & Engineering	N	
Finance & Policy	N	
Heritage Advisor	N	
Environmental Health	N	
Local Laws	N	
Floodplain Mgt Committee	N	
Sustainable Infrastructure	N	

CONCLUSIONS

1. General comments:
2. The proposal does not satisfy the points for consideration listed under Section 4.15 part b, c, d and e of the *Environmental Planning and Assessment Act*.
3. The proposal occurs on land zoned R5 – Large Lot Residential. The proposal could have detrimental impact on site and surrounding area due to encroachment of high bank setback. Conditions of consent to reflect concerns.
4. The proposal is consistent with the Wentworth Shire Development Control Plan (Dec 2011). The proposal is consistent with the development controls in Chapter 4 of the Wentworth Shire Development Control Plan 2011.
5. The proposed dwelling with garage accords with the relevant objectives and provisions of the State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 and State Environmental Planning Policy (Biodiversity and Conservation) 2021.
6. There is no draft local environmental plan affecting the proposed development.

Recommendation:**Approve the application subject to conditions**

Delegate report author	Delegated approval and endorsement
Signature: 	Signature:
Georgie Martin Cadet Planning Officer	George Kenende Acting Director Health & Planning
Date: 01/07/2024	Date:

 <p>Health & Planning Department 26-28 Adelaide Street PO Box 81 WENTWORTH NSW 2648 Tel: 03 5027 5027 council@wentworth.nsw.gov.au</p>	<p>DA Assessment Report Section 4.15 Evaluation</p> <p>Environmental Planning & Assessment Act 1979 as amended</p>
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4.6 VARIATION ASSESSMENT

Approving 4.6 Variations

Under Clause 35B of the Environmental Planning and Assessment Regulation 2021, applications involving contravention of development standards must be accompanied by a document that sets out the grounds on which the applicant seeks to demonstrate that –

- Compliance with the development standard is unreasonable or unnecessary in the circumstances, and
- There are sufficient environmental planning grounds to justify contravention of the development standard.

The consent authority must keep a record of its assessment carried out.

The variation proposed is greater than 10% (28%), due to changes made by the NSW Government, Clause 4.6 of the Standard Instrument LEP has been reformed to make the planning system faster, simpler, and more transparent.

The reform came into effect on 1 November 2023 and removes the requirement to obtain the Planning Secretary's concurrence for a variation with new reporting framework. As such, Council has authority to approve or refuse 4.6 variation applications.

4.6 Exceptions to development standards

Information provided by applicant:

Development Standard to be Varied

Standard 7.6 – Development on river front areas.

Is the standard to be varied a development standard?

Yes, this standard is considered to be a development standard in accordance with the definition contained in section 1.4 of the Environmental Planning and Assessment Act 1979; and not a prohibition.

What are the objectives of the development standard?

- (a) to support natural riverine processes, including the migration of the Murray River's channels,*
- (b) to protect and improve the bed and bank stability of the Murray River,*
- (c) to maintain and improve the water quality of the Murray River,*
- (d) to protect the amenity, scenic landscape values and cultural heritage of the Murray River and to protect public access to its riverine corridors,*

- (e) to conserve and protect the riverine corridors of the Murray River, including wildlife habitat.

Note: In the WLEP2011, a reference to the Murray River also includes the Darling River.

What is the proposed numeric value of the development you are proposing?

It is proposed the erection of this dwelling and ancillary structures, will be 21.7 metres from the high bank of the river (encroachment of 8.3 metres). This represents a variation of 28 %.

Principles of Exceptions to Development Standards

Clause 4.6 Exceptions to Development Standards:

Clause 4.6 provides flexibility to vary the development standards specified within the Standard Instrument where it can be demonstrated that the development standard is unreasonable or unnecessary in the circumstances of the case, and where there are sufficient environmental grounds to justify the departure.

Clause 4.6 states the following:

- 1) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- 2) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—*
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) Development consent must not be granted for development that contravenes a development standard unless—*
 - (a) the consent authority is satisfied that—*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) the concurrence of the Planning Secretary has been obtained.*

The requirement for consideration and justification of a Clause 4.6 variation necessitates an assessment of a number of criteria. It is recognised that it is not merely sufficient to demonstrate a minimisation of environmental harm to justify a Clause 4.6 variation, although

in the circumstance of this case, the absence of any environmental impact is of considerable merit.

Accordingly, justification is set out in following assessment for the departure from the 30-metre setback control applicable under the WLEP2011. The purpose of the information provided is to demonstrate that strict compliance with this development standard is unreasonable or unnecessary in the circumstances of this particular case. It also demonstrates that there are sufficient environmental planning grounds for the departure from the 30-metre high bank setback as specified in the WLEP2011.

Justification for Variation

The 'Riverton' subdivision was the result of a site-specific planning proposal that was referred to several government agencies including:

- 1. NSW Aboriginal Lands Council*
- 2. Lower Darling Catchment Management Authority*
- 3. Office of Environment and heritage*
- 4. NSW Department of Primary Industries - Agriculture*
- 5. NSW Department of Primary Industries – Fishing and Aquaculture*
- 6. NSW Department of Primary Industries – Minerals and Petroleum*
- 7. NSW Department of Primary Industries – Catchment and Lands*
- 8. NSW Rural Fire Service*
- 9. NSW Office of Water*
- 10. Transport for NSW*
- 11. Transport for NSW Roads and Maritime Services*
- 12. State Emergency Services*

Essentially clause 7.9 was created using clause 4.6 to vary/amend clause 7.6 and further to this, Parliamentary Counsel drafted the amendment clauses.

This section addresses clause 4.6 (2), (3) and (4) and seeks to justify the departure of the development standards provided in 7.6, 7.9 and the 30-metre setback clause of a river front area so defined in the Dictionary using the 5-part test as stipulated in "Varying Development Standards: A Guide" published by the Department of Planning and Infrastructure (August 2011).

The Five Part Test

*The Court has held that there are at least five different ways, and possibly more, through which an applicant might establish that compliance with a development standard is unreasonable or unnecessary (see *Wehbe v Pittwater Council* [2007] NSWLEC 827).*

The five ways of establishing that compliance is unreasonable or unnecessary are:

- 1. The objectives of the development standard are achieved notwithstanding noncompliance with the standard;*
- 2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;*

3. The objective would be defeated, thwarted or undermined (*Linfield Developments Pty Ltd v Cumberland Council* [2019] NSWLEC 131 at [24]) if compliance was required with the consequence that compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence the standard is unreasonable and unnecessary; and
5. The zoning of the land is unreasonable or inappropriate.

It is sufficient to demonstrate only one of these ways to satisfy clause 7.6, 7.9 and the definition per *Wehbe v Pittwater Council* [2007] NSWLEC 827, *Initial Action Pty Limited v Woollahra Municipal Council* [2018] NSWLEC 118 at [22] and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130 at [28]) and *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [31].

The following table considers whether the objectives of the development standard are achieved notwithstanding the proposed variation (Test 1 under *Wehbe*).

Table 1: Achievement of Objectives of Clause 7.6 of WLEP2011.

Objective	Discussion/Comment
(a) to support natural riverine processes, including the migration of the Murray River's channels,	The subject site is located north of Wentworth on the Pooncarie Road. The variation to the standard is solely related erecting a dwelling closer to the river while maintaining a relevant riverfront buffer that will achieve this standard
(b) to protect and improve the bed and bank stability of the Murray River,	There is no work proposed in this application that will affect the bed and bank stability of the river.
(c) to maintain and improve the water quality of the Murray River,	There is no work or land uses proposed in this application that will impact on the quality of the water in the river.
(d) to protect the amenity, scenic landscape values and cultural heritage of the Murray River and to protect public access to its riverine corridors	Not applicable due to the subject land being privately owned to the riverbank.
(e) to conserve and protect the riverine corridors of the Murray River, including wildlife habitat.	The Darling River in this portion is not observed to have a riverine corridor due to the historical use of the land for agricultural purposes. As such, any development inside the 30-metre setback from the high bank will still maintain level of protection for any natural assets that exist.

In this case, it is demonstrated below that Test 1 has been satisfied.

TEST 1: The objectives of the development standard are achieved notwithstanding non-compliance with the standard.

TEST 2: The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary The underlying objective or purpose is relevant to the development and therefore this test is not relied upon.

TEST 3: The objective would be defeated, thwarted or undermined if compliance was required with the consequence that compliance is unreasonable The underlying objective or purpose is relevant to the development and therefore this test is not relied upon.

TEST 4: The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence the standard is unreasonable and unnecessary The standard has not been abandoned by Council actions in this case and so this reason is not relied upon.

TEST 5: The zoning of the land is unreasonable or inappropriate The zoning of the land is reasonable and appropriate and therefore this test is not relied upon.

SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS

In Initial Action Pty Ltd v Woollahra Council [2018] NSWLEC 118, Preston CJ observed that in order for there to be 'sufficient' environmental planning grounds to justify a written request under clause 4.6 to contravene a development standard, the focus must be on the aspect or element of the development that contravenes the development standard, not on the development as a whole.

In Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90, Pain J observed that it is within the discretion of the consent authority to consider whether the environmental planning grounds relied on are particular to the circumstances of the proposed development on the particular site.

PUBLIC INTEREST

In this section it is explained how the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

It has demonstrated that the proposed development overall achieves the objectives of the development standard notwithstanding the variation of the development standard. The table below considers whether the proposal is also consistent with the objectives of the zone.

Table 2: Consistency with Zone Objectives

<i>Objective</i>	<i>Discussion/Comment</i>
<i>(a) To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.</i>	<i>This application proposes the development of a dwelling. This variation does not affect consistency with this objective</i>
<i>(b) To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.</i>	<i>The development is proposed on an existing lot. This variation does not affect consistency with this objective.</i>
<i>(c) To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.</i>	<i>All existing services are available for the land. This variation does not affect consistency with this objective.</i>

<i>(d) To minimise conflict between land uses within this zone and land uses within adjoining zones.</i>	<i>The application proposes a use that is consistent with the adjoining land. This variation does not affect consistency with this objective.</i>
<i>(e) To restrict the construction of new residential and other sensitive uses in flood prone areas.</i>	<i>The 'Riverton' subdivision was the result of a site-specific planning proposal. This variation does not affect consistency with this objective.</i>

In conclusion, given that the LEP contains a clause that allows the development at the proposed setback (Standard 7.9), it is considered acceptable for the proposed application to vary Standard 7.6 requirements of 30 metres from the highest bank.

Consideration of the applicants written request – Clause 4.6(4) (a) (i) and (ii) (b)

Does the written request adequately address those issues at Clause 4.6(4)(a)(i):

Clause 7.9 states that a dwelling house cannot be within 30m of any bank of a river.

The proposed dwelling is within 30m of the high bank as per clause 7.6 but not within 30m of the low bank, utilizing the low bank setback, which is just over 30m from the proposed development, this will be complying with Clause 7.9.

Alternatively, there is no river front building line for the property, and as the site is within the riverfront area, where dwellings cannot be built within 30m of the high bank of the river as per Clause 7.6.

It can be seen that the applicants written request adequately demonstrates that compliance with the 30m high bank setback of the river restriction as unreasonable and unnecessary in this case as the applicant identifies the clause 7.9 - Riverton Subdivision as the reason for variation as it is site specific, as well as the absence of any environmental impact being of considerable merit.

The applicant identifies two case references, being *Initial Action Pty Ltd v Woollahra Council [2018] NSWLEC 118* and *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90*. Although these cases are mentioned, they are not utilised optimally alongside planning grounds from the Wentworth Local Environmental Plan 2011 to provide support directly for the variation request as only the five (5) part test, achievement of objectives of Clause 7.6 and consistency with zone objectives are relied upon.

In line with changes to the Guide to Varying Development Standards made in November 2023, public interest is no longer utilised for variations and should not be referenced as part of assessment and as such will not be.

The proposed development will not be contravening clause 7.9 which is site specific and allows for the proposed setback but will be contravening 7.6. Clause 7.9 will be relied upon more due to the nature and location of the development and the availability of the site specific setback from the low bank.

The Five Part Test

Answers:

1. The applicants written request to vary Clause 4.6 Exceptions to Development Standards in the Wentworth Local Environmental Plan 2011 indicates achievement of the development standards notwithstanding the proposed variation through the following:

- Development will provide housing in a rural setting while minimising impacts on environmentally sensitive location and scenic quality,
- Development is permitted with consent in the R5 – Large Lot Residential zone,
- Development will not affect amenity, scenic landscape values and cultural heritage of the Murray River as it is a privately owned site.

Officer comment: N/A as above comments are my own based on evidence provided by applicant and review of legislation (WLEP 2011).

2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary shown through the following:
Applicant: The underlying objective or purpose is relevant to the development and therefore this test is not relied upon.

Officer comment: Although the objective of 7.6 is relevant, as the site has site specific planning grounds, it can be allowed in this instance.

3. The objective would be defeated, thwarted, or undermined if compliance was required with the consequence that compliance is unreasonable.
Applicant: The underlying objective or purpose is relevant to the development and therefore this test is not relied upon.


Officer comment: Development will not alter use of land as residentially zoned, dwellings permitted with consent but non-compliance with 30m setback of clause 7.6 seen which can be disputed by clause 7.9 setback of 30m from any bank of the river.

4. The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.
Applicant: The standard has not been abandoned by Council actions in this case and so this reason is not relied upon.

Officer comment: No evidence to show standard has been abandoned by Council.

5. The zoning of the land is unreasonable or inappropriate.
Applicant: The zoning of the land is reasonable and appropriate and therefore this test is not relied upon.

Officer comment: the zoning of the subject site is R5 – Large Lot Residential and permits dwellings with consent as per the WLEP 2011.

 <p>Wentworth SHIRE COUNCIL</p>	<p>Health & Planning Department 26-28 Adelaide Street PO Box 81 WENTWORTH NSW 2648 Tel: 03 5027 5027 council@wentworth.nsw.gov.au</p>	<p>TEMPLATE CONDITIONS</p>
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DA2024/066 DWELLING WITH GARAGE 221 POONCARIE ROAD LOT 2 DP 1270097 WENTWORTH

GENERAL CONDITIONS

1.	<p>Approved development</p> <p>Approval is for a dwelling with garage</p> <p>Reason: To ensure all parties are aware of the approved development</p>
2.	<p>Approved Plans and Documentation</p> <p>The development shall be in accordance with the following plans, documentation and recommendations made there in:</p> <ul style="list-style-type: none"> • Locality Plan & Site Plan by Concept Design; DRG No: CD23-178; Date: Sept. 2023; Sheet No: 6 of 6. • Site Plan by Concept Design; DRG No: CD23-178; Date: Sept. 2023; Sheet No: 5 of 6. • Site Plan 1:200 by Concept Design; DRG No: CD23-178; Date: Sept. 2023; Sheet No: 6 of 6. • Floor Plan by Concept Design; DRG No: CD23-178; Date: Sept. 2023; Sheet No: 1 of 6. • Elevations by Concept Design; DRG No: CD23-178; Date: Sept. 2023; Sheet No: 2 of 6. • BASIX: Certificate Number: 1743465S; Date: 12 April 2024; Pages: 1-8. <p>In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.</p> <p>Note: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.</p> <p>Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p>
3.	<p>Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989</p> <ol style="list-style-type: none"> 1. It is a condition of a development consent for development that involves building work that the work must be carried out in accordance with the requirements of the Building Code of Australia. 2. It is a condition of a development consent for development that involves residential building work for which a contract of insurance is required under the Home Building Act 1989, Part 6 that a contract of insurance is in force before building work authorised to be carried out by the consent commences. 3. It is a condition of a development consent for a temporary structure used as an

	<p>entertainment venue that the temporary structure must comply with Part B1 and NSW Part H102 in Volume 1 of the Building Code of Australia.</p> <ol style="list-style-type: none"> 4. In subsection (1), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for the construction certificate was made. 5. In subsection (3), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for development consent was made. 6. This section does not apply- <ol style="list-style-type: none"> a. to the extent to which an exemption from a provision of the Building Code of Australia or a fire safety standard is in force under the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, or b. to the erection of a temporary building, other than a temporary structure to which subsection (3) applies. <p>Reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>
4.	<p>Erection of signs</p> <ol style="list-style-type: none"> 1. This section applies to a development consent for development involving building work, subdivision work or demolition work. 2. It is a condition of the development consent that a sign must be erected in a prominent position on a site on which building work, subdivision work or demolition work is being carried out: <ol style="list-style-type: none"> a. showing the name, address and telephone number of the principal certifier for the work, and b. showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and c. stating that unauthorised entry to the work site is prohibited. 3. The sign must be- <ol style="list-style-type: none"> a. maintained while the building work, subdivision work or demolition work is being carried out, and b. removed when the work has been completed. 4. This section does not apply in relation to- <ol style="list-style-type: none"> a. building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or b. Crown building work certified to comply with the Building Code of Australia under the Act, Part 6. <p>Reason: Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.</p>
5.	<p>Fulfilment of BASIX commitments</p> <p>It is a condition of a development consent for the following that each commitment listed in a relevant BASIX certificate is fulfilled</p> <ol style="list-style-type: none"> 1. BASIX development,

	<p>2. BASIX optional development, if the development application was accompanied by a BASIX certificate.</p> <p>Reason: Prescribed condition under section 75 of the Environmental Planning and Assessment Regulation 2021.</p>
6.	<p>Lapsing of Approval</p> <p>Without the further consent of the Wentworth Shire Council, in writing, this permit shall lapse and have no force or effect unless the use or development hereby permitted is physically commenced within 5 years of the date of this permit.</p> <p>Reason: Ensure everyone is aware of the lapsing of the approval</p>
7.	<p>Notification of Home Building Act 1989 requirements</p> <ol style="list-style-type: none"> 1. This section applies to a development consent for development involving residential building work if the principal certifier is not the council. 2. It is a condition of the development consent that residential building work must not be carried out unless the principal certifier for the development to which the work relates has given the council written notice of the following- <ol style="list-style-type: none"> a. for work that requires a principal contractor to be appointed <ol style="list-style-type: none"> i. the name and licence number of the principal contractor, and ii. the name of the insurer of the work under the Home Building Act 1989, Part 6, b. for work to be carried out by an owner-builder <ol style="list-style-type: none"> i. the name of the owner-builder, and ii. if the owner-builder is required to hold an owner-builder permit under the Home Building Act 1989 the number of the owner-builder permit. 3. If the information notified under subsection (2) is no longer correct, it is a condition of the development consent that further work must not be carried out unless the principal certifier has given the council written notice of the updated information. 4. This section does not apply in relation to Crown building work certified to comply with the Building Code of Australia under the Act, Part 6. <p>Reason: Prescribed condition under section 71 of the Environmental Planning and Assessment Regulation 2021.</p>
8.	<p>Works outside the property boundary</p> <p>This development consent does not authorise works outside the property boundaries on adjoining lands.</p> <p>Reason: To ensure all approved works occur within the property boundaries</p>

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

9.	7.12 Contribution
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	<p>Before the issue of the relevant construction certificate, the applicant must pay a total contribution of \$7,000.00 as calculated at the date of this consent to Wentworth Shire Council pursuant to the adopted Section 7.12 Development Contributions Plan.</p> <p>Note: The total amount payable may be adjusted at the time payment is made per clause 3.10 of the Section 7.12 Development Contributions Plan.</p> <p>Reason: To ensure the 7.12 Developer Contributions are paid.</p>
10.	<p>Access Point</p> <p>Before the issue of a Construction Certificate, the beneficiary of this consent must build a driveway crossing for the subject land (if one doesn't exist) to Council standards.</p> <p>Access during construction shall only be through the driveway crossing of the subject land.</p> <p>Reason: To control vehicular movement on road crossings.</p>
11.	<p>Building Material</p> <p>The proposed building/s and structure/s shall be clad in an approved non-reflective material e.g. Colourbond.</p> <p>Reason: To ensure the materials of the building not impact the visual amenity of the surrounding character of the area.</p>
12.	<p>Building material and flooding</p> <p>Any building elements below the 1% AEP flood level must be of a durable nature suitable for prolonged periods of inundation.</p> <p>Reason: To ensure building materials suitable for inundation are used</p>
13.	<p>Construction Site Management Plan</p> <p>Before the issue of a construction certificate, the applicant must ensure a construction site management plan is prepared before it is provided to and approved by the certifier. The plan must include the following matters:</p> <ul style="list-style-type: none"> • location and materials for protective fencing and hoardings to the perimeter on the site • provisions for public safety • pedestrian and vehicular site access points and construction activity zones • details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site • protective measures for on-site tree preservation (including in accordance with AS 4970-2009 Protection of trees on development sites) and trees in adjoining public domain • details of any bulk earthworks to be carried out • location of site storage areas and sheds • equipment used to carry out all works • a garbage container with a tight-fitting lid

	<ul style="list-style-type: none"> dust, noise and vibration control measures location of temporary toilets. <p>The applicant must ensure a copy of the approved construction site management plan is kept on-site at all times during construction.</p> <p>Reason: To ensure construction works are adequately managed to protect the surrounding amenity.</p>				
14.	<p>Erosion and Sediment Control</p> <p>Before the issue of a construction certificate, the beneficiary of this consent is to ensure that an erosion and sediment control plan is prepared in accordance with the following documents before it is provided to and approved by the certifier:</p> <ol style="list-style-type: none"> the guidelines set out in the NSW Department of Housing manual Managing Urban Stormwater: Soils and Construction Certificate (the Blue Book), and the 'Do it Right On-Site, Soil and Water Management for the Construction Industry'; (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust). <p>The applicant must ensure the erosion and sediment control plan is kept onsite at all times during site works and construction.</p> <p>Reason: To ensure no substance other than rainwater enters the stormwater system and waterways.</p>				
15.	<p>Flood level</p> <p>The lowest floor level of the dwelling shall be 35.35 metres above the Australian Height Datum.</p> <p>Reason: To comply with the Wentworth Local Environmental Plan 2011.</p>				
16.	<p>Long Service Levy</p> <p>Before the issue of a construction certificate, the beneficiary of this consent is to ensure that the person liable pays the long service levy as calculated at the operational date of this consent to the Long Service Corporation or Council under section 34 of the Building and Construction Industry Long Service Payments Act 1986 and provides proof of this payment to the certifier.</p> <p>Reason: To ensure the long service levy is paid.</p>				
17.	<p>Payment of Security Deposits</p> <p><i>This condition applies to all construction works \$25,001 and above.</i></p> <p>Before the commencement of any works on the site or the issue of a construction certificate, the beneficiary of this consent must make all of the following payments to Council and provide written evidence of these payments to the certifier:</p> <table border="1"> <tr> <td>Infrastructure Bond (Security Deposit):</td><td>\$3,000.00</td></tr> <tr> <td>Infrastructure Protection Permit Fee (includes inspections)</td><td>\$232.00</td></tr> </table>	Infrastructure Bond (Security Deposit):	\$3,000.00	Infrastructure Protection Permit Fee (includes inspections)	\$232.00
Infrastructure Bond (Security Deposit):	\$3,000.00				
Infrastructure Protection Permit Fee (includes inspections)	\$232.00				

	<p>The payments will be used for the cost of:</p> <ul style="list-style-type: none"> • making good any damage caused to any council property (including street trees, kerb, road etc) as a consequence of carrying out the works to which the consent relates, • completing any public work such as roadwork, kerbing and guttering, footway construction, stormwater drainage and environmental controls, required in connection with this consent, and • any inspection carried out by Council in connection with the completion of public work or the making good any damage to council property. <p>The Infrastructure Bond will be returned on completion of the construction of the proposed development, subject to no damage being done to any council property (including street trees, kerb, road etc) as a consequence of carrying out the works to which the consent relates. The owner / developer is to arrange an inspection with an Officer of Wentworth Shire Council before any work commences on site. Any damage incurred to Council infrastructure will be repaired at the owners / developers expense and the balance of the Infrastructure Bond will be returned to the owner / developer on completion of the construction.</p> <p>Note: The inspection fee includes Councils fees and charges and includes the Public Road and Footpath Infrastructure Inspection Fee (under the Roads Act 1993). The amount payable must be in accordance with councils fees and charges at the payment date.</p> <p>Reason: To ensure any damage to public infrastructure is rectified and public works can be created.</p>
18.	<p>Utilities and services</p> <p>Reticulated water is not available at the site, as such the beneficiary of this consent must ensure that the proposed dwelling is provided access to portable water.</p> <p>Note: Stock and domestic water entitlement may be available to the development. Please contact Water NSW for further details.</p> <p>Reason: To ensure the proposed dwelling is provided with appropriate servicing.</p>
19.	<p>Plumbing and Drainage</p> <p>Before issuance of the Construction Certificate, a Plumbing and Drainage Approval Application under Section 68 of the Local Government Act NSW 1993, for an onsite sewer management system with a Land Capability Assessment (LCA), is to be submitted to and approved by Council before carrying out any plumbing and drainage work (stormwater, water and sewerage).</p> <p>Note: All stormwater from the site is to be directed towards a legal point of discharge. All plumbing and drainage work is to be carried out by a plumber and drainer, or other authorised person, licensed with the New South Wales Department of Fair Trading.</p> <p>Reason: To ensure plumbing and drainage works are carried out appropriately.</p>
20.	<p>Stormwater Management Plan</p>

	<p>Before the issue of a construction certificate the beneficiary of this consent is to design and submit to Council for approval a stormwater Management Plan for the development. The design is to be approved by Council before any work takes place on this site. All work detailed by the approved design is to be constructed by the beneficiary of this consent under supervision of the Principal Certifying Authority. All work is to be carried out at the beneficiary of this consent's expense.</p> <p>The plan is to include treatment measures for the water if it is to be discharged into a waterway.</p> <p>Reason: To ensure stormwater run-off is appropriately managed.</p>
21.	<p>Waste management plan</p> <p>Before the issue of a construction certificate, the applicant is to ensure that a waste management plan is prepared in accordance with the EPA's Waste Classification Guidelines and the following requirements before it is provided to and approved by the certifier:</p> <p>Details the following:</p> <ul style="list-style-type: none"> • the contact details of the person(s) removing the waste • an estimate of the waste (type and quantity) and whether the waste is expected to be • reused, recycled or go to landfill • the address of the disposal location(s) where the waste is to be taken <p>The applicant must ensure the waste management plan is referred to in the construction site management plan and kept on-site at all times during construction.</p> <p>Reason: To ensure resource recovery is promoted and local</p>
22.	<p>Works in Road Reserve</p> <p>A Road Opening Permit is required from the Wentworth Shire Council prior to any works or excavation within the road reserve including but not limited to: water tapping, sewer, driveway crossings, tree planting or removal etc.</p> <p>Please contact Councils Roads & Engineering Department on Tel: (03) 5027 5027 to arrange a permit.</p> <p>Reason: To control development in the road reserve.</p>

BEFORE BUILDING WORK COMMENCES

23.	<p>Construction Certificates and Appointment of Principal Certifier</p> <p>Prior to the commencement of any building works, the following requirements must be complied with</p> <ul style="list-style-type: none"> • A Construction Certificate must be obtained from the Council or an Accredited Certifier, in accordance with the provisions of the Environmental Planning & Assessment Act 1979, • A Principal Certifier must be appointed, and Council must be notified in writing of the appointment irrespective of whether Council or a Registered Certifier is appointed; and notify Council in writing of their intention to commence work (at least two [2] days' notice is
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	<p>required).</p> <p>Reason: To ensure building works complies with relevant legislation and other codes.</p>
24.	<p>Contractor details notification</p> <p>The certifying authority must advise Council, in writing of:</p> <ol style="list-style-type: none"> 1. The name and contractor licence number of the licensee who has been contracted to do or intends to do the work, or 2. The name and permit of the owner-builder who intends to do the work. <p>If these arrangements are changed, or if a contract is entered into for the work to be done by a different licensee, Council must be immediately informed.</p> <p>Reason: To ensure building work is carried out by licensed contractor</p>
25.	<p>Dial before you dig</p> <p>Underground assets may exist in the area that is subject to your application. In the interest of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au or telephone 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contact the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary.</p> <p>Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individuals responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities."</p> <p>Reason: To ensure existing infrastructure is identified</p>
26.	<p>Erosion and sediment controls in place</p> <p>Before the commencement of any site or building work, the developer must be satisfied the erosion and sediment controls in the erosion and sediment control plan, (as approved by Council) are in place until the site is rectified (at least 70% ground cover achieved over any bare ground on site).</p> <p>Reason: To ensure runoff and site debris do not impact local stormwater systems and waterways</p>
27.	<p>Notice of commencement of works</p> <p>Subject to approval to commence works two days before any site works, building or demolition begins, the beneficiary of this consent must:</p> <ol style="list-style-type: none"> 1. Forward to Council notice of commencement of work and appointment of Principal Certifying Authority. 2. Notify the adjoining owners that work will commence. <p>Reason: To provide notification of works commencing</p>
28.	<p>Rubbish/Waste Management</p>

	<p>Throughout the construction period, from commencement of work, a suitable rubbish containment structure is to be located on site and utilised.</p> <p>Reason: To ensure the construction site is kept clean and safe at all times.</p>
29.	<p>Storage of materials</p> <p>Throughout the construction period, from commencement of work, the storage of materials is not permitted on footpaths, roadways or in reserves. Rubbish and building materials must be contained on the site.</p> <p>Reason: To ensure the construction materials are stored on site in a tidy & safe manner.</p>
30.	<p>Toilet facilities</p> <p>Toilet facilities are to be provided on or in the vicinity of the building site. The toilet must be connected to a public sewer, or if connection to a public sewer is not practicable, an approved chemical closet. The toilet facility must be installed on-site prior to the commencement of any other work.</p> <p>Reason: To ensure workers and contractors have access to amenities on site.</p>
31.	<p>Tree protection measures</p> <p>Before the commencement of any site or building work, the principal certifier must ensure the measures for tree protection detailed in the construction site management plan are in place.</p> <p>Reason: To protect and retain trees.</p>

DURING BUILDING WORK

32.	<p>Approved Plans</p> <p>A copy of the stamped approved and certified plans, specifications and documents incorporating conditions of approval and certification must be kept on site for the duration of site works and be made available upon request to either the Council or other Government Agencies.</p> <p>Reason: To ensure all parties are aware of the approved works to be conducted</p>
33.	<p>Construction noise</p> <p>While work is being carried out and where no noise and vibration management plan is approved under this consent, the applicant is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.</p> <p>Reason: To protect the amenity of the neighbourhood</p>
34.	<p>Contamination discovered during works</p> <p>If during works on the land comprising the lot, the land is found to be contaminated, within the meaning of the Contaminated Land Management Act 1997:</p>

	<ul style="list-style-type: none"> all works must stop immediately, and the Environment Protection Authority and the council must be notified of the contamination. Land is found to be contaminated for the purposes of this condition if the principal certifying authority knows or reasonably suspects the land is contaminated. <p>Note: Depending on the nature and level of the contamination, remediation of the land may be required before further work can continue.</p> <p>Reason: To ensure contaminated land is managed appropriately</p>
35.	<p>Cut and fill (if applicable)</p> <p>While building work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:</p> <ul style="list-style-type: none"> All excavated material removed from the site must be classified in accordance with the EPAs Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be reported to the principal certifier. All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the Protection of the Environment Operations Act 1997 or a material identified as being subject to a resource recovery exemption by the NSW EPA. <p>Reason: To ensure soil removal & replacement meets requirements</p>
36.	<p>Encroachment of easements</p> <p>No works are to encroach over any easements.</p> <p>Reason: To ensure works are not carried out over easements</p>
37.	<p>Hours of work</p> <p>The developer must ensure that building work, demolition or vegetation removal is only carried out between:</p> <ul style="list-style-type: none"> 7.00am to 6.00pm on Monday to Friday 8.00am to 1.00pm on Saturdays <p>The developer must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.</p> <p>Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.</p> <p>Note: Any variation to the hours of work requires Councils approval.</p> <p>Reason: To protect the amenity of the surrounding area</p>
38.	<p>Implementation of BASIX commitments</p>

	<p>While building work is being carried out, the applicant must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent, for the development to which the consent applies.</p> <p>Reason: To ensure BASIX commitments are fulfilled in accordance with the BASIX certificate (prescribed condition under Section 75 EP&A Regulation)</p>
39.	<p>Implementation of site management plans</p> <p>While vegetation removal, demolition and/or building work is being carried out, the applicant must ensure the measures required by the approved construction site management plan and the erosion and sediment control plan are implemented at all times. The applicant must ensure a copy of these approved plans is kept on site at all times and made available to Council officers upon request.</p> <p>Reason: To ensure the required site management measures are implemented during construction.</p>
40.	<p>Natural drainage</p> <p>Any works undertaken in the subject land including building and filling shall not cause alteration to the previous drainage in the subject land or adjacent land. Any remedies required to discharge drainage water caused to be accumulated by the works associated with this permit shall be the responsibility of the beneficiary of this consent.</p> <p>Reason: To ensure natural drainage is maintained where possible</p>
41.	<p>Procedure for critical stage inspections</p> <p>While building work is being carried out, any such work must not continue after each critical stage inspection unless the principal certifier is satisfied the work may proceed in accordance with this consent and the relevant construction certificate.</p> <p>Reason: To require approval to proceed with building work following each critical stage inspection</p>
42.	<p>Responsibility for changes to public infrastructure</p> <p>While building work is being carried out, the applicant must pay any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area).</p> <p>Reason: To ensure payment of approved changes to public infrastructure</p>
43.	<p>Security fencing</p> <p>An adequate security fence is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project</p> <p>Reason: To ensure the site is secured during construction</p>

44.	<p>Tree protection</p> <p>While site work is being carried out, all required tree protection measures must be maintained in good condition in accordance with:</p> <ol style="list-style-type: none"> 1. The construction site management plan 2. The relevant requirements of any Australian Standard for the protection of trees on development sites <p>This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.</p> <p>Reason: To protect trees during site works</p>
45.	<p>Uncovering relics or Aboriginal objects</p> <p>While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.</p> <p>In this condition:</p> <ul style="list-style-type: none"> • “relic” means any deposit, artefact, object or material evidence that: (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and a) is of State or local heritage significance; and • “Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains. <p>Reason: To ensure protection of objects of potential significance during works.</p>
46.	<p>Waste management</p> <p>While building work, demolition or vegetation removal is being carried out, the principal certifier must be satisfied all waste management is undertaken in accordance with the approved waste management plan.</p> <p>Upon disposal of waste, the applicant is to compile and provide records of the disposal to the principal certifier, detailing the following:</p> <ul style="list-style-type: none"> • The contact details of the person(s) who removed the waste • The waste carrier vehicle registration • The date and time of waste collection • A description of the waste (type of waste and estimated quantity) and whether the waste is expected to be reused, recycled or go to landfill • The address of the disposal location(s) where the waste was taken • The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste.

	<p>Note: If waste has been removed from the site under an EPA Resource Recovery Order or Exemption, the applicant is to maintain all records in relation to that Order or Exemption and provide the records to the principal certifier and Council.</p> <p>Reason: To require records to be provided, during construction, documenting that waste is appropriately handled.</p>
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BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

47.	<p>Completion of landscape and tree works</p> <p>Before the issue of an occupation certificate, the principal certifier must be satisfied that all landscape and tree-works, including pruning in accordance with AS 4373-2007 Pruning of amenity trees and the removal of all noxious weed species, have been completed in accordance with the approved plans and any relevant conditions of this consent.</p> <p>Reason: To ensure the approved landscaping works have been completed before occupation, in accordance with the approved landscaping plan(s).</p>
48.	<p>Completion of public utility services</p> <p>Before the issue of the relevant occupation certificate, the principal certifier must ensure any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development, is completed to the satisfaction of the relevant authority. Before the issue of the occupation certificate, the certifier must request written confirmation from the relevant authority that the relevant services have been completed.</p> <p>Reason: To ensure required changes to public utility services are completed, in accordance with the relevant agency requirements, before occupation.</p>
49.	<p>Occupation Certificate</p> <p>The building shall not be occupied or used until an Occupation Certificate is issued either by council or by an accredited certifier.</p> <p>Reason: To ensure development is accredited</p>
50.	<p>Removal of waste upon completion</p> <p>Before the issue of an occupation certificate, the principal certifier must ensure all refuse, spoil and material unsuitable for use on-site is removed from the site and disposed of in accordance with the approved waste management plan. Written evidence of the removal must be supplied to the satisfaction of the principal certifier.</p> <p>Before the issue of a partial occupation certificate, the applicant must ensure the temporary storage of any waste is carried out in accordance with the approved waste management plan to the principal certifier's satisfaction.</p> <p>Reason: To ensure waste material is appropriately disposed or satisfactorily stored.</p>

51.	<p>Repair of infrastructure</p> <p>Before the issue of an occupation certificate, the applicant must ensure any public infrastructure damaged as a result of the carrying out of building works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) is fully repaired to the written satisfaction of Council, and at no cost to Council.</p> <p>Note: If the council is not satisfied, the whole or part of the bond submitted will be used to cover the rectification work.</p> <p>Reason: To ensure any damage to public infrastructure is rectified</p>
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OCCUPATION AND ONGOING USE

52.	<p>Additional structures</p> <p>No additional structures are to be built or installed on the site without permission from the Wentworth Shire Council.</p> <p>Reason: To ensure only approved work is carried out</p>
53.	<p>Amenity of the neighbourhood</p> <p>The operation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, dust, waste water, waste products, grit, oil or other harmful products.</p> <p>Reason: To ensure the amenity of the neighbourhood is not compromised unreasonably.</p>
54.	<p>Maintenance of wastewater and stormwater treatment device</p> <p>During occupation and ongoing use of the building, the beneficiary of this consent must ensure all wastewater and stormwater treatment devices (including drainage systems, sumps and traps, and on-site detention) are regularly maintained, to remain effective.</p> <p>Reason: To protect sewerage and stormwater systems.</p>
55.	<p>Ongoing use - garage</p> <p>The proposed garage cannot be used for habitation.</p> <p>Reason: To ensure appropriate use as per approval</p>
56.	<p>Release of securities / bonds</p> <p>When Council receives an occupation certificate from the principal certifier, the applicant may lodge an application to release the securities held. Council may use part, or all of the securities held to complete the works to its satisfaction if the works do not meet Councils requirements.</p> <p>Reason: To allow release of securities and authorise Council to use the security deposit to</p>

	complete works to its satisfaction.
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9.13 DA2024/067 DEFERRED COMMENCEMENT FOR A DWELLING 74 BILLABONG ROAD LOT 5 DP 804042 CURLWAA

File Number:	RPT/24/356
Responsible Officer:	George Kenende - Acting Director Health & Planning
Responsible Division:	Health and Planning
Reporting Officer:	Georgie Martin - Cadet Planner
Objective:	3.0 Wentworth Shire is a community that works to enhance and protect its physical and natural environment
Strategy:	3.1 Ensure our planning decisions and controls enable the community to benefit from development

Summary

A development application (DA2024/067) was received by Council for a deferred commencement dwelling to be located 74 Billabong Road, Lot 5 DP 804042, Curlwaa, relatively close to Tuckers Creek.

Under the Wentworth Local Environmental Plan (WLEP 2011), this development is permitted with consent within the RU4 – Primary Productions Small Lots zone as a dwelling.

The proposed deferred commencement dwelling is to be located on land that is presently used for the grazing of rangeland goats, but is under the minimum lot size of 10ha, only being sized at 2.2ha, which represents a variation of 78%.

The minimum lot size under Clause 4.2B for erection of dwelling houses on land zoned to RU4 is 10ha. As part of assessment, a variation to the minimum lot size standard is required (referred to as a 4.6 variation).

Due to the variation being 78%, greater than 10%, the application cannot be determined under delegated authority, and must be determined by Council.

Recommendation

That Council

1. Approve DA2024/067 being a deferred commencement dwelling located at 74 Billabong Road, Lot 5 DP 804042, Curlwaa.
2. Call a division in accordance with S375A of the Local Government Act 1993 (NSW).

Detailed Report

Purpose

The purpose of this report is to provide information to Council to determine Development Application DA2024/067, having consideration to the detail provided within this report and the attachments provided.

Background

A Development Application was lodged with Council on 20 May 2024 seeking consent for a deferred commencement dwelling on the subject site.

The subject site is located in the RU4 – Primary Production Small Lots zone under the Wentworth Local Environmental Plan (WLEP 2011).

The proposal seeks to develop a dwelling on land that doesn't meet the minimum lot size of the WLEP 2011 for the zoning.

Under Clause 4.2B, the minimum lot size for dwellings to be developed on land in zone RU4 needs to be 10ha, which isn't met by this application and variation is hence sought.

The Lot Size Map – Sheet LSZ_002F identifies the minimum lot size for where the lot is located.

Where an application cannot achieve the development standards required by a Local Environmental Plan, the applicant may apply to vary the development standard.

An application to vary a development standard is made under 4.6 of the WLEP 2011.

Under Clause 35B of the Environmental Planning and Assessment Regulation 2021, applications involving contravention of development standards must be accompanied by a document that sets out the grounds on which the applicant seeks to demonstrate that –

- Compliance with the development standard is unreasonable or unnecessary in the circumstances, and
- There are sufficient environmental planning grounds to justify the contravention of the development standard.

The consent authority must keep a record of its assessment carried out.

Due to changes made by the NSW Government, Clause 4.6 of the Standard Instrument LEP has been reformed to make the planning system faster, simpler, and more transparent. The reform came into effect on 1 November 2023 and removes the requirement to obtain the Planning Secretary's concurrence for a variation with new reporting frameworks. As such, council has authority to approve or refuse 4.6 variation applications.

The WLEP 2011 provides that minimum lot sizes for RU4 – Primary Production Small Lot zones must be 10ha. The subject site of the application is only 2.2ha, creating a variation of 78%. As this is greater than 10%, this application cannot be determined under delegated authority and is presented to Council for consideration.

Refer to attachment 1 - Development Application

Refer to attachment 2 – 4.6 Variation Request

Refer to attachment 3 – Site Plan

Matters under consideration

In determining a development application that requires consent, the consent authority must take into consideration matters prescribed in Section 4.15 of the Environmental Planning and Assessment Act 1979 as relevant to the development.

The proposed development did not need to be assessed in depth against chapters of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 as the site is not koala habitat and is outside the Murray River assessment area.

The proposed development for a deferred commencement dwelling is permitted with consent and meets the zone objectives of the RU4 – Primary Productions Small Lots zone under the WLEP 2011.

The deferred commencement dwelling does not meet the minimum lot size standard and the 4.6 variation request provided by the applicant adequately provided justification for the contravention of development standard contained in Clause 4.2B.

Due to zoning and WLEP mapping impacting the land, the development application was assessed against clauses 4.2B, 4.2D, 4.6, and 5.16. The development application was able to satisfy the matters for consideration under these clauses.

The subject site is impacted by bush fire mapping classed as vegetation buffer, as such, the applicant has established an asset protection zone (APZ) of 20m around the proposed

dwelling for bushfire protection purposes, further to this and to support the application, a Bushfire Assessment Report was provided based on the Rural Fire Service standards.

Due to the nature of the proposed development, it was assessed against Chapters 3 and 5 – General Development Controls and Rural Development Controls of the Wentworth Development Control Plan (DCP) 2011. The development was able to comply with the provisions of these chapters.

Based on assessment of the application, it is determined that the proposed development is compliant with the relevant objectives of the RU4 – Primary Production Small Lots zone, is able to meet the relevant provisions of the Wentworth Development Control Plan (DCP) 2011, is consistent with planning matters for consideration of the Wentworth Local Environmental Plan 2011 and the State Environmental Planning Policy (Biodiversity and Conservation) 2021.

Refer to attachment 4 – Asset Protection Zone Mapping

Refer to attachment 5 – Bushfire Assessment Report

Refer to attachment 6 – 4.15 Assessment Report

Refer to attachment 7 – 4.6 Variation Report

Refer to attachment 8 – Conditions of Consent

Options

Based on the information contained in this report, the options available to address this matter are to:

- Approve Development Application DA2024/067 subject to conditions

Legal, strategic, financial or policy implications

Should Council issue a determination to the application, the applicant has the right to submit a request for review of determination to Council under Section 8.2 of the Environmental Planning & Assessment Act 1987.

The applicant also has the right to appeal the decision made by Council to the Land and Environment Court pursuant to Section 8.7 of the Environmental Planning & Assessment Act 1987.

Conclusion

Having consideration of the consent of this report, it is concluded that the appropriate course of action is to approve the development application DA2024/067 subject to conditions in this report.

Attachments

1. Development Application (Under separate cover)⇒
2. 4.6 Variation Request↓
3. Site Plan↓
4. Asset protection Zone Mapping↓
5. Bushfire Assessment Report (Under separate cover)⇒
6. 4.15 Assessment Report↓
7. 4.6 Assessment Report↓
8. Conditions of Consent↓



Request to vary under *Clause 4.6 Exceptions to development standards in the Wentworth Local Environmental Plan 2011*

Date	28 February 2024
Address	74 Billabong Road, Curlwaa 2648 Lot 5 DP804042

1. Site description

The subject site is an allotment containing approximately 2.2 hectares and is shaped an irregular rectangle. The site contains a garage near the south eastern boundary and a machinery shed near the southern boundary. The site is fenced into two paddocks, one paddock contains the sheds, lawn, driveway, vegetation and a stand-alone gum tree; the other, larger paddock has remnant vegetation and a dam. Billabong Road encompasses the western and northern boundaries.

2. Proposed development

This variation request seeks consent for the (deferred commencement) of a dwelling on the subject site that does not satisfy the minimum lot requirement.

3. What is the environmental planning instrument you are seeking to vary?

Wentworth Local Environmental Plan 2011

4. Zone of subject site

RU4 Primary Production Small Lots

5. Development standard to be varied

Minimum Lot Size

Clause 4.2B Erection of dwelling houses on land in Zone RU1, RU4, R5, C3 and C4 (3)(a)

(1) The objectives of this clause are as follows—

(a) to minimise unplanned rural residential development,

(b) to enable the replacement of lawfully erected dwelling houses in rural and conservation zones.

6. Type of variation

Numerical variation

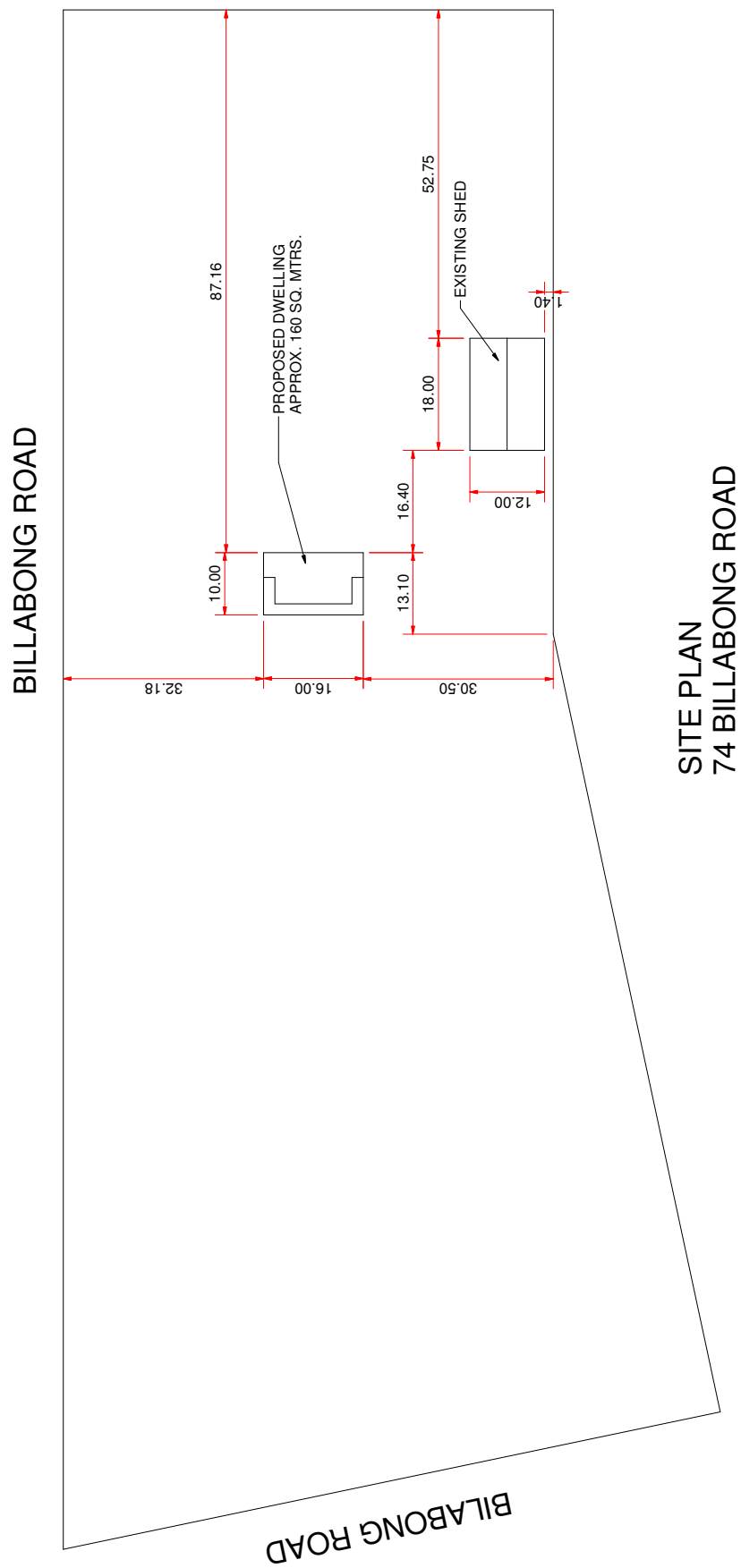
PO Box 26
Wentworth NSW 2648

michele@cadellconsulting.com.au

1
0429 021 494

7. The numeric value of the development standard in the Wentworth LEP 2011	
MLS 10 hectares	
8. The numeric and percentage variation	
The proposed development exceeds the development standard by 7.8 hectares which is a variation of 78%	
9. How is compliance with the development standard unreasonable or unnecessary in this particular case?	
a)	The enforcement of the development standard applied to the subject site is considered unnecessary in this instance. The proposed development of a dwelling on the subject site will not contravene objective 1(a) of Clause 4.2B of the WLEP 2011. This is determined by the fact that the property will remain being rated as farming land and used for agricultural purposes, despite containing a dwelling on the small-scale farming allotment.
b)	The enforcement of compliance with the development standard is considered unreasonable in this instance. The purpose of the proposed dwelling is to allow for the landowner to reside on site to enable the efficient and productive management of the small scale, rural enterprise, whilst protecting the property and assets that are required to operate a small rural business.
c)	Compliance with the development standard is considered unreasonable as the settlement pattern surrounding the subject site includes dwellings on a range of allotment sizes (ranging from 4,500 m ² to 6.3 hectares), where none of these comply with the 10 hectare minimum lot size.
10. Grounds for justification to contravene the development standard	
a)	The capacity to be used for small scale primary production will not be impacted by the proposed development. Permitting the landowner to reside on site, enables the property to be farmed in a more efficient, productive and economically sustainable manner. The monitoring and management of stock, feed and water supply will be more convenient and consistent, after business/work hours, if the landowner is residing on site.
b)	The property is not currently operating at capacity due to the risk of stock theft and the inability to protect farming and machinery assets on the site.
c)	The property has a small stock and domestic water allocation which can adequately service the proposed dwelling and the grazing of rangeland goats and sheep for fattening, in preparation for the sale of the stock.
d)	Promotes economic benefit to the landowner by enabling the property to increase its financial capacity to supplement off-farm income, reduce costs of requiring alternative residential accommodation, whilst enabling future financial security and the potential for future rural enterprise expansion.
11. Additional information to justify the variation of the development standard	
The property is currently, and will remain, covered by rural farm insurance due to the proposed intensification of rural activities on the subject site.	
Due to the maintenance investment and effectiveness of the Curlwaa levee, the subject site is protected from flooding, as evidenced in the recent 2022-23 flood event.	

A previous application submitted to the consent authority, for a dwelling on the allotment, was granted consent by Wentworth Shire Council. A search on the property file will support this statement.



<p>Asset Protection Zone</p> <p>74 Billabong Road Curlwaa</p> <p>2648</p>
<p>20 metre buffer zone around the proposed dwelling</p> <p>APZ will consist of planted garden landscaping and newly established lawn</p>

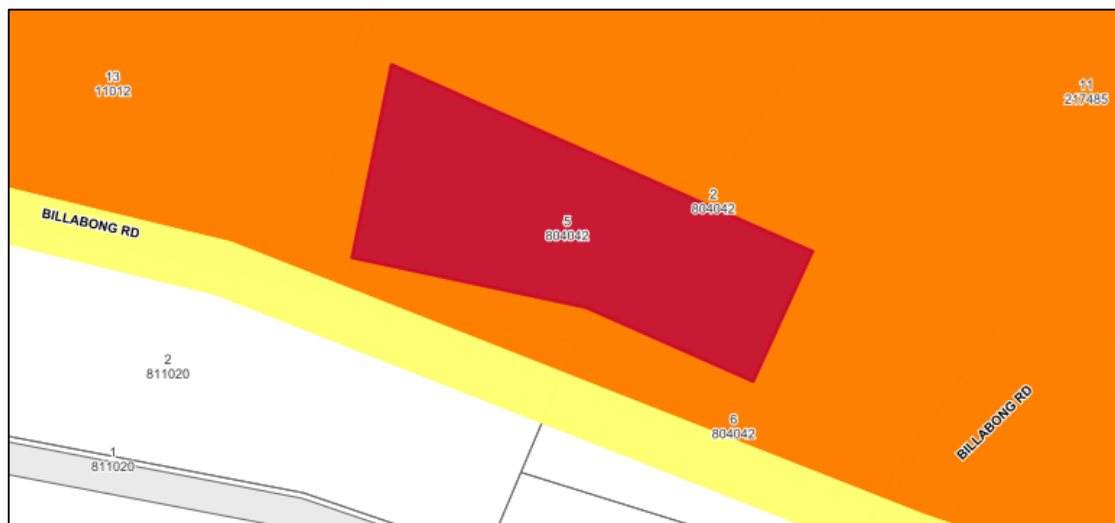


Figure 1 Subject Site under Vegetation Category 3

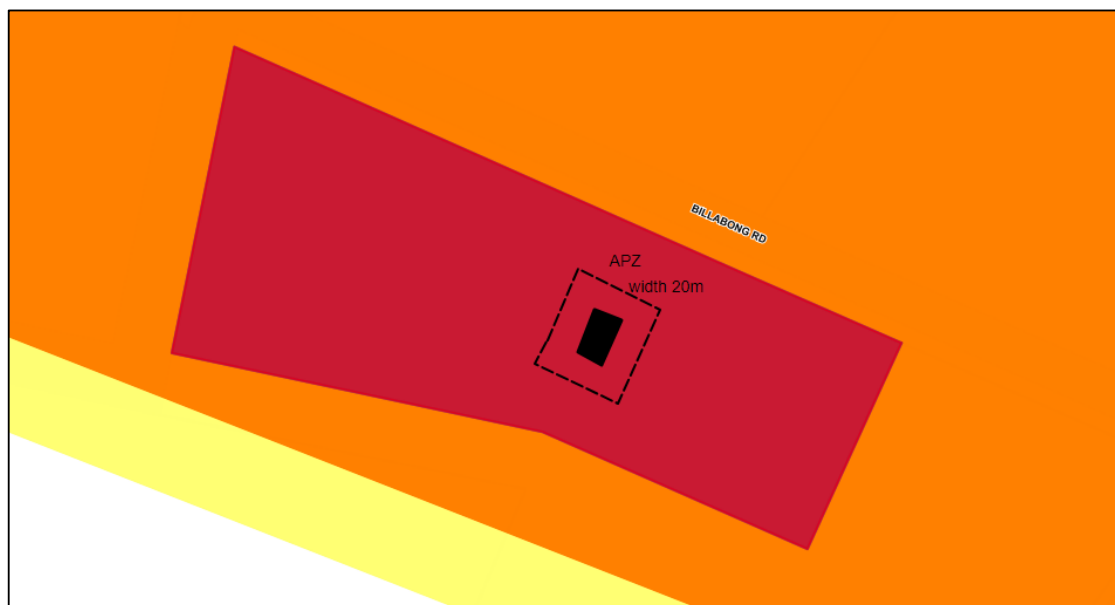



Figure 2 APZ of 20 metres around proposed dwelling

	<p>Health & Planning Department 26-28 Adelaide Street PO Box 81 WENTWORTH NSW 2648 Tel: 03 5027 5027 council@wentworth.nsw.gov.au</p>	<p>DA Assessment Report Section 4.15 Evaluation</p> <p>Environmental Planning & Assessment Act 1979 as amended</p>
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File Reference:	DA2024/067 & PAN 422463
Property Title & Address:	P2175/05 74 Billabong Road Lot 5 DP 804042 Curlwaa
Property owner(s):	Harry Cooper
Applicant(s):	CADELL CONSULTING SERVICES – Michele Bos
Proposal:	Deferred Commencement for a dwelling
Previous DAs:	DA2017/106 Construction of storage shed
Cost of proposed development:	\$395,000.00

SITE AND SURROUNDING DEVELOPMENT

The subject site comprises of Lot 5 DP 804042 located in Curlwaa NSW. The lot has an area of 2.2ha and has two frontages to Billabong Road on the west and north boundaries, primary access to site via the north.

The subject site is zoned RU4 – Primary Production Small Lots under the Wentworth Local Environmental Plan 2011 (WLEP 2011). The subject site is slightly irregular but mostly resembling a rectangle. Existing on site is a shed, one gum tree and pastoral vegetation. The subject site is fenced with two paddocks. Current use of land is minimal grazing of rangeland goats. Adjoining lots are also zoned to RU4 – Primary Production Small Lots containing rural structures such as dwellings, water tanks, sheds, and stockyards. The site has a stock and domestic water licence.

The site is not located within the floodway, flood planning, wetlands, terrestrial biodiversity, urban release, or heritage mapped areas.

The site is bushfire mapped as vegetation category three (3), and applicant has provided a bush fire protection report with a proposed APZ buffer zone of 20m around the proposed dwelling.

DESCRIPTION OF PROPOSAL

The proposal seeks development consent (deferred commencement) to construct a dwelling associated with agricultural use on the subject site.

The proposed deferred commencement for a dwelling on the site will require a variation to the standard as the lot is below the minimum lot size. The proposed development does not meet the development standard with the lot being 7.8ha below the MLS, a variation of 78%.

HISTORY RELEVANT TO THE DEVELOPMENT APPLICATION

DA2017/106 Construction of storage shed.

DA15/078 Dwelling – was approved for previous owner, never occurred.

SECTION 4.15-MATTERS FOR CONSIDERATION

(1) The provisions of any environmental planning instrument and development control plan

State Environmental Planning Policy (Biodiversity and Conservation) 2021

The proposed development is located on land 2.2ha in size and has an existing shed with two fenced paddocks. The subject site has a remnant gum tree and vegetation of pastoral nature remaining on site. Proposed development is not anticipated to result in removal of native vegetation or threatened species habitat. Subject site is not known koala habitat. No assessment against Chapters 3 or 4 required. Due to Curlwaa levee and subject site being out of flood mapping areas, no assessment against Chapter 5 is required.

Wentworth Local Environmental Plan (LEP) 2011

The proposed development of a deferred commencement dwelling can be permitted with consent and meets the objectives of zone RU4 – Primary Production Small Lots of the Wentworth Local Environmental Plan (WLEP) 2011, wherein the site is located.

Objectives of zone

- To enable sustainable primary industry and other compatible land uses.
- To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

Table 1: Achievement of Objectives of Land Use in Zone RU4 Primary Production Small Lots WLEP 2011.

Objective	Discussion/Comment
To enable sustainable primary industry and other compatible land uses.	The proposed development will be on land that is used for agricultural/farming purposes and as such will allow for continual and enhanced use of the land for the designated purposes. Development will allow the landowners to better manage and utilise the land by living onsite, enhancing security and efficiency.
To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.	Owners of the land on which the development is proposed will be positively economically impacted through living on the land as it will relieve them of the burden of owning/living on a separate property and travelling to the proposed development site. The land will be diversified to allow living, stock grazing and other general and sustainable farming activities. Primary industry will still be run on site and will not cease through the development of a house due to paddock separation (two paddocks on one property).

To minimise conflict between land uses within this zone and land uses within adjoining zones.	There are a mix of land uses within vicinity of subject site, being horticulture and rural residential. The proposed development will not negatively impact surrounding land uses as it will have a residential development and still utilise the land for agricultural and grazing purposes. Further, the siting of the proposed development considers buffer space around the proposed dwelling. The proposed development will be compatible with existing surroundings and will not impact or change land use.
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Clause 4.2B Erection of dwelling houses on land in Zones RU1, RU4, C3 and C4.

(3)

- a) Site does not meet the MLS (10ha) as it is only 2.2ha, variation request of 78% received by applicant, does not comply with standard,
 - b) N/A,
 - c) N/A.
- Development consent must not be granted for a lot unless the land is at least the minimum lot size specified by the Lot Size Map, which is why variation is being sought.

The following table considers whether the objectives of the development standard **Clause 4.2B - Erection of dwelling houses on land in Zones RU1, RU4, C3 and C4** are achieved notwithstanding the proposed variation (Test One).

Objective	Discussion / Comment
To minimise unplanned rural residential development.	Only development on site will be the abovementioned, there are no further plans for subdivision or further development on the subject site that would not be associated with the farming nature of the site. Although the application is for a dwelling, it would not merely just be residential, it would be in conjunction with the agricultural use of the land and allow smooth and stable operation of the farming enterprise situated on the site. Development will allow for further farming use of land and no rural residential development will follow.
To enable the replacement of lawfully erected dwelling houses in rural and conservation zones.	Does not apply as there is no pre-existing dwelling on site, DA seeks approval to erect a new dwelling on site with deferred commencement.

Clause 4.2D Boundary adjustments in Zones RU1, RU4 and C3

No boundary adjustments are sought through the development application and so this clause will not apply.

Clause 4.6 Exceptions to development standards

Compliance with the development standard is unreasonable or unnecessary in the circumstances. Better outcomes for and from the development by allowing flexibility will occur:

- The purpose of the proposed dwelling is to enable landowners to reside on site to facilitate the efficient management of a small scale, rural enterprise, and to enhance security to site,
- Stock, feed, and water supply can be monitored more conveniently and consistently when the owner/operator is residing on the site, rather than having to travel to and from their residence located elsewhere,
- By permitting landowners to reside on site, it enables the property to be farmed in a more efficient, productive, and economically sustainable manner,
- Promotes economic benefit to landowners by enabling the property to increase its financial capacity and to supplement off-farm income or to value-add to an existing rural enterprise.

Officers comment: by allowing variation to be approved, owners of the site would be able to effectively run their small farming operation, not have to financially burden themselves through owning additional properties away from the subject site, owners living on site will provide additional security to the area, and there is opportunity for increased productivity of an economically viable lot through enhanced use which the dwelling will attribute to.

Standard being varied – 4.6.

The proposed dwelling (deferred commencement) is located on an RU4 Primary Production Small Lots zone sized at 2.2ha, below the minimum lot size of 10ha in the zone, with a variation of 78%.

4.6 VARIATION ASSESSMENT**Approving 4.6 variations**

Under clause 35B of the Environmental Planning and Assessment Regulation 2021, applications involving contravention of development standards must be accompanied by a document that sets out the grounds on which the applicant seeks to demonstrate that –

- Compliance with the development standard is unreasonable or unnecessary in the circumstances, and
- There are sufficient environmental planning grounds to justify the contravention of the development standard.

The consent authority must keep a record of any assessment carried out.

The variation proposed is greater than 10% (78%). Due to changes made by the NSW Government, Clause 4.6 of the Standard Instrument LEP has been reformed to make the planning system faster, simpler, and more transparent.

The reform came into effect on 1 November 2023 and removes the requirement to obtain the Planning Secretary's concurrence for a variation with new reporting framework. As such, council has authority to approve or refuse 4.6 variation applications.

4.6 Exceptions to development standards

Information provided by applicant:

Relevant clauses of 4.6 for assessment are as follows:

- 2). *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- 3). *Development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that -*
 - a. *compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
 - b. *there are sufficient environmental planning grounds to justify contravening the development standard.*

Note—

The [Environmental Planning and Assessment Regulation 2021](#) requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

Written request for consideration has been presented by the applicant, Cadell Consulting (Michelle Bos) with reasons for justifying the contravention of this standard and allow a dwelling (deferred commencement) on a lot that is less than 10ha in size in zone RU4 – Primary Production Small Lots. Site location is Lot 5 DP 804042, 74 Billabong Road, Curlwaa.

3a). That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

Response:

The enforcement of the development standard applied to subject site is considered unnecessary in this instance. The proposed development of a dwelling will not contravene objective 1(a) of Clause 4.2B of the WLEP 2011. This is determined by the fact that the property will remain being rated as farming land and used for agricultural purposes, despite containing a dwelling on the small-scale farming allotment.

The enforcement of compliance with the development standard is considered unreasonable in this instance. The purpose of the proposed dwelling is to allow for landowner to reside on site to enable efficient and productive management of small scale, rural enterprise, whilst protecting the property and assets that are required to run a small rural business.

Compliance with standard is considered unreasonable as the settlement pattern surrounding the subject site includes dwellings on a range of allotment sizes.

3b). That there are sufficient environmental planning grounds to justify contravening the development standard.

Response:

The capacity to be used for small scale primary production will not be impacted by proposed development. Permitting the landowner to reside on site enables the property to be farmed in a more efficient, productive and economically sustainable manner. The monitoring and management of stock, feed, and water supply will be more convenient and consistent, after business/work hours if landowner resides onsite.

The property is not currently operating at capacity due to risk of stock theft and the inability to protect farming and machinery assets on site.

The property has a small stock and domestic water allocation which can adequately service the proposed dwelling and the grazing of rangeland goats and sheep for fattening, in preparation for the sale of stock.

Promote economic benefit to the landowner by enabling the property to increase its financial capacity to supplement off-farm income, reduce costs of requiring alternative residential accommodation, whilst enabling future financial security and the potential for future rural enterprise expansion.

Consideration of the applicants written request – Clause 4.6(4) (a) (i) and (ii) (b)

Does the written request adequately address those issues at **Clause 4.6(4)(a)(i)**:

The applicant's written request has adequately demonstrated that compliance with the minimum lot size in zone RU4 Primary Production Small Lots restriction is unreasonable and unnecessary in this case based on the following:

The subject site is an allotment containing approximately 2.2 hectares and is shaped an irregular rectangle. The site contains a garage near the southeastern boundary and a machinery shed near the southern boundary. The site is fenced into two paddocks, one paddock contains the sheds, lawn, driveway, vegetation, and a stand-alone gum tree; the other, larger paddock has remnant vegetation and a dam. Billabong Road encompasses the western and northern boundaries.

This variation request seeks consent for the (deferred commencement) of a dwelling on the subject site that does not satisfy the minimum lot requirement. The proposed development exceeds the development standard by 7.8 hectares which is a variation of 78%.

The enforcement of the development standard applied to the subject site is considered unnecessary in this instance. The proposed development of a dwelling on the subject site will not contravene objective 1(a) of Clause 4.2B of the WLEP 2011. This is determined by the fact that the property will remain being rated as farming land and used for agricultural purposes, despite containing a dwelling on the small-scale farming allotment.

The enforcement of compliance with the development standard is considered unreasonable in this instance. The purpose of the proposed dwelling is to allow for the landowner to reside on site to enable the efficient and productive management of the small scale, rural enterprise, whilst protecting the property and assets that are required to operate a small rural business.

Compliance with the development standard is considered unreasonable as the settlement pattern surrounding the subject site includes dwellings on a range of allotment sizes (ranging from 4,500 m² to 6.3 hectares), where none of these comply with the 10 hectare minimum lot size.

The capacity to be used for small scale primary production will not be impacted by the proposed development. Permitting the landowner to reside on site, enables the property to be farmed in a more efficient, productive, and economically sustainable manner. The monitoring and management of stock, feed and water supply will be more convenient and consistent, after business/work hours, if the landowner is residing on site. The property is not currently operating at capacity due to the risk of stock theft and the inability to protect farming and machinery assets on the site.

The property has a small stock and domestic water allocation which can adequately service the proposed dwelling and the grazing of rangeland goats and sheep for fattening, in preparation for the sale of the stock. Promotes economic benefit to the landowner by enabling the property to increase its financial capacity to supplement off-farm income, reduce costs of requiring alternative residential accommodation, whilst enabling future financial security and the potential for future rural enterprise expansion.

The property is currently, and will remain, covered by rural farm insurance due to the proposed intensification of rural activities on the subject site. Due to the maintenance investment and effectiveness of the Curlwaa levee, the subject site is protected from flooding, as evidenced in the recent 2022-23 flood event. A previous application submitted to the consent authority, for a dwelling on the allotment, was granted consent by Wentworth Shire Council. A search on the property file will support this statement.

Officer comments: The proposed development will not lead to unplanned residential development in the area as pre-existing dwellings and associated structures are present, with only one planned dwelling for subject site. The proposed dwelling will be associated with current use of the land and pre-established structures on site.

The proposed dwelling can be understood to allow for enhanced use of the land as well as security by the owners living on site. Owners living onsite will protect their stock and deter potential criminal activity.

Other lots in the area zoned to RU4 – Primary Production Small Lots have many land sizes under the MLS of 10ha, being:

- 4782m² – Lot 1 DP 1167206
- 7698m² – Lot 1 DP 1249596
- 9086m² – Lot 7 DP 804042
- 2.6ha – Lot 6 DP 804042
- 5.504ha – Lot 11 DP 80403

Justification for variation:

The five-part test

The Court has held that there are at least five different ways, and possibly more, through which an applicant might establish that compliance with a development standard is unreasonable or unnecessary (see *Wehbe v Pittwater Council* [2007] NSWLEC 827).

The five ways of establishing that compliance is unreasonable or unnecessary are:

1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard.
2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.
3. The objective would be defeated, thwarted or undermined (*Linfield Developments Pty Ltd v Cumberland Council* [2019] NSWLEC 131 at [24]) if compliance was required with the consequence that compliance is unreasonable.
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence the standard is unreasonable and unnecessary; and
5. The zoning of the land is unreasonable or inappropriate.

Answers:

1. The applicants written request to vary Clause 4.6 Exceptions to development standards in the Wentworth Local Environmental Plan 2011 indicates achievement of the development standard notwithstanding the proposed variation through the following:
 - *Development is permitted with consent in the zone of RU4 – Primary Production Small Lots,*
 - *Dwelling will enable landowners to reside on site and facilitate efficient, productive management of a small farming establishment,*
 - *Property will remain being used as farming land and not solely residential,*
 - *Farming will not be impacted by the proposed development of a dwelling but be more productive through owner being able to facilitate works and live on site at the same time.*

Officer comment: The noncompliance with the minimum lot size will have no detrimental impacts on the land or surrounding areas and development will be in line with the WLEP 2011 except from MLS.

2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary shown through the following:
 - *The underlying objective of landowners being able to live on their land and run it more efficiently and productively is relevant to the development as it will allow for consistency with land uses,*
 - *The landowners will be able to increase financial capacity and reduce costs of alternative (offsite) residential accommodation,*
 - *Many allotments in the surrounding area while also zoned to RU4 – Primary Productions Small Lots, do not comply with the MLS of 10ha, a few examples include 4782m², 7698m², 9086m², 2.6ha, and 5.504ha.*

Officer comment: Due to the existing residential development on lots surrounding the subject site, development is anticipated to have minimal impact on the surrounding area and the development will be relevant to land use objectives of zone RU4.

3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore this is unreasonable shown through the following:
 - *Other allotments in the area do not comply with the zoning of RU4 and have dwellings and associated structures situated on site,*
 - *Not allowing development of a dwelling on the lot would impact landowners financially,*
 - *The property has a stock and domestic water allocation which can adequately service dwelling and associated farming practices,*
 - *A previous application was submitted to Council for a dwelling on the subject site by previous owners, this was granted but lapsed before construction occurred and then land was sold. [See DA15/078.](#)*

Officer comment: Development will not alter use of land except for allowing a dwelling for owner to live on site as others in the area do already, it can be seen as unreasonable to not allow development as smaller RU4 zoned lots do not comply with the MLS.

4. The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable:
 - *The standards have not been abandoned by council actions in this case as developments in the area either don't have DAs on their property file or were boundary re-alignments.*

Officer comment: no evidence to show standard has been abandoned by Council.

5. The zoning of the land is unreasonable or inappropriate:

- *The zoning of the land is reasonable and appropriate, dwellings are permitted with consent under the Wentworth Local Environmental Plan (WLEP) 2011 on RU4 zoned allotments, but MLS is not met for this lot.*

Officer comment: The proposed deferred commencement dwelling is permitted on RU4 zoned land and is supported by the fact that surrounding allotments have similar developments, and that consent was previously granted for this lot but lapsed and wasn't acted upon.

The variation is supported based on the results on the five (5) part test above.

Officer comment: The proposed variation to standard 4.2B is supported based on the results on the five (5) part test – indicating that the development complies with the test.

The 78% variation in MLS of the proposed deferred commencement dwelling is not anticipated to cause negative impact to the subject site or surrounding allotments, as the site is already utilised as farming land and has previously had consent granted (DA15/078).

To allow a dwelling to be built for the owners on their land, it would allow for enhanced use of the subject site economically and agriculturally, and as the subject site is already utilised for agricultural activities – no effects to surrounding allotments should be seen from a dwelling.

Clause 5.16 Subdivision of, or dwellings on, land in certain rural, residential or conservation zones.

(3)

- a) Land is not planned to be subdivided,
- b) No significant impact to land will occur from development – land previously cleared and used for irrigation/farming/agriculture, dwelling will aid in function of land,

(4)

- a) No conflict between existing development will be seen from proposed development,
- b) Cadell Consulting provides reasonable grounds for approval to be considered, including economic reasoning and the fact that multiple developments in the area of same zoning are on smaller lots, Cadell Consulting provides reasonable grounds for approval to be considered including the fact that existing use of land is horticulture/general farming, and the proposed dwelling would enhance this,
- c) Proposed development site will not change in use or size and will be compatible with farming,
- d) See point b).

Wentworth Development Control Plan (DCP) 2011

The proposed development is acceptable against the relevant provisions of the Wentworth Development Control Plan (DCP) 2011 as outlined in the table below.

Wentworth DCP	Chapter 3 & 5	Acceptable	Not Acceptable	N/A	Reason
	Chapter 3 2. Biodiversity Management 2.1 Murray River and Darling River	X			The proposed dwelling with deferred commencement is permitted with consent within the RU4 zone. Located over 100m from the billabong. Not flood mapped, terrestrial biodiversity mapped, or urban release area. Site is bushfire prone.
	2.2 Mooring			X	Not relevant as no mooring proposed
	2.3 Erosion Control – Murray River and Darling River	X			Conditions of consent will be included to manage and mitigate erosion
	2.4 Vegetation Protection - Riverfront	X			No vegetation removal is anticipated for the development per SEE
	3 Koala Habitat Protection			X	N/A as no known koala habitat
	4 Flood Affected Land	X			Not on flood prone land and is further protected by a levee
	5 Vehicular access and parking	X			The site offers ample room for any required access, parking etc. Sealed roads to site.
	Chapter 5 5.1 Intensive Agriculture	X			The proposed deferred commencement dwelling is permitted with consent in the RU4 zone and will support ongoing use associated with existing primary production on the site. No disturbance to the land apart from construction will be expected.
	5.2 Subdivision			X	No subdivision proposed
	5.3	X			Proposed dwelling will be expected to have bathroom

	Rural Dwellings a). General Controls b). Access				and kitchen areas and is setback reasonably from boundaries. Access to site from Billabong Road.
	5.3.1 Water	X			The site has an existing stock and domestic water licence, Water will need to be connected to dwelling through construction. Stormwater will be managed on site.
	5.3.2 Effluent Disposal	X			An onsite wastewater management system will be installed on site as identified by SEE, it will be conditioned that AWTs is used in this area to keep consistency with other developments.
	5.3.3 Fencing			X	Fencing not part of this application.
	5.3.4 Dwelling setback from river			X	Dwelling is not near river but has a setback of over 100m from closest water way which is a billabong.
	5.3.5 Land Capability	X			The proposed deferred commencement dwelling is intended to support use of the land by allowing owners to live on site and manage the farming/agricultural use more effectively.
	5.4 Rural Sheds			X	N/A not a shed
	5.5 Rural industries	X			Noted – conditions to be included that mitigate and manage noise, access, landscaping, and land capability.
	5.6 – 5.6.10 Boarding and/or breeding kennels for dogs and cats in rural areas			X	No boarding or breeding mentioned in SEE, no conditions required. Site is agricultural running rangeland goats.
	5.7 – 5.7.3 Hazardous chemical	X			Noted - proposal is for a deferred commencement dwelling and as such

					minimal hazardous chemical use or storage anticipated unless for agricultural purposes pre-existing on land.
	5.8 Rural land use conflict	X			Surrounding sites are used for agriculture or rural living – no conflict of land use evident or expected.
	5.8.1 Buffer distances	X			Noted – as the proposed dwelling will be used to support existing agricultural use – no buffer will be required due to size of site and distance from proposed development to closest neighbouring buildings. A 20m buffer zone around the proposed dwelling has been provided as an APZ.
	5.8.2 Variations to buffers	X			Noted – existing vegetation and current distances between proposed site and other developments mitigates buffer requirements, buffer proposed around dwelling as an APZ and will be garden and lawn.
	5.8.3 Vegetation buffers	X			Noted – existing vegetation and current distances between proposed site and nearest developments should mitigate the need to impose a vegetation buffer apart from what has been proposed.

(2) The provisions of any draft environmental planning instrument

There is no Division 3.4 draft environmental planning instrument that affect the proposed development. (Post 1 July 2009 LEP amendments).

(3) Any matters prescribed by regulations

There are no further matters prescribed by regulations.

(4) The likely impacts of the development

There are no likely impacts from the proposal as discussed in the table below.

Impact item (Insert an 'x' in the relevant section)	Acceptable	Not acceptable	Not relevant	Comment
Context and setting	X			Placement and development of a dwelling at this location will not impact the use of agricultural land, no impact to adjoining lands is anticipated.
Public domain & Streetscape	X			Adequate distance between front boundary of property and proposed development on site
Landscaping			X	N/A
Stormwater	X			Stormwater to be managed onsite
Heritage	X			No heritage listings for this site
Soils & Soils Erosion	X			None expected from the proposed development, conditions of consent will apply for construction
Air and microclimate	X			None anticipated from this development, there is adequate open space between the proposed dwelling and any future neighbours as surrounding land is mostly general farmland with dwellings and sheds
Water Resources	X			None located on the site – distance from River complies with WLEP 2011 requirements, over 100m from billabong
Biodiversity (Flora & Fauna)	X			No native vegetation to be cleared in preparation of the development site
Land Resources	X			None on site expected to impact development
Utilities	X			Appropriate utilities are to be made available to the dwelling if required, subject site has access to a rural power supply and has a stock and domestic water licence as per SEE, rainwater tanks will also be provided to site for potable water supply as per SEE
Access & Parking	X			Direct access to the property exists via sealed roads, ample room for parking
Roads & Traffic	X			No new roads to be created & ample parking on site
Solar Access and Energy Efficiency			X	N/A
Overshadowing	X			Overshadowing plans not required as rural zoning and no dwellings close to development site
Privacy & overlooking			X	Not relevant as no surrounding residential development close to proposed development site, dwellings in area related with farmland
Flooding	X			Not on flood prone land

Bushfire Prone Area	X			In a bushfire prone area – vegetation category 3, applicant has provided a bushfire planning report with application
Noise	X			An increased noise level is anticipated during construction only
Technological hazards	X			None anticipated
Safety, Security & Crime Prevention	X			Development is not expected to impact crime, there is already dwellings and sheds in the area
Social and Economic Impacts	X			None anticipated

As the site is bushfire prone in vegetation category 3, the applicant has provided a bushfire assessment for a single dwelling and a planning for bush fire protection report.

The report identifies the nearest vegetation to be over 200m away, and as such no construction requirements are needed for the dwelling.

The applicant has identified routes for emergency services to access the site in case of fire, which is via Billabong Road, and has identified adequate access to water for emergency use as the onsite dam.

An APZ plan is included and is identified to be a 20m buffer zone of lawn around the proposed dwelling.

(5) The suitability of the site for development

The site is suitable for the proposed dwelling as it will not have an adverse impact on the locality. The proposed development is permitted with consent in the RU4 zone under the Wentworth LEP 2011. The proposed dwelling is to be used in association with the existing agricultural/farming use of the site with no expected negative impacts. Surrounding lots are used for farming or rural living, with sheds and dwellings present.

(6) Any submissions made in accordance with this Act or Regulation

The application was notified for 14 days as per the Wentworth Community Participation Plan. No submissions were received.

(7) The public interest

The proposed development is consistent with public interest as it will have no detrimental effect on the surrounding area. Moreover, no objections were made by the surrounding neighbours.

COMMENTS FROM COUNCIL INTERNAL DEPARTMENTS

Department	Referred Y/N	Comments
Building	N	
Subdivision Engineer	N	
Roads & Engineering	N	



Finance & Policy	N	
Heritage Advisor	N	
Environmental Health	N	
Local Laws	N	
Floodplain Mgt Committee	N	
Sustainable Infrastructure	N	


CONCLUSIONS

1. General comments:
2. The proposal satisfies the points for consideration listed under Section 4.15 part b, c, d and e of the *Environmental Planning and Assessment Act*.
3. The proposal occurs on land zoned RU4 – Primary Production Small Lots. The proposal is not considered to have detrimental impact on the site and surrounds. (*Sec 4.15 (a)*)
4. The proposal is consistent with the Wentworth Shire Development Control Plan (Dec 2011). The proposal is consistent with the development controls in Chapters 3 and 5 of the Wentworth Shire Development Control Plan 2011. (*Sec 4.15 (a)*)
5. The proposed deferred commencement dwelling accords with the relevant objectives and provisions of the State Environmental Planning Policy (Biodiversity and Conservation) 2021.
6. There is no draft local environmental plan affecting the proposed development.

Recommendation:

Approve the application subject to conditions

Delegate report author	Delegated approval and endorsement
Signature: 	Signature: 
Georgie Martin Cadet Planning Officer	George Kenende Acting Director Health & Planning
Date: 24/06/2024	Date: 27/06/2024

	<p>Health & Planning Department 26-28 Adelaide Street PO Box 81 WENTWORTH NSW 2648 Tel: 03 5027 5027 council@wentworth.nsw.gov.au</p>	<p>Clause 4.6 Assessment</p> <p>Environmental Planning & Assessment Act 1979 as amended</p>
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4.6 VARIATION ASSESSMENT

Approving 4.6 variations

Under clause 35B of the Environmental Planning and Assessment Regulation 2021, applications involving contravention of development standards must be accompanied by a document that sets out the grounds on which the applicant seeks to demonstrate that –

- Compliance with the development standard is unreasonable or unnecessary in the circumstances, and
- There are sufficient environmental planning grounds to justify the contravention of the development standard.

The consent authority must keep a record of any assessment carried out.

The variation proposed is greater than 10% (78%). Due to changes made by the NSW Government, Clause 4.6 of the Standard Instrument LEP has been reformed to make the planning system faster, simpler, and more transparent.

The reform came into effect on 1 November 2023 and removes the requirement to obtain the Planning Secretary's concurrence for a variation with new reporting framework. As such, council has authority to approve or refuse 4.6 variation applications.

4.6 Exceptions to development standards

Information provided by applicant:

Relevant clauses of 4.6 for assessment are as follows:

- 2). *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- 3). *Development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that -*
 - a. *compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
 - b. *there are sufficient environmental planning grounds to justify contravening the development standard.*

Note—

The *Environmental Planning and Assessment Regulation 2021* requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

Written request for consideration has been presented by the applicant, Cadell Consulting (Michelle Bos) with reasons for justifying the contravention of this standard and allow a dwelling (deferred commencement) on a lot that is less than 10ha in size in zone RU4 – Primary Production Small Lots. Site location is Lot 5 DP 804042, 74 Billabong Road, Curlwaa.

3a). That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

Response:

The enforcement of the development standard applied to subject site is considered unnecessary in this instance. The proposed development of a dwelling will not contravene objective 1(a) of Clause 4.2B of the WLEP 2011. This is determined by the fact that the property will remain being rated as farming land and used for agricultural purposes, despite containing a dwelling on the small-scale farming allotment.

The enforcement of compliance with the development standard is considered unreasonable in this instance. The purpose of the proposed dwelling is to allow for landowner to reside on site to enable efficient and productive management of small scale, rural enterprise, whilst protecting the property and assets that are required to run a small rural business.

Compliance with standard is considered unreasonable as the settlement pattern surrounding the subject site includes dwellings on a range of allotment sizes.

3b). That there are sufficient environmental planning grounds to justify contravening the development standard.

Response:

The capacity to be used for small scale primary production will not be impacted by proposed development. Permitting the landowner to reside on site enables the property to be farmed in a more efficient, productive and economically sustainable manner. The monitoring and management of stock, feed, and water supply will be more convenient and consistent, after business/work hours if landowner resides onsite.

The property is not currently operating at capacity due to risk of stock theft and the inability to protect farming and machinery assets on site.

The property has a small stock and domestic water allocation which can adequately service the proposed dwelling and the grazing of rangeland goats and sheep for fattening, in preparation for the sale of stock.

Promote economic benefit to the landowner by enabling the property to increase its financial capacity to supplement off-farm income, reduce costs of requiring alternative residential accommodation, whilst enabling future financial security and the potential for future rural enterprise expansion.

Consideration of the applicants written request – Clause 4.6(4) (a) (i) and (ii) (b)

Does the written request adequately address those issues at **Clause 4.6(4)(a)(i)**:

The applicant's written request has adequately demonstrated that compliance with the minimum lot size in zone RU4 Primary Production Small Lots restriction is unreasonable and unnecessary in this case based on the following:

The subject site is an allotment containing approximately 2.2 hectares and is shaped an irregular rectangle. The site contains a garage near the southeastern boundary and a machinery shed near the southern boundary. The site is fenced into two paddocks, one paddock contains the sheds, lawn, driveway, vegetation, and a stand-alone gum tree; the other, larger paddock has remnant vegetation and a dam. Billabong Road encompasses the western and northern boundaries.

This variation request seeks consent for the (deferred commencement) of a dwelling on the subject site that does not satisfy the minimum lot requirement. The proposed development exceeds the development standard by 7.8 hectares which is a variation of 78%.

The enforcement of the development standard applied to the subject site is considered unnecessary in this instance. The proposed development of a dwelling on the subject site will not contravene objective 1(a) of Clause 4.2B of the WLEP 2011. This is determined by the fact that the property will remain being rated as farming land and used for agricultural purposes, despite containing a dwelling on the small-scale farming allotment.

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Compliance with the development standard is considered unreasonable as the settlement pattern surrounding the subject site includes dwellings on a range of allotment sizes (ranging from 4,500 m² to 6.3 hectares), where none of these comply with the 10 hectare minimum lot size.

The capacity to be used for small scale primary production will not be impacted by the proposed development. Permitting the landowner to reside on site, enables the property to be farmed in a more efficient, productive, and economically sustainable

manner. The monitoring and management of stock, feed and water supply will be more convenient and consistent, after business/work hours, if the landowner is residing on site. The property is not currently operating at capacity due to the risk of stock theft and the inability to protect farming and machinery assets on the site.

The property has a small stock and domestic water allocation which can adequately service the proposed dwelling and the grazing of rangeland goats and sheep for fattening, in preparation for the sale of the stock. Promotes economic benefit to the landowner by enabling the property to increase its financial capacity to supplement off-farm income, reduce costs of requiring alternative residential accommodation, whilst enabling future financial security and the potential for future rural enterprise expansion.

The property is currently, and will remain, covered by rural farm insurance due to the proposed intensification of rural activities on the subject site. Due to the maintenance investment and effectiveness of the Curlwaa levee, the subject site is protected from flooding, as evidenced in the recent 2022-23 flood event. A previous application submitted to the consent authority, for a dwelling on the allotment, was granted consent by Wentworth Shire Council. A search on the property file will support this statement.

Officer comments: The proposed development will not lead to unplanned residential development in the area as pre-existing dwellings and associated structures are present, with only one planned dwelling for subject site. The proposed dwelling will be associated with current use of the land and pre-established structures on site.

The proposed dwelling can be understood to allow for enhanced use of the land as well as security by the owners living on site. Owners living onsite will protect their stock and deter potential criminal activity.

Other lots in the area zoned to RU4 – Primary Production Small Lots have many land sizes under the MLS of 10ha, being:

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2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.
3. The objective would be defeated, thwarted or undermined (*Linfield Developments Pty Ltd v Cumberland Council* [2019] NSWLEC 131 at [24]) if compliance was required with the consequence that compliance is unreasonable.
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence the standard is unreasonable and unnecessary; and
5. The zoning of the land is unreasonable or inappropriate.

Answers:

1. The applicants written request to vary Clause 4.6 Exceptions to development standards in the Wentworth Local Environmental Plan 2011 indicates achievement of the development standard notwithstanding the proposed variation through the following:
 - *Development is permitted with consent in the zone of RU4 – Primary Production Small Lots,*
 - *Dwelling will enable landowners to reside on site and facilitate efficient, productive management of a small farming establishment,*
 - *Property will remain being used as farming land and not solely residential,*
 - *Farming will not be impacted by the proposed development of a dwelling but be more productive through owner being able to facilitate works and live on site at the same time.*

Officer comment: The noncompliance with the minimum lot size will have no detrimental impacts on the land or surrounding areas and development will be in line with the WLEP 2011 except from MLS.

2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary shown through the following:
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 - *The landowners will be able to increase financial capacity and reduce costs of alternative (offsite) residential accommodation,*
 - *Many allotments in the surrounding area while also zoned to RU4 – Primary Productions Small Lots, do not comply with the MLS of 10ha, a few examples include 4782m², 7698m², 9086m², 2.6ha, and 5.504ha.*

Officer comment: Due to the existing residential development on lots surrounding the subject site, development is anticipated to have minimal impact on the surrounding area and the development will be relevant to land use objectives of zone RU4.

3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore this is unreasonable shown through the following:
 - *Other allotments in the area do not comply with the zoning of RU4 and have dwellings and associated structures situated on site,*
 - *Not allowing development of a dwelling on the lot would impact landowners financially,*
 - *The property has a stock and domestic water allocation which can adequately service dwelling and associated farming practices,*
 - *A previous application was submitted to Council for a dwelling on the subject site by previous owners, this was granted but lapsed before construction occurred and then land was sold. See DA15/078.*

Officer comment: Development will not alter use of land except for allowing a dwelling for owner to live on site as others in the area do already, it can be seen as unreasonable to not allow development as smaller RU4 zoned lots do not comply with the MLS.

4. The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable:
 - *The standards have not been abandoned by council actions in this case as developments in the area either don't have DAs on their property file or were boundary re-alignments.*

Officer comment: no evidence to show standard has been abandoned by Council.

5. The zoning of the land is unreasonable or inappropriate:
 - *The zoning of the land is reasonable and appropriate, dwellings are permitted with consent under the Wentworth Local Environmental Plan (WLEP) 2011 on RU4 zoned allotments, but MLS is not met for this lot.*

Officer comment: The proposed deferred commencement dwelling is permitted on RU4 zoned land and is supported by the fact that surrounding allotments have similar developments, and that consent was previously granted for this lot but lapsed and wasn't acted upon.


The variation is supported based on the results on the five (5) part test above.

Officer comment: The proposed variation to standard 4.2B is supported based on the results on the five (5) part test – indicating that the development complies with the test.

The 78% variation in MLS of the proposed deferred commencement dwelling is not anticipated to cause negative impact to the subject site or surrounding allotments, as the site is already utilised as farming land and has previously had consent granted (DA15/078).

To allow a dwelling to be built for the owners on their land, it would allow for enhanced use of the subject site economically and agriculturally, and as the subject site is already utilised

for agricultural activities – no effects to surrounding allotments should be seen from a dwelling.

 <p>Wentworth SHIRE COUNCIL</p>	<p>Health & Planning Department 26-28 Adelaide Street PO Box 81 WENTWORTH NSW 2648 Tel: 03 5027 5027 council@wentworth.nsw.gov.au</p>	<p>TEMPLATE CONDITIONS</p>
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DA2024/067 DEFERRED COMMENCEMENT OF DWELLING 74 BILLABONG ROAD LOT 5 DP 804042

GENERAL CONDITIONS

1.	<p>Approved development</p> <p>Approval is for deferred commencement dwelling</p> <p>Reason: To ensure all parties are aware of the approved development</p>
2.	<p>Approved Plans and Documentation</p> <p>The development shall be in accordance with the following plans, documentation and recommendations made there in:</p> <ul style="list-style-type: none"> • Site Plan – no further information • Asset Protection Zone Map – provided by applicant, Cadell Consulting Services <p>In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.</p> <p>Note: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.</p> <p>Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p>
3.	<p>Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989</p> <ol style="list-style-type: none"> 1. It is a condition of a development consent for development that involves building work that the work must be carried out in accordance with the requirements of the Building Code of Australia. 2. It is a condition of a development consent for development that involves residential building work for which a contract of insurance is required under the Home Building Act 1989, Part 6 that a contract of insurance is in force before building work authorised to be carried out by the consent commences. 3. It is a condition of a development consent for a temporary structure used as an entertainment venue that the temporary structure must comply with Part B1 and NSW Part H102 in Volume 1 of the Building Code of Australia. 4. In subsection (1), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for the

	<p>construction certificate was made.</p> <p>5. In subsection (3), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for development consent was made.</p> <p>6. This section does not apply-</p> <ol style="list-style-type: none"> to the extent to which an exemption from a provision of the Building Code of Australia or a fire safety standard is in force under the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, or to the erection of a temporary building, other than a temporary structure to which subsection (3) applies. <p>Reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>
4.	<p>Erection of signs</p> <p>1. This section applies to a development consent for development involving building work, subdivision work or demolition work.</p> <p>2. It is a condition of the development consent that a sign must be erected in a prominent position on a site on which building work, subdivision work or demolition work is being carried out:</p> <ol style="list-style-type: none"> showing the name, address and telephone number of the principal certifier for the work, and showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and stating that unauthorised entry to the work site is prohibited. <p>3. The sign must be-</p> <ol style="list-style-type: none"> maintained while the building work, subdivision work or demolition work is being carried out, and removed when the work has been completed. <p>4. This section does not apply in relation to-</p> <ol style="list-style-type: none"> building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or Crown building work certified to comply with the Building Code of Australia under the Act, Part 6. <p>Reason: Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.</p>
5.	<p>Fulfilment of BASIX commitments</p> <p>It is a condition of a development consent for the following that each commitment listed in a relevant BASIX certificate is fulfilled</p> <ol style="list-style-type: none"> BASIX development, BASIX optional development, if the development application was accompanied by a BASIX certificate.

	Reason: Prescribed condition under section 75 of the Environmental Planning and Assessment Regulation 2021.
6.	<p>Lapsing of Approval</p> <p>Without the further consent of the Wentworth Shire Council, in writing, this permit shall lapse and have no force or effect unless the use or development hereby permitted is physically commenced within 5 years of the date of this permit.</p> <p>Reason: Ensure everyone is aware of the lapsing of the approval</p>
7.	<p>Notification of Home Building Act 1989 requirements</p> <ol style="list-style-type: none"> 1. This section applies to a development consent for development involving residential building work if the principal certifier is not the council. 2. It is a condition of the development consent that residential building work must not be carried out unless the principal certifier for the development to which the work relates has given the council written notice of the following- <ol style="list-style-type: none"> a. for work that requires a principal contractor to be appointed <ol style="list-style-type: none"> i. the name and licence number of the principal contractor, and ii. the name of the insurer of the work under the Home Building Act 1989, Part 6, b. for work to be carried out by an owner-builder <ol style="list-style-type: none"> i. the name of the owner-builder, and ii. if the owner-builder is required to hold an owner-builder permit under the Home Building Act 1989 the number of the owner-builder permit. 3. If the information notified under subsection (2) is no longer correct, it is a condition of the development consent that further work must not be carried out unless the principal certifier has given the council written notice of the updated information. 4. This section does not apply in relation to Crown building work certified to comply with the Building Code of Australia under the Act, Part 6. <p>Reason: Prescribed condition under section 71 of the Environmental Planning and Assessment Regulation 2021.</p>
8.	<p>Works outside the property boundary</p> <p>This development consent does not authorise works outside the property boundaries on adjoining lands.</p> <p>Reason: To ensure all approved works occur within the property boundaries</p>

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

9.	<p>7.12 Contribution</p> <p>Before the issue of the relevant construction certificate, the applicant must pay a total</p>
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	<p>contribution of \$3,950.00 as calculated at the date of this consent to Wentworth Shire Council pursuant to the adopted Section 7.12 Development Contributions Plan.</p> <p>Note: The total amount payable may be adjusted at the time payment is made per clause 3.10 of the Section 7.12 Development Contributions Plan.</p> <p>Reason: To ensure the 7.12 Developer Contributions are paid.</p>
10.	<p>Access Point</p> <p>Before the issue of a Construction Certificate, the beneficiary of this consent must build a driveway crossing for the subject land (if one doesn't exist) to Council standards.</p> <p>Access during construction shall only be through the driveway crossing of the subject land.</p> <p>Reason: To control vehicular movement on road crossings.</p>
11.	<p>Building Material</p> <p>The proposed building/s and structure/s shall be clad in an approved non-reflective material e.g. colorbond.</p> <p>Reason: To ensure the materials of the building not impact the visual amenity of the surrounding character of the area.</p>
12.	<p>Construction Site Management Plan</p> <p>Before the issue of a construction certificate, the applicant must ensure a construction site management plan is prepared before it is provided to and approved by the certifier. The plan must include the following matters:</p> <ul style="list-style-type: none"> • location and materials for protective fencing and hoardings to the perimeter on the site • provisions for public safety • pedestrian and vehicular site access points and construction activity zones • details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site • protective measures for on-site tree preservation (including in accordance with AS 4970-2009 Protection of trees on development sites) and trees in adjoining public domain • details of any bulk earthworks to be carried out • location of site storage areas and sheds • equipment used to carry out all works • a garbage container with a tight-fitting lid • dust, noise and vibration control measures • location of temporary toilets. <p>The applicant must ensure a copy of the approved construction site management plan is kept on-site at all times during construction.</p> <p>Reason: To ensure construction works are adequately managed to protect the surrounding</p>

	amenity.				
13.	<p>Erosion and Sediment Control</p> <p>Before the issue of a construction certificate, the beneficiary of this consent is to ensure that an erosion and sediment control plan is prepared in accordance with the following documents before it is provided to and approved by the certifier:</p> <ul style="list-style-type: none"> the guidelines set out in the NSW Department of Housing manual Managing Urban Stormwater: Soils and Construction Certificate (the Blue Book), and the 'Do it Right On-Site, Soil and Water Management for the Construction Industry'; (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust). <p>The applicant must ensure the erosion and sediment control plan is kept onsite at all times during site works and construction.</p> <p>Reason: To ensure no substance other than rainwater enters the stormwater system and waterways.</p>				
14.	<p>Long Service Levy</p> <p>Before the issue of a construction certificate, the beneficiary of this consent is to ensure that the person liable pays the long service levy as calculated at the operational date of this consent to the Long Service Corporation or Council under section 34 of the Building and Construction Industry Long Service Payments Act 1986 and provides proof of this payment to the certifier.</p> <p>Reason: To ensure the long service levy is paid.</p>				
15.	<p>Payment of Security Deposits</p> <p><i>This condition applies to all construction works \$25,001 and above.</i></p> <p>Before the commencement of any works on the site or the issue of a construction certificate, the beneficiary of this consent must make all of the following payments to Council and provide written evidence of these payments to the certifier:</p> <table border="1"> <tr> <td>Infrastructure Bond (Security Deposit):</td><td>\$3,000.00</td></tr> <tr> <td>Infrastructure Protection Permit Fee (includes inspections)</td><td>\$221.00</td></tr> </table> <p>The payments will be used for the cost of:</p> <ul style="list-style-type: none"> making good any damage caused to any council property (including street trees, kerb, road etc) as a consequence of carrying out the works to which the consent relates, completing any public work such as roadwork, kerbing and guttering, footway construction, stormwater drainage and environmental controls, required in connection with this consent, and any inspection carried out by Council in connection with the completion of public work or 	Infrastructure Bond (Security Deposit):	\$3,000.00	Infrastructure Protection Permit Fee (includes inspections)	\$221.00
Infrastructure Bond (Security Deposit):	\$3,000.00				
Infrastructure Protection Permit Fee (includes inspections)	\$221.00				

	<p>the making good any damage to council property.</p> <p>The Infrastructure Bond will be returned on completion of the construction of the proposed development, subject to no damage being done to any council property (including street trees, kerb, road etc) as a consequence of carrying out the works to which the consent relates. The owner / developer is to arrange an inspection with an Officer of Wentworth Shire Council before any work commences on site. Any damage incurred to Council infrastructure will be repaired at the owners / developers expense and the balance of the Infrastructure Bond will be returned to the owner / developer on completion of the construction.</p> <p>Note: The inspection fee includes Councils fees and charges and includes the Public Road and Footpath Infrastructure Inspection Fee (under the Roads Act 1993). The amount payable must be in accordance with councils fees and charges at the payment date.</p> <p>Reason: To ensure any damage to public infrastructure is rectified and public works can be created.</p>
16.	<p>Utilities and services</p> <p>Reticulated water is not available at the site, as such the beneficiary of this consent must ensure that the proposed dwelling is provided access to portable water.</p> <p>Note: Stock and domestic water entitlement may be attached to the proposed dwelling site.</p> <p>Reason: To ensure the proposed dwelling is provided with appropriate servicing.</p>
17.	<p>Plumbing and Drainage - AWTs</p> <p>Before issuance of the Construction Certificate, a Plumbing and Drainage Approval Application under Section 68 of the Local Government Act NSW 1993, for an onsite Aerated WasteWater Treatment system (AWTS) sewerage management system with a Land Capability Assessment (LCA), is to be submitted to and approved by Council before carrying out any plumbing and drainage work (water and sewerage).</p> <p>Note: A septic system will not be allowed on the property. All plumbing and drainage work is to be carried out by a plumber and drainer, or other authorised person, licensed with the New South Wales Department of Fair Trading.</p> <p>Reason: To ensure plumbing and drainage works are carried out appropriately.</p>
18.	<p>Stormwater Management Plan</p> <p>Before the issue of a construction certificate the beneficiary of this consent is to design and submit to Council for approval a stormwater Management Plan for the development. The design is to be approved by Council before any work takes place on this site. All work detailed by the approved design is to be constructed by the beneficiary of this consent under supervision of the Principal Certifying Authority. All work is to be carried out at the beneficiary of this consent's expense.</p> <p>The plan is to include treatment measures for the water if it is to be discharged into a waterway.</p> <p>Reason: To ensure stormwater run-off is appropriately managed.</p>

19.	<p>Waste management plan</p> <p>Before the issue of a construction certificate, the applicant is to ensure that a waste management plan is prepared in accordance with the EPA's Waste Classification Guidelines and the following requirements before it is provided to and approved by the certifier:</p> <p>Details the following:</p> <ul style="list-style-type: none"> • the contact details of the person(s) removing the waste • an estimate of the waste (type and quantity) and whether the waste is expected to be reused, recycled or go to landfill • the address of the disposal location(s) where the waste is to be taken <p>The applicant must ensure the waste management plan is referred to in the construction site management plan and kept on-site at all times during construction.</p> <p>Reason: To ensure resource recovery is promoted and local</p>
20.	<p>Works in Road Reserve</p> <p>A Road Opening Permit is required from the Wentworth Shire Council prior to any works or excavation within the road reserve including but not limited to: water tapping, sewer, driveway crossings, tree planting or removal etc.</p> <p>Please contact Councils Roads & Engineering Department on Tel: (03) 5027 5027 to arrange a permit.</p> <p>Reason: To control development in the road reserve.</p>

BEFORE BUILDING WORK COMMENCES

21.	<p>Bush fire asset protection zones</p> <p>Before any site work commences, the boundaries of the asset protection zone must be surveyed and marked on the ground by a registered surveyor.</p> <p>Reason: To provide a buffer to protect life and property from bush fire attack</p>
22.	<p>Construction Certificates and Appointment of Principal Certifier</p> <p>Prior to the commencement of any building works, the following requirements must be complied with</p> <ul style="list-style-type: none"> • A Construction Certificate must be obtained from the Council or an Accredited Certifier, in accordance with the provisions of the Environmental Planning & Assessment Act 1979, • A Principal Certifier must be appointed, and Council must be notified in writing of the appointment irrespective of whether Council or a Registered Certifier is appointed; and notify Council in writing of their intention to commence work (at least two [2] days' notice is required).

	Reason: To ensure building works complies with relevant legislation and other codes.
23.	<p>Contractor details notification</p> <p>The certifying authority must advise Council, in writing of:</p> <ol style="list-style-type: none"> 1. The name and contractor licence number of the licensee who has been contracted to do or intends to do the work, or 2. The name and permit of the owner-builder who intends to do the work. <p>If these arrangements are changed, or if a contract is entered into for the work to be done by a different licensee, Council must be immediately informed.</p> <p>Reason: To ensure building work is carried out by licensed contractor</p>
24.	<p>Dial before you dig</p> <p>Underground assets may exist in the area that is subject to your application. In the interest of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au or telephone 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contact the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary.</p> <p>Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individuals responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities."</p> <p>Reason: To ensure existing infrastructure is identified</p>
25.	<p>Erosion and sediment controls in place</p> <p>Before the commencement of any site or building work, the developer must be satisfied the erosion and sediment controls in the erosion and sediment control plan, (as approved by Council) are in place until the site is rectified (at least 70% ground cover achieved over any bare ground on site).</p> <p>Reason: To ensure runoff and site debris do not impact local stormwater systems and waterways</p>
26.	<p>Notice of commencement of works</p> <p>Subject to approval to commence works two days before any site works, building or demolition begins, the beneficiary of this consent must:</p> <ol style="list-style-type: none"> 1. Forward to Council notice of commencement of work and appointment of Principal Certifying Authority. 2. Notify the adjoining owners that work will commence. <p>Reason: To provide notification of works commencing</p>

27.	<p>Rubbish/Waste Management</p> <p>Throughout the construction period, from commencement of work, a suitable rubbish containment structure is to be located on site and utilised.</p> <p>Reason: To ensure the construction site is kept clean and safe at all times.</p>
28.	<p>Storage of materials</p> <p>Throughout the construction period, from commencement of work, the storage of materials is not permitted on footpaths, roadways or in reserves. Rubbish and building materials must be contained on the site.</p> <p>Reason: To ensure the construction materials are stored on site in a tidy & safe manner.</p>
29.	<p>Toilet facilities</p> <p>Toilet facilities are to be provided on or in the vicinity of the building site. The toilet must be connected to a public sewer, or if connection to a public sewer is not practicable, an approved chemical closet. The toilet facility must be installed on-site prior to the commencement of any other work.</p> <p>Reason: To ensure workers and contractors have access to amenities on site.</p>
30.	<p>Tree protection measures</p> <p>Before the commencement of any site or building work, the principal certifier must ensure the measures for tree protection detailed in the construction site management plan are in place.</p> <p>Reason: To protect and retain trees.</p>

DURING BUILDING WORK

31.	<p>Approved Plans</p> <p>A copy of the stamped approved and certified plans, specifications and documents incorporating conditions of approval and certification must be kept on site for the duration of site works and be made available upon request to either the Council or other Government Agencies.</p> <p>Reason: To ensure all parties are aware of the approved works to be conducted</p>
32.	<p>Clearing for asset protection zones (APZ)</p> <p>While site work is being carried out, clearing or modifying vegetation to establish the APZ must be confined within the marked APZ boundary in accordance with the supporting documentation approved under this consent, to the satisfaction of the principal certifier.</p> <p>Reason: To ensure vegetation clearance or modification during construction is confined within the APZ.</p>

33.	<p>Construction noise</p> <p>While work is being carried out and where no noise and vibration management plan is approved under this consent, the applicant is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.</p> <p>Reason: To protect the amenity of the neighbourhood</p>
34.	<p>Contamination discovered during works</p> <p>If during works on the land comprising the lot, the land is found to be contaminated, within the meaning of the Contaminated Land Management Act 1997:</p> <ul style="list-style-type: none"> • all works must stop immediately, and • the Environment Protection Authority and the council must be notified of the contamination. • Land is found to be contaminated for the purposes of this condition if the principal certifying authority knows or reasonably suspects the land is contaminated. <p>Note: Depending on the nature and level of the contamination, remediation of the land may be required before further work can continue.</p> <p>Reason: To ensure contaminated land is managed appropriately</p>
35.	<p>Cut and fill (if applicable)</p> <p>While building work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:</p> <ul style="list-style-type: none"> • All excavated material removed from the site must be classified in accordance with the EPAs Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be reported to the principal certifier. • All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the Protection of the Environment Operations Act 1997 or a material identified as being subject to a resource recovery exemption by the NSW EPA. <p>Reason: To ensure soil removal & replacement meets requirements</p>
36.	<p>Encroachment of easements</p> <p>No works are to encroach over any easements.</p> <p>Reason: To ensure works are not carried out over easements</p>
37.	<p>Hours of work</p> <p>The developer must ensure that building work, demolition or vegetation removal is only carried out between:</p>

	<ul style="list-style-type: none"> • 7.00am to 6.00pm on Monday to Friday • 8.00am to 1.00pm on Saturdays <p>The developer must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.</p> <p>Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.</p> <p>Note: Any variation to the hours of work requires Councils approval.</p> <p>Reason: To protect the amenity of the surrounding area</p>
38.	<p>Implementation of BASIX commitments</p> <p>While building work is being carried out, the applicant must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent, for the development to which the consent applies.</p> <p>Reason: To ensure BASIX commitments are fulfilled in accordance with the BASIX certificate (prescribed condition under Section 75 EP&A Regulation)</p>
39.	<p>Implementation of site management plans</p> <p>While vegetation removal, demolition and/or building work is being carried out, the applicant must ensure the measures required by the approved construction site management plan and the erosion and sediment control plan are implemented at all times. The applicant must ensure a copy of these approved plans is kept on site at all times and made available to Council officers upon request.</p> <p>Reason: To ensure the required site management measures are implemented during construction.</p>
40.	<p>Natural drainage</p> <p>Any works undertaken in the subject land including building and filling shall not cause alteration to the previous drainage in the subject land or adjacent land. Any remedies required to discharge drainage water caused to be accumulated by the works associated with this permit shall be the responsibility of the beneficiary of this consent.</p> <p>Reason: To ensure natural drainage is maintained where possible</p>
41.	<p>Procedure for critical stage inspections</p> <p>While building work is being carried out, any such work must not continue after each critical stage inspection unless the principal certifier is satisfied the work may proceed in accordance with this consent and the relevant construction certificate.</p> <p>Reason: To require approval to proceed with building work following each critical stage inspection</p>

42.	<p>Responsibility for changes to public infrastructure</p> <p>While building work is being carried out, the applicant must pay any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area).</p> <p>Reason: To ensure payment of approved changes to public infrastructure</p>
43.	<p>Security fencing</p> <p>An adequate security fence is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project</p> <p>Reason: To ensure the site is secured during construction</p>
44.	<p>Tree protection</p> <p>While site work is being carried out, all required tree protection measures must be maintained in good condition in accordance with:</p> <ol style="list-style-type: none"> 1. The construction site management plan 2. The relevant requirements of any Australian Standard for the protection of trees on development sites <p>This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.</p> <p>Reason: To protect trees during site works</p>
45.	<p>Uncovering relics or Aboriginal objects</p> <p>While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.</p> <p>In this condition:</p> <ul style="list-style-type: none"> • “relic” means any deposit, artefact, object or material evidence that: (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and a) is of State or local heritage significance; and • “Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

	Reason: To ensure protection of objects of potential significance during works.
46.	<p>Waste management</p> <p>While building work, demolition or vegetation removal is being carried out, the principal certifier must be satisfied all waste management is undertaken in accordance with the approved waste management plan.</p> <p>Upon disposal of waste, the applicant is to compile and provide records of the disposal to the principal certifier, detailing the following:</p> <ul style="list-style-type: none"> • The contact details of the person(s) who removed the waste • The waste carrier vehicle registration • The date and time of waste collection • A description of the waste (type of waste and estimated quantity) and whether the waste is expected to be reused, recycled or go to landfill • The address of the disposal location(s) where the waste was taken • The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste. <p>Note: If waste has been removed from the site under an EPA Resource Recovery Order or Exemption, the applicant is to maintain all records in relation to that Order or Exemption and provide the records to the principal certifier and Council.</p> <p>Reason: To require records to be provided, during construction, documenting that waste is appropriately handled.</p>

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

47.	<p>Completion of landscape and tree works</p> <p>Before the issue of an occupation certificate, the principal certifier must be satisfied that all landscape and tree-works, including pruning in accordance with AS 4373-2007 Pruning of amenity trees and the removal of all noxious weed species, have been completed in accordance with the approved plans and any relevant conditions of this consent.</p> <p>Reason: To ensure the approved landscaping works have been completed before occupation, in accordance with the approved landscaping plan(s).</p>
48.	<p>Completion of public utility services</p> <p>Before the issue of the relevant occupation certificate, the principal certifier must ensure any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development, is completed to the satisfaction of the relevant authority. Before the issue of the occupation certificate, the certifier must request written confirmation from the relevant authority that the relevant services have been completed.</p> <p>Reason: To ensure required changes to public utility services are completed, in accordance with</p>

	the relevant agency requirements, before occupation.
49.	<p>Occupation Certificate</p> <p>The building shall not be occupied or used until an Occupation Certificate is issued either by council or by an accredited certifier.</p> <p>Reason: To ensure development is accredited</p>
50.	<p>Removal of waste upon completion</p> <p>Before the issue of an occupation certificate, the principal certifier must ensure all refuse, spoil and material unsuitable for use on-site is removed from the site and disposed of in accordance with the approved waste management plan. Written evidence of the removal must be supplied to the satisfaction of the principal certifier.</p> <p>Before the issue of a partial occupation certificate, the applicant must ensure the temporary storage of any waste is carried out in accordance with the approved waste management plan to the principal certifier's satisfaction.</p> <p>Reason: To ensure waste material is appropriately disposed or satisfactorily stored.</p>
51.	<p>Repair of infrastructure</p> <p>Before the issue of an occupation certificate, the applicant must ensure any public infrastructure damaged as a result of the carrying out of building works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) is fully repaired to the written satisfaction of Council, and at no cost to Council.</p> <p>Note: If the council is not satisfied, the whole or part of the bond submitted will be used to cover the rectification work.</p> <p>Reason: To ensure any damage to public infrastructure is rectified</p>

OCCUPATION AND ONGOING USE

52.	<p>Additional structures</p> <p>No additional structures are to be built or installed on the site without permission from the Wentworth Shire Council.</p> <p>Reason: To ensure only approved work is carried out</p>
53.	<p>Amenity of the neighbourhood</p> <p>The operation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, dust, waste water, waste products, grit, oil or other harmful products.</p>

	Reason: To ensure the amenity of the neighbourhood is not compromised unreasonably.
54.	<p>Maintenance of wastewater and stormwater treatment device</p> <p>During occupation and ongoing use of the building, the beneficiary of this consent must ensure all wastewater and stormwater treatment devices (including drainage systems, sumps and traps, and on-site detention) are regularly maintained, to remain effective.</p> <p>Reason: To protect sewerage and stormwater systems.</p>
55.	<p>Management of asset protection zones (APZ)</p> <p>During ongoing use of the site, the APZ must be managed in accordance with asset protection zone map endorsed with this approval, Planning for Bushfire Protection 2019 and the NSW Rural Fire Services Standards for Asset Protection Zones.</p> <p>Reason: To ensure ongoing protection from bush fires.</p>
56.	<p>Release of securities / bonds</p> <p>When Council receives an occupation certificate from the principal certifier, the applicant may lodge an application to release the securities held. Council may use part, or all of the securities held to complete the works to its satisfaction if the works do not meet Councils requirements.</p> <p>Reason: To allow release of securities and authorise Council to use the security deposit to complete works to its satisfaction.</p>

9.14 DA2024/071 DEFERRED COMMENCEMENT FOR A DWELLING 65 RESERVE ROAD WEST LOT 3 DP 1056324 COOMEALLA

File Number: RPT/24/359

Responsible Officer: George Kenende - Acting Director Health & Planning

Responsible Division: Health and Planning

Reporting Officer: Georgie Martin - Cadet Planner

Objective: 3.0 Wentworth Shire is a community that works to enhance and protect its physical and natural environment

Strategy: 3.1 Ensure our planning decisions and controls enable the community to benefit from development

Summary

A development application (DA2024/071) was received by Council for a deferred commencement dwelling to be located at 65 Reserve Road West, Lot 3 DP 1056324, Coomealla.

Under the Wentworth Local Environmental Plan 2011 (WLEP 2011), this development is permitted with consent within the RU4 – Primary Production Small Lots zone as a dwelling.

The proposed deferred commencement dwelling is to be located on land that is currently vacant and has remained so following creation the allotment by NSW Crown Lands in 2009. The site is under the 10ha minimum lot size at only 1.4ha.

The minimum lot size under Clause 4.2B for erection of dwellings on the land is 10ha. As part of the assessment, a variation to the minimum lot size standard is required (referred to as a 4.6 variation).

Due to the variation being 86%, greater than 10%, the application cannot be determined under delegated authority, and must be determined by Council.

Recommendation

That Council

1. Approve DA2024/071 being a deferred commencement dwelling located at 65 Reserve Road West, Lot 3 DP 1056324.
2. Call a division in accordance with S375A of the Local Government Act 1993 (NSW).

Detailed Report

Purpose

The purpose of this report is to provide information to Council to determine Development Application DA2024/071, having consideration to the detail provided within this report and the attachments provided.

Background

A Development Application was lodged with Council on 30 May 2024 seeking consent for a deferred commencement of a dwelling on the subject site.

The subject site is located in the RU4 Primary Production Small Lots zone under the Wentworth Local Environmental Plan (WLEP 2011).

The proposal seeks to develop a dwelling on land that doesn't meet the minimum lot size of the WLEP 2011 for the zoning.

Under Clause 4.2B, for dwellings to be developed on land in zone RU4 it must comply with the minimum lot size of the land, which isn't met by this application and variation is hence sought.

Where an application cannot achieve the development standards required by a Local Environmental Plan, the applicant may apply to vary the development standard.

An application to vary a development standard is made under clause 4.6 of the WLEP 2011.

Under Clause 35B of the Environmental Planning and Assessment Regulation 2021, applications involving contravention of development standards must be accompanied by a document that sets out the grounds on which the applicant seeks to demonstrate that –

- Compliance with the development standard is unreasonable or unnecessary in the circumstances, and
- There are sufficient environmental planning grounds to justify the contravention of the development standard.

The consent authority must keep a record of all 4.6 variation assessments carried out.

Due to changes made by the NSW Government, Clause 4.6 of the Standard Instrument LEP has been reformed to make the planning system faster, simpler, and more transparent. The reform came into effect on 1 November 2023 and removes the requirement to obtain the Planning Secretary's concurrence for a variation with new reporting frameworks. As such, council has authority to approve or refuse 4.6 variation applications.

The WLEP 2011 identifies the minimum lot sizes for RU4 – Primary Production Small Lot zoned land as 10ha. The subject site of the application is only 1.4ha, creating a variation of 86%. As this is greater than 10%, this application cannot be determined under delegated authority and is presented to Council for consideration.

Refer to attachment 1 – Development Application

Refer to attachment 2 – 4.6 Variation Request

Refer to attachment 3 – Site Plan

Matters under consideration

In determining a development application that requires consent, the consent authority must take into consideration matters prescribed in Section 4.15 of the Environmental Planning and Assessment Act 1979 as relevant to the development.

The proposed development was assessed and met relevant provisions of the State Environmental Planning Policy (Biodiversity and Conservation) 2021, with no in-depth assessment required due to nature of the subject site and surrounds.

As the subject site is impacted by bushfire mapping minimally, the applicant has provided adequate mapping of impacted areas and the proposed asset protection zone (APZ), alongside a Rural Fire Service bushfire assessment report (Planning for Bushfire).

The proposed development for a deferred commencement for a dwelling is permitted with consent and meets the zone objectives of the RU4 Primary Production Small Lots zone under the WLEP 2011.

The deferred commencement dwelling does not meet the minimum lot size standard and the 4.6 variation request provided by the applicant provided adequate justification for the contravention of development standard contained in Clause 4.2B.

Due to zoning and the WLEP mapping impacting the land, the development application was assessed against Clauses 4.2B, 4.2D, 4.6, 5.16, 7.1, and 7.2.

Due to the nature of the proposed development, it was assessed against Chapter 3 – General Development Controls of the Wentworth Development Control Plan (DCP) 2011. The development was able to comply with the provisions of this chapter.

Based on assessment of the application, it is determined that the proposed development is compliant with the relevant objectives of the RU4 Primary Production Small Lots zone, is able to meet the relevant provisions of the Wentworth Development Control Plan (DCP) 2011, is consistent with planning matters for consideration of the Wentworth Local Environmental Plan 2011 and the State Environmental Planning Policy (Biodiversity and Conservation) 2021.

Refer to attachment 4 – Bushfire Mapping

Refer to attachment 5 – Planning for Bushfire Report

Refer to attachment 6 – 4.15 Assessment Report

Refer to attachment 7 – 4.6 Variation Assessment Report

Refer to attachment 8 – Conditions of Consent

Options

Based on the information contained in this report, the options available to address this matter are to:

- Approve Development Application DA2024/071 subject to conditions

Legal, strategic, financial or policy implications

Should Council issue a determination to the application, the applicant has the right to submit a request for review of determination to Council under Section 8.2 of the Environmental Planning & Assessment Act 1987.

The applicant also has the right to appeal the decision made by Council to the Land and Environment Court pursuant to Section 8.7 of the Environmental Planning & Assessment Act 1987.

Conclusion

Having consideration of the consent of this report, it is concluded that the appropriate course of action is to approve the development approval for DA2024/071 subject to conditions in this report.

Attachments

1. Development Application (Under separate cover)⇒
2. 4.6 Variation Request↓
3. Site Plan↓
4. Bushfire Mapping↓
5. Planning for Bushfire Report (Under separate cover)⇒
6. 4.15 Assessment Report↓
7. 4.6 Assessment Report↓
8. Conditions of Consent↓



Request to vary under *Clause 4.6 Exceptions to development standards in the Wentworth Local Environmental Plan 2011*

Date	15 May 2024					
Address	65	Reserve	Road	West,	Coomealla	NSW 2717
	Lot 3 DP1056324					

1. Site description

The subject site is an allotment containing approximately 1.4 hectares and is rectangle in shape.

Access to the subject site is from Reserve Road West.

The subject site is currently vacant but has previously been used for horticultural purposes.

There is one lone tree located centrally, a cluster of remnant vegetation situated on the eastern boundary and a concrete water tank situated close to the northern boundary.

2. Proposed development

This variation request seeks consent for (the deferred commencement of) a dwelling on the subject site, where the area of the subject site does not satisfy the minimum lot size requirement.

3. What is the environmental planning instrument you are seeking to vary?

Wentworth Local Environmental Plan 2011

4. Zone of subject site

RU4 Primary Production Small Lots

5. Development standard to be varied

Minimum Lot Size

Clause 4.2B Erection of dwelling houses on land in Zone RU1, RU4, R5, C3 and C4 (3)(a)

(1) The objectives of this clause are as follows—

(a) to minimise unplanned rural residential development,

(b) to enable the replacement of lawfully erected dwelling houses in rural and conservation zones.

6. Type of variation
Numerical variation

7. The numeric value of the development standard in the Wentworth LEP 2011
MLS 10 hectares

8. The numeric and percentage variation
The proposed development exceeds the development standard by 8.6 hectares which is a variation of 86%

9. How is compliance with the development standard unreasonable or unnecessary in this particular case?
a) The enforcement of the development standard applied to the subject site is considered unnecessary in this instance. The proposed development of a dwelling on the subject site will not contravene objective 1(a) of Clause 4.2B of the WLEP 2011. The property will remain being rated as farming land and the balance of the subject site can still be used for small scale and/or intense agricultural purposes, despite containing a dwelling on the small allotment.
b) The enforcement of compliance with the development standard is considered unreasonable in this instance. The proposed dwelling will enable a landowner to reside on site to establish and support the efficient and productive management of a small scale or intense, rural enterprise, including protecting the property and assets that are required to operate a small rural business.
c) Compliance with the development standard is also considered unreasonable as the surrounding settlement pattern includes dwellings on a range of allotment sizes (ranging from 1,970 m ² to 6 hectares), where none of these comply with the 10 hectare minimum lot size.

10. Grounds for justification to contravene the development standard
a) The capacity for the subject site to be used for small scale primary production will not be impacted or diminished by the proposed dwelling. Permitting a landowner to reside on site, encourages the redevelopment of the property for small scale or intense rural activities and enables the property to be farmed in a more efficient, productive and economically sustainable manner. The efficient monitoring and maintenance of crops is imperative to the sustainability and success of any rural enterprise.
b) The subject site is not currently used for any type of agricultural purpose. By supporting the ability to reside on site, this enables the landowner to protect farming and machinery assets, which is vital to the financial viability of an agricultural enterprise.
c) The subject site will be supplied for an adequate water licence to support the development and use of the site.

- d) The proposed dwelling will promote economic benefit to the landowner, by enabling the property to increase its financial capacity to supplement off-farm income, reduce costs of requiring alternative residential accommodation, whilst enabling future financial security and the potential for future rural enterprise expansion.

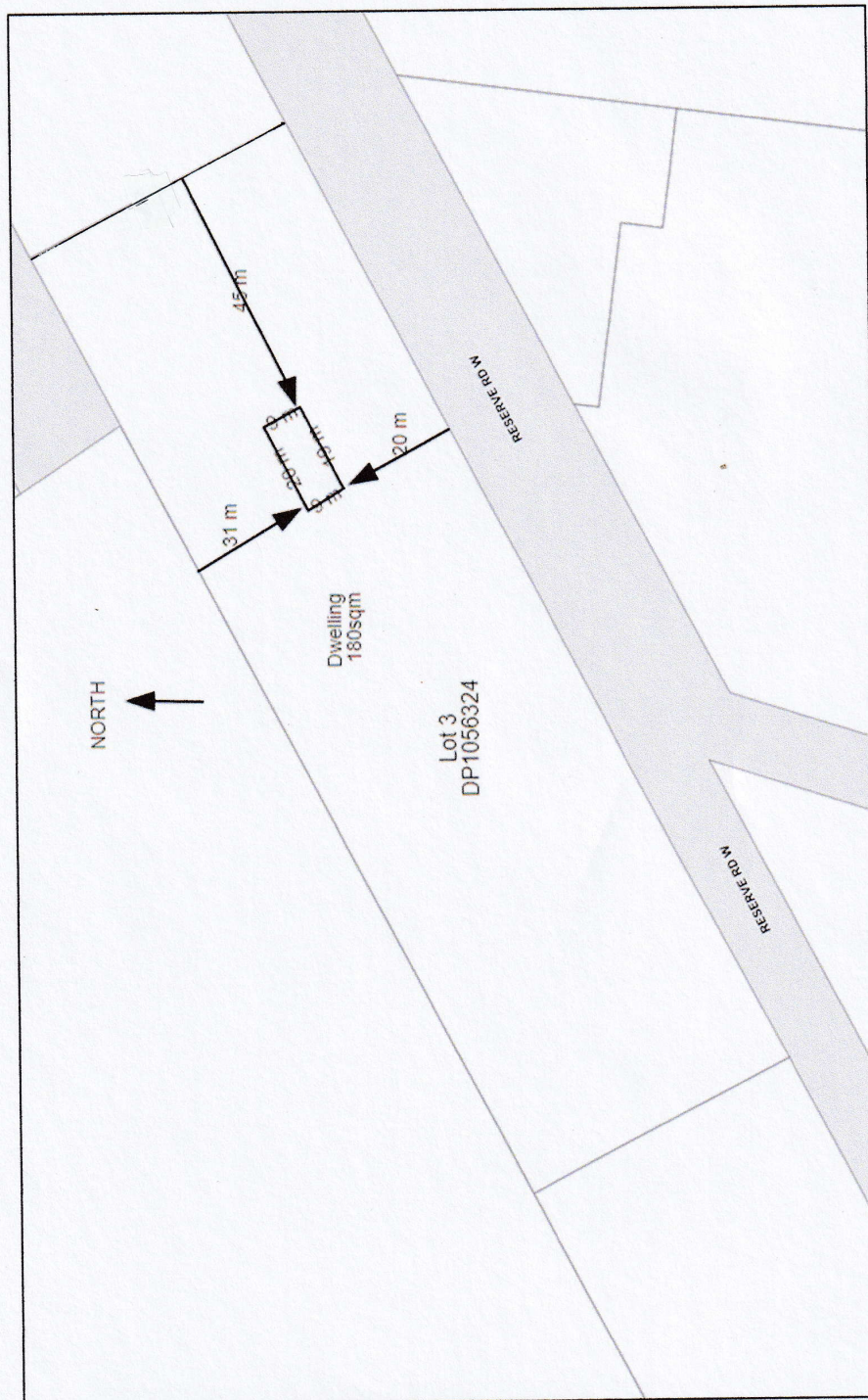
11. Additional information to justify the variation of the development standard

The subject site is not located on flood prone land.

There is no risk to the site as bush fire prone land, as the site is minimally impacted by the vegetation buffer. The proposed dwelling will be located outside of the vegetation buffer zone.

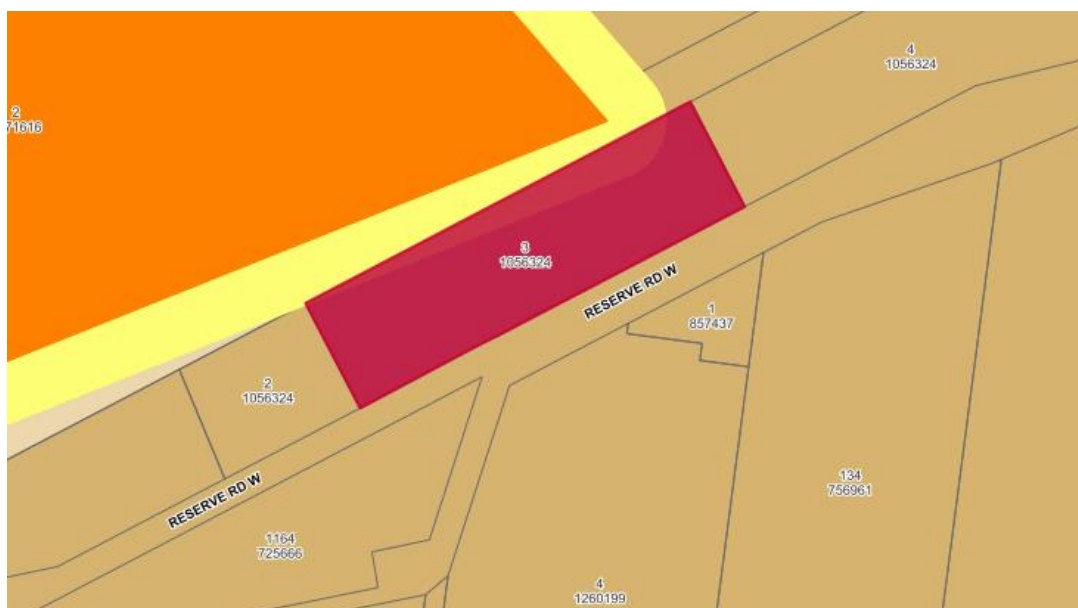
The lot was historically created by Crown Lands in 2009, subject to multiple lots being transferred from Crown ownership to freehold lands. Therefore, the prohibition of dwellings on lots less than the minimum lot size, under Clause 4.2 of the Wentworth LEP 2011, do not apply to the subject site.

SITE PLAN 65 RESERVE ROAD WEST, COOMEALLA



BFPL MAPPING

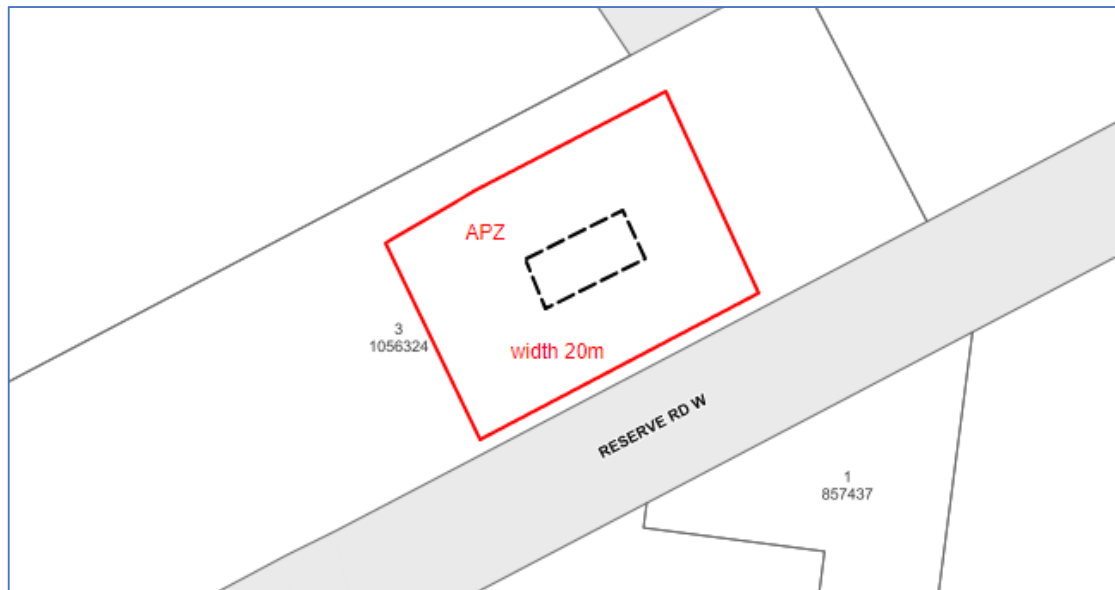
Buffer zone partially over subject site




Location of proposed dwelling outside of BFPL Buffer zone



As APZ of 20 metres surrounding the proposed dwelling



 <p>Wentworth SHIRE COUNCIL</p>	<p>Health & Planning Department 26-28 Adelaide Street PO Box 81 WENTWORTH NSW 2648 Tel: 03 5027 5027 council@wentworth.nsw.gov.au</p>	<p>DA Assessment Report Section 4.15 Evaluation Environmental Planning & Assessment Act 1979 as amended</p>
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File Reference:	DA2024/071 & PAN-438295
Property Title & Address:	70 Reserve Road West Lot 3 DP 1056324 Coomealla P1791/02
Property owner(s):	Ivan Clarence & Pauline Frances Williams
Applicant(s):	Cadell Consulting Services / Michele Bos
Proposal:	Deferred commencement dwelling
Previous DAs:	N/A
Cost of proposed development:	\$320,000.00

SITE AND SURROUNDING DEVELOPMENT

The subject site comprises of Lot 3 DP 1056324, 65 Reserve Road West, Coomealla. The lot has an area of 1.4ha, with frontage to Reserve Road West, and backing onto a Crown reserve. Reserve Road West connects to Keenans Drive to the west, further linking to the Silver City Highway.

The subject site is zoned RU4 – Primary Production Small Lots under the Wentworth Local Environmental Plan (WLEP) 2011. The subject site is rectangular in shape and does not have any pre-existing developments on site. Remnant native vegetation situated along the eastern boundary of the site.

The site does not contain a heritage item and is not located in the heritage conservation area. The site is not located in the floodway, flood planning, wetlands, or terrestrial biodiversity mapping areas. The site is identified as partially in the bush fire prone area – vegetation buffer.

DESCRIPTION OF PROPOSAL

The proposal seeks development consent for a deferred commencement dwelling on the subject site with an estimated floor area of 180m², aiming to support site redevelopment for horticulture and/or intensive, small-scale agricultural use.

HISTORY RELEVANT TO THE DEVELOPMENT APPLICATION

N/A

SECTION 4.15-MATTERS FOR CONSIDERATION

(1) The provisions of any environmental planning instrument and development control plan

State Environmental Planning Policy (Biodiversity and Conservation) 2021

The proposed development is located on land over 1ha in size, with no vegetation removal proposed, land has previously been historically cleared of vegetation to support irrigation development. Site is not koala habitat and as such no assessment against Chapters 3 or 4 required. No assessment against Chapter 5 required as land is not situated in close proximity to areas identified as Murray River Lands.

Wentworth Local Environmental Plan (LEP) 2011

The proposed deferred commencement dwelling can be permitted with consent and meets the zone objectives of zone RU4 – Primary Production Small Lots, under which the subject site is located.

Objectives of zone

- To enable sustainable primary industry and other compatible land uses.
- To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

Table 1: Achievement of Objectives of Land Use in Zone RU4 – Primary Production Small Lots WLEP 2011.

Objective	Discussion/Comment
To enable sustainable primary industry and other compatible land uses.	A dwelling on site will allow for intensified use of the land for sustainable, rural purposes such as small-scale agricultural practices.
To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.	A dwelling on site will support redevelopment of the subject site to be used for small-scale agriculture, allowing for intensification of land use which will return economic profit for the owner while allowing for intensified use through living on site and monitoring the site.
To minimise conflict between land uses within this zone and land uses within adjoining zones.	Land use conflict will not be seen as this area is used for horticultural/agricultural purposes, with most of the area zoned RU4, including the Crown reserve.

Clause 4.2B Erection of dwelling houses on land in zones RU1, RU4, C3 and C4

Development consent must not be granted for the erection of a dwelling house on land in a zone to which this clause applies unless the land is

- A lot that is at least the minimum lot size specified for that land by the lot size map*
- A lot created under an environmental planning instrument before this Plan commenced and on which the erection of a dwelling house was permissible immediately before that commencement, or*
- A lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dwelling house would have been permissible if the plan of subdivision had been registered before that commencement*

Site does not meet (3a) as the lot size is only 1.4ha, variation request sought by applicant of 86%.

The following table considers whether the objectives of the development standard **Clause 4.2B - Erection of dwelling houses on land in Zones RU1, RU4, C3 and C4** are achieved notwithstanding the proposed variation (Test One).

Objective	Discussion / Comment
To minimise unplanned rural residential development.	Only development on site will be the abovementioned, there are no further plans for subdivision or further development on the subject site that would not be associated with the farming nature of the site. Although the application is for a dwelling, it would not merely just be residential, it would be in conjunction with the agricultural use of the land. Development will allow for further farming use of land and no rural residential development will follow.
To enable the replacement of lawfully erected dwelling houses in rural and conservation zones.	Does not apply as there is no pre-existing dwelling on site, DA seeks approval to erect a new dwelling on site with deferred commencement.

Clause 4.2D Boundary adjustments in zones RU1, RU4 and C3

No boundary adjustments are sought through the development application and so this clause will not apply.

Clause 4.6 Exceptions to Development Standards

Compliance with the development standard has been adequately justified as unreasonable and unnecessary by the applicant in the Variation Request and Statement of Environmental Effects. Better outcomes for and from the development by allowing flexibility will occur:

- *The enforcement of the development standard applied to the subject site is considered unnecessary in this instance. The proposed development of a dwelling on the subject site will not contravene objective 1(a) of Clause 4.2B of the WLEP 2011. The property will remain being rated as farming land and the balance of the subject site can still be used for small scale and/or intense agricultural purposes, despite containing a dwelling on the small allotment.*
- *The enforcement of compliance with the development standard is considered unreasonable in this instance. The proposed dwelling will enable a landowner to reside on site to establish and support the efficient and productive management of a small scale or intense, rural enterprise, including protecting the property and assets that are required to operate a small rural business.*
- *Compliance with the development standard is also considered unreasonable as the surrounding settlement pattern includes dwellings on a range of allotment sizes*

(ranging from 1,970 m² to 6 hectares), where none of these comply with the 10 hectare minimum lot size.

Standard being varied – 4.6.

The proposed dwelling (deferred commencement) is located on an RU4 Primary Production Small Lots zone sized at 8.8ha, below the minimum lot size of 10ha in the zone, with a variation of 12%.

Approving 4.6 variations

Under clause 35B of the Environmental Planning and Assessment Regulation 2021, applications involving contravention of development standards must be accompanied by a document that sets out the grounds on which the applicant seeks to demonstrate that –

- compliance with the development standard is unreasonable or unnecessary in the circumstances, and
- there are sufficient environmental planning grounds to justify the contravention of the development standard.

The consent authority must keep a record of its assessment carried out under subclause (3).

The variation proposed is greater than 10% (12%). Due to changes made by the NSW Government, Clause 4.6 of the Standard Instrument LEP has been reformed to make the planning system faster, simpler, and more transparent.

The reform came into effect on 1 November 2023 and removes the requirement to obtain the Planning Secretary's concurrence for a variation with new reporting framework. As such, council has authority to approve or refuse 4.6 variation applications.

4.6 VARIATION ASSESSMENT**4.6 Exceptions to development standards**

Relevant clauses of 4.6 for assessment are as follows:

- 2). *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- 3). *Development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that -*
 - a. *compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
 - b. *there are sufficient environmental planning grounds to justify contravening the development standard.*

Note—

The *Environmental Planning and Assessment Regulation 2021* requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

Written request for consideration has been presented by the applicant, Cadell Consulting (Michelle Bos) with reasons for justifying the contravention of this standard and allow a dwelling (deferred commencement) on a lot that is less than 10ha in size in zone RU4 – Primary Production Small Lots. Site location is Lot 3 DP 1056324, 65 Reserve Road West, Coomealla.

3a). That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

Response: *Compliance with the development standard would be unreasonable and unnecessary in the circumstances of this particular case.*

3b). That there are sufficient environmental planning grounds to justify contravening the development standard.

Response: *There are sufficient environmental planning grounds to justify the departure from the 10ha minimum lot size for RU4 Primary Production Small Lots as specified in the WLEP2011.*

Consideration of the applicants written request – Clause 4.6(4) (a) (i) and (ii) (b)

Does the written request adequately address those issues at **Clause 4.6(4)(a)(i)**:

The applicant's written request has adequately demonstrated that compliance with the minimum lot size in zone RU4 Primary Production Small Lots restriction is unreasonable and unnecessary in this case based on the following:

The subject site is an allotment containing approximately 1.4 hectares and is rectangle in shape. Access to the subject site is from Reserve Road West. The subject site is currently vacant but has previously been used for horticultural purposes. There is one lone tree located centrally, a cluster of remnant vegetation situated on the eastern boundary and a concrete water tank situated close to the northern boundary. This variation request seeks consent for (the deferred commencement of) a dwelling on the subject site, where the area of the subject site does not satisfy the minimum lot size requirement. The proposed development exceeds the development standard by 8.6 hectares which is a variation of 86%.

The enforcement of the development standard applied to the subject site is considered unnecessary in this instance. The proposed development of a dwelling on the subject site will not contravene objective 1(a) of Clause 4.2B of the WLEP 2011. The property will remain being rated as farming land and the balance of the subject site can still be used for small scale and/or intense agricultural purposes, despite containing a dwelling on the small allotment. The enforcement of compliance with the development standard is considered unreasonable in this instance. The proposed dwelling will enable a landowner to reside on

site to establish and support the efficient and productive management of a small scale or intense, rural enterprise, including protecting the property and assets that are required to operate a small rural business.

Compliance with the development standard is also considered unreasonable as the surrounding settlement pattern includes dwellings on a range of allotment sizes (ranging from 1,970 m² to 6 hectares), where none of these comply with the 10 hectare minimum lot size.

The capacity for the subject site to be used for small scale primary production will not be impacted or diminished by the proposed dwelling. Permitting a landowner to reside on site, encourages the redevelopment of the property for small scale or intense rural activities and enables the property to be farmed in a more efficient, productive and economically sustainable manner. The efficient monitoring and maintenance of crops is imperative to the sustainability and success of any rural enterprise.

The subject site is not currently used for any type of agricultural purpose. By supporting the ability to reside on site, this enables the landowner to protect farming and machinery assets, which is vital to the financial viability of an agricultural enterprise. The subject site will be supplied for an adequate water licence to support the development and use of the site.

The proposed dwelling will promote economic benefit to the landowner, by enabling the property to increase its financial capacity to supplement off-farm income, reduce costs of requiring alternative residential accommodation, whilst enabling future financial security and the potential for future rural enterprise expansion.

The subject site is not located on flood prone land. There is no risk to the site as bush fire prone land, as the site is minimally impacted by the vegetation buffer. The proposed dwelling will be located outside of the vegetation buffer zone.

The lot was historically created by Crown Lands in 2009, subject to multiple lots being transferred from Crown ownership to freehold lands. Therefore, the prohibition of dwellings on lots less than the minimum lot size, under Clause 4.2 of the Wentworth LEP 2011, do not apply to the subject site.

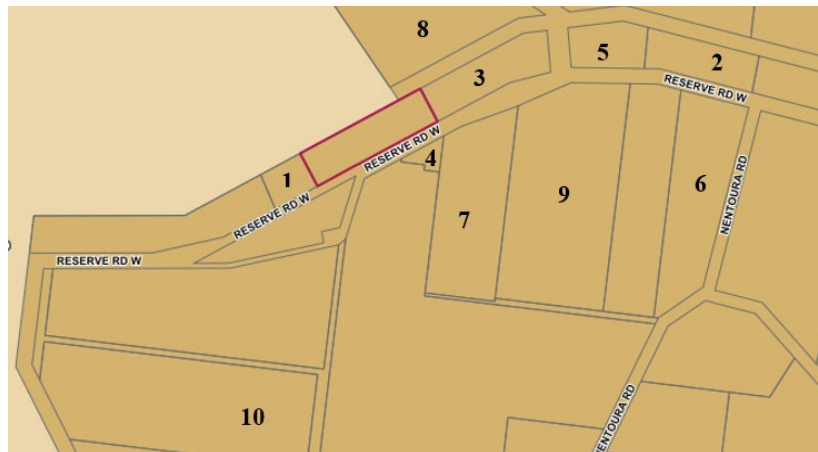
Officer comments: The proposed development will not lead to unplanned residential development in the area as there are pre-existing dwellings on surrounding lots and only one planned dwelling for the subject site to assist in the management of a rural enterprise.

The proposed dwelling will allow owners to live on site and intensify rural enterprise, security in the area, and deter any potential criminal activity by the lot not being vacant.

Most lots in the area are zoned RU4 – Primary Production Small Lots have many land sizes under the MLS of 10ha, being:

- 4557m² – Lot 2 DP 1056324 **(1)**
- 1.114ha – Lot 6 DP 1056324 **(2)**
- 1.356ha – Lot 4 DP 1056324 **(3)**

- 1.538ha – Lot 1 DP 857437 – WITH DWELLING (4)
- 2.486ha – Lot 5 DP 1056324 – WITH DWELLING (5)
- 3.44ha – Lot 364 DP 756961 – WITH DWELLING (6)
- 3.77ha – Lot 134 DP 756961 – WITH DWELLING (7)
- 4.9ha – Lot 798 DP 756961 (8)
- 6.24ha – Lot 133 DP 756961 – WITH DWELLING (9)
- 6.4ha – Lot 157 DP 756961 (10)



As other sites in the area with lot sizes under the MLS have dwellings, it should be considered that the subject site, with the aim to be economically productive while being under the MLS be granted development consent.

Justification for variation:

The five-part test

The Court has held that there are at least five different ways, and possibly more, through which an applicant might establish that compliance with a development standard is unreasonable or unnecessary (see *Wehbe v Pittwater Council* [2007] NSWLEC 827).

The five ways of establishing that compliance is unreasonable or unnecessary are:

1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard.
2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.
3. The objective would be defeated, thwarted or undermined (*Linfield Developments Pty Ltd v Cumberland Council* [2019] NSWLEC 131 at [24]) if compliance was required with the consequence that compliance is unreasonable.
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence the standard is unreasonable and unnecessary; and
5. The zoning of the land is unreasonable or inappropriate.

Answers:

1. The applicants written request to vary Clause 4.6 Exceptions to Development Standards in the Wentworth Local Environmental Plan (WLEP) 2011 indicates achievement of the development standards notwithstanding the proposed variation through the following:

- Development is permitted with consent in the RU4 – Primary Production Small Lots zone,
- Dwelling will enable landowners to reside on site and facilitate rural enterprise activities,
- Dwelling will not change use of land, land will be general farming and not solely residential,
- Dwelling on site will deter criminal activity and allow productive use of land, with better ability to monitor activities on site.

Officer comment: The noncompliance with the minimum lot size will have no detrimental impacts on the land or surrounding areas and is in line with the WLEP 2011 except from MLS.

2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary shown through the following:
 - Permitting dwelling on site will allow for owner to live on site and encourages redevelopment of the property for small scale or intense rural activities,
 - Dwelling on site will allow for more efficient farming practices,
 - Productivity of site will enhance,
 - Dwelling on site will contribute to economic stability of the site and for the owners.

Officer comment: Due to the existing residential development on lots surrounding the subject site, development is anticipated to have minimal impact on the surrounding area and the development will be relevant to land use objectives of zone RU4.

3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore this is unreasonable shown through the following:
 - Other allotments in the area within the same zoning of RU4 – Primary Production Small Lots have dwellings on site,
 - The lot was historically created by Crown Lands in 2009, with lots transferred from Crown ownership to freehold land, under Clause 4.2 Rural Subdivision:

4.2 Rural subdivision

(1) The objective of this clause is to provide flexibility in the application of standards for subdivision in rural zones to allow land owners a greater chance to achieve the objectives for development in the relevant zone.

(2) This clause applies to the following rural zones—

(c) Zone RU4 Primary Production Small Lots,

(3) Land in a zone to which this clause applies may, with development consent, be subdivided for the purpose of primary production to create a lot of a size that is less than the minimum size shown on the Lot Size Map in relation to that land.

Officer comment: Proposed development will not alter use of land except for allowing a dwelling for owner to live on site as others do in the area already, it can be seen as unreasonable to require this lot to be in line with the MLS as per Clause 4.2 which allows for

lots to be smaller than the MLS following subdivision if in line with the zone objective of primary production, which this lot will be.

4. The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable:
 - The standard has not been abandoned by council actions in this case as developments zoned RU4 in the area do not have any DAs on their property files.

Officer comment: no evidence to show standard has been abandoned by Council.

5. The zoning of the land is unreasonable or inappropriate:
 - The zoning of the land is reasonable and appropriate, dwellings permitted with consent under the WLEP 2011 on RU4 zoned allotments, with MLS not met for this lot,
 - As per Clause 4.2 MLS does not need to be met for this lot.

Officer comment: The proposed deferred commencement dwelling is permitted on RU4 zoned land, and, is supported by the fact that surrounding allotments have similar developments as well as Clause 4.2.

The variation is supported based on the results on the five (5) part test above.

Officer comment: The proposed variation to standard 4.2B is supported based on the results on the five (5) part test – indicating that the development complies with the test.

The 86% variation in MLS of the proposed deferred commencement dwelling is not anticipated to cause negative impact to the subject site or surrounding allotments, as the site is already utilised as farming land.

To allow a dwelling to be built for the owners on their land, it would allow for enhanced use of the subject site agriculturally with economic benefits, while no effects to surrounding allotments will be seen from the construction of a dwelling.

The minimum lot size also does not need to be adhered to following subdivision from Crown land to Freehold land in 2009, of which this lot was subject to – refer to Clause 4.2.

Clause 5.16 Subdivision of, or dwellings on, land in certain rural, residential or conservation zones

- The proposed development is not likely to have significant impact on land uses in the area as the area is mostly zoned RU4 and used for general farming,
- Land is not proposed to be subdivided,
- Erection of dwelling will be to assist in facilitation of farming practices.

Clause 7.1 Earthworks

Any earthworks will form part of the conditions of consent, should the application be approved.

Clause 7.2 Essential Services

Site has access to rural power supply on Reserve Road West, current water license will provide water for the site, wastewater management system identified as to be installed through SEE. Stormwater to be contained on site. Telecommunication services identified as accessible to the area.

Wentworth Development Control Plan (DCP) 2011

The proposed development is acceptable against the relevant provisions of the Wentworth Development Control Plan (DCP) 2011 as outlined in the table below.

Wentworth DCP	Chapter	Acceptable	Not Acceptable	N/A	Reason
	Chapter 3 2. Biodiversity Management 2.1 Murray River and Darling River	X			The proposed dwelling is permitted with consent within the RU4 zone. Siting has been chosen to maximise access and minimise disturbance. Siting also protects proposed dwelling from bushfire threat being out of the bushfire mapped area.
	2.2 Mooring			X	Not relevant as no mooring proposed
	2.3 Erosion Control – Murray River and Darling River	X			Conditions of consent will be included to manage and mitigate erosion
	2.4 Vegetation Protection - Riverfront	X			No vegetation removal is anticipated for the development per SEE
	3 Koala Habitat Protection			X	N/A as not known koala habitat
	4 Flood Affected Land	X			Site is not on flood affected land.

	5 Vehicular access and parking	X			The site offers ample room for any required access, parking etc.
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(2) The provisions of any draft environmental planning instrument

There is no Division 3.4 draft environmental planning instrument that affect the proposed development. (Post 1 July 2009 LEP amendments).

(3) Any matters prescribed by regulations

There are no further matters prescribed by regulations.

(4) The likely impacts of the development

There are no likely impacts from the proposal as discussed in the table below.

Impact item <i>(insert an 'x' in the relevant section)</i>	Acceptable	Not acceptable	Not relevant	Comment
Context and setting	X			Placement of a dwelling at this location will not impact use of agricultural land, no impact to adjoining land is anticipated. Future use of site will be agricultural, development will further allow this.
Public domain & Streetscape	X			Adequate distance between front boundaries of property and proposed development on site
Landscaping			X	N/A
Stormwater	X			Stormwater to be managed onsite
Heritage	X			No heritage listings for this site
Soils & Soils Erosion	X			None expected from the proposed development, conditions of consent will apply for construction
Air and microclimate	X			None anticipated from this development there is adequate open space between the proposed dwelling and any future or existing neighbours as surrounding land is mostly general farmland
Water Resources	X			None located on the site – no waterways close to site
Biodiversity (Flora & Fauna)	X			No native vegetation to be cleared in preparation of the development site
Land Resources	X			None on site expected to impact development

Utilities	X			Utilities are not available to site – wastewater and effluent are proposed to be managed onsite through an approved system, as is stormwater and rainwater tanks for potable water supply
Access & Parking	X			Direct access to the property exists via roads with ample room for parking
Roads & Traffic	X			No new roads to be created & ample parking on site
Solar Access and Energy Efficiency			X	N/A
Overshadowing	X			Overshadowing plans not required as rural zoning and no dwellings close to development site
Privacy & Overlooking			X	Not relevant
Flooding			X	<i>Not flood mapped</i>
Bushfire Prone Area	X			In a bush fire prone area with provided APZ information, RFS report and applicant report provided in application to mitigate effects of fire
Noise	X			An increased noise level is anticipated during construction only
Technological hazards	X			None anticipated
Safety, Security & Crime Prevention	X			No safety issues anticipated from development
Social and Economic Impacts	X			None anticipated

(5) The suitability of the site for development

The site is suitable for the proposed dwelling as it will not have any adverse impacts on the locality being a rurally zoned area. The proposed development is permitted with consent in the RU4 – Primary Production Small Lots zone under the Wentworth Local Environmental Plan (WLEP) 2011. The proposed dwelling is to be used in association with agricultural/farming use of the land. Surrounding lots are used for farming/agriculture/horticulture, with some dwellings nearby but not directly neighbouring the subject site.

(6) Any submissions made in accordance with this Act or Regulation

The application was notified for 14 days as per the Wentworth Community Participation Plan. No submissions were received.

(7) The public interest

The proposed development is consistent with public interest as it will have no detrimental effect on the surrounding area. Moreover, no objections were made by surrounding neighbours.

COMMENTS FROM COUNCIL INTERNAL DEPARTMENTS

Department	Referred Y/N	Comments
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Building	N	
Subdivision Engineer	N	
Roads & Engineering	N	
Finance & Policy	N	
Heritage Advisor	N	
Environmental Health	N	
Local Laws	N	
Floodplain Mgt Committee	N	
Sustainable Infrastructure	N	

DISCUSSION

“Planning for Bushfire 2019” has been met through the following:

- Applicant has submitted complete section two of the bushfire assessment report,
- FFDI of 80 identified, no requirement for BAL rating,
- An APZ (asset protection zone) of 20m has been provided to the proposed development,
- Plan for site to have access to a water licenced of 2meg (tbc) in a pre-existing dam,
- 10,000l of water identified as to be supplied to site purely for firefighting purposes,
- No gas to be on site.



The applicant, Michele Bos of Cadell Consulting Services, has provided bushfire mapping identifying where the fire mapping is on the property, where the dwelling will be located outside of the bushfire mapped area, and where the APZ will be surrounding the proposed dwelling.


CONCLUSIONS

1. General comments:
2. The proposal satisfies the points for consideration listed under Section 4.15 part b, c, d and e of the *Environmental Planning and Assessment Act*.
3. The proposal occurs on land zoned RU4 – Primary Production Small Lots. The proposal is not considered to have detrimental impact on the site and surrounds. (*Sec 4.15 (a)*)
4. The proposal is consistent with the Wentworth Shire Development Control Plan (Dec 2011). The proposal is consistent with Chapter 3 of the Wentworth Shire DCP (*Sec 4.15 (a)*)
5. The proposed deferred commencement dwelling accords with the relevant objectives and provisions of the State Environmental Planning Policy (Biodiversity and Conservation) 2021.
6. There is no draft local environmental plan affecting the proposed development.

Recommendation:

Approve the application subject to conditions

Delegate report author	Delegated approval and endorsement
Signature: 	Signature: 
Georgie Martin Cadet Planning Officer	George Kenende Acting Director Health & Planning
Date: 28/06/2024	Date: 1/07/2024

	<p>Health & Planning Department 26-28 Adelaide Street PO Box 81 WENTWORTH NSW 2648 Tel: 03 5027 5027 council@wentworth.nsw.gov.au</p>	<p>Clause 4.6 Assessment</p> <p>Environmental Planning & Assessment Act 1979 as amended</p>
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Approving 4.6 variations

Under clause 35B of the Environmental Planning and Assessment Regulation 2021, applications involving contravention of development standards must be accompanied by a document that sets out the grounds on which the applicant seeks to demonstrate that –

- compliance with the development standard is unreasonable or unnecessary in the circumstances, and
- there are sufficient environmental planning grounds to justify the contravention of the development standard.

The consent authority must keep a record of its assessment carried out under subclause (3).

The variation proposed is greater than 10% (12%). Due to changes made by the NSW Government, Clause 4.6 of the Standard Instrument LEP has been reformed to make the planning system faster, simpler, and more transparent.

The reform came into effect on 1 November 2023 and removes the requirement to obtain the Planning Secretary's concurrence for a variation with new reporting framework. As such, council has authority to approve or refuse 4.6 variation applications.

4.6 Exceptions to development standards

Relevant clauses of 4.6 for assessment are as follows:

- 2). *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- 3). *Development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that -*
 - a. *compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
 - b. *there are sufficient environmental planning grounds to justify contravening the development standard.*

Note—

The [Environmental Planning and Assessment Regulation 2021](#) requires a development application for development that proposes to contravene a development standard to be

accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

Written request for consideration has been presented by the applicant, Cadell Consulting (Michelle Bos) with reasons for justifying the contravention of this standard and allow a dwelling (deferred commencement) on a lot that is less than 10ha in size in zone RU4 – Primary Production Small Lots. Site location is Lot 3 DP 1056324, 65 Reserve Road West, Coomealla.

3a). That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

Response: *Compliance with the development standard would be unreasonable and unnecessary in the circumstances of this particular case.*

3b). That there are sufficient environmental planning grounds to justify contravening the development standard.

Response: *There are sufficient environmental planning grounds to justify the departure from the 10ha minimum lot size for RU4 Primary Production Small Lots as specified in the WLEP2011.*

Consideration of the applicants written request – Clause 4.6(4) (a) (i) and (ii) (b)

Does the written request adequately address those issues at **Clause 4.6(4)(a)(i)**:

The applicant's written request has adequately demonstrated that compliance with the minimum lot size in zone RU4 Primary Production Small Lots restriction is unreasonable and unnecessary in this case based on the following:

The subject site is an allotment containing approximately 1.4 hectares and is rectangle in shape. Access to the subject site is from Reserve Road West. The subject site is currently vacant but has previously been used for horticultural purposes. There is one lone tree located centrally, a cluster of remnant vegetation situated on the eastern boundary and a concrete water tank situated close to the northern boundary. This variation request seeks consent for (the deferred commencement of) a dwelling on the subject site, where the area of the subject site does not satisfy the minimum lot size requirement. The proposed development exceeds the development standard by 8.6 hectares which is a variation of 86%.

The enforcement of the development standard applied to the subject site is considered unnecessary in this instance. The proposed development of a dwelling on the subject site will not contravene objective 1(a) of Clause 4.2B of the WLEP 2011. The property will remain being rated as farming land and the balance of the subject site can still be used for small scale and/or intense agricultural purposes, despite containing a dwelling on the small allotment. The enforcement of compliance with the development standard is considered unreasonable in this instance. The proposed dwelling will enable a landowner to reside on site to establish and support the efficient and productive management of a small scale or

intense, rural enterprise, including protecting the property and assets that are required to operate a small rural business.

Compliance with the development standard is also considered unreasonable as the surrounding settlement pattern includes dwellings on a range of allotment sizes (ranging from 1,970 m² to 6 hectares), where none of these comply with the 10 hectare minimum lot size.

The capacity for the subject site to be used for small scale primary production will not be impacted or diminished by the proposed dwelling. Permitting a landowner to reside on site, encourages the redevelopment of the property for small scale or intense rural activities and enables the property to be farmed in a more efficient, productive and economically sustainable manner. The efficient monitoring and maintenance of crops is imperative to the sustainability and success of any rural enterprise.

The subject site is not currently used for any type of agricultural purpose. By supporting the ability to reside on site, this enables the landowner to protect farming and machinery assets, which is vital to the financial viability of an agricultural enterprise. The subject site will be supplied for an adequate water licence to support the development and use of the site.

The proposed dwelling will promote economic benefit to the landowner, by enabling the property to increase its financial capacity to supplement off-farm income, reduce costs of requiring alternative residential accommodation, whilst enabling future financial security and the potential for future rural enterprise expansion.

The subject site is not located on flood prone land. There is no risk to the site as bush fire prone land, as the site is minimally impacted by the vegetation buffer. The proposed dwelling will be located outside of the vegetation buffer zone.

The lot was historically created by Crown Lands in 2009, subject to multiple lots being transferred from Crown ownership to freehold lands. Therefore, the prohibition of dwellings on lots less than the minimum lot size, under Clause 4.2 of the Wentworth LEP 2011, do not apply to the subject site.

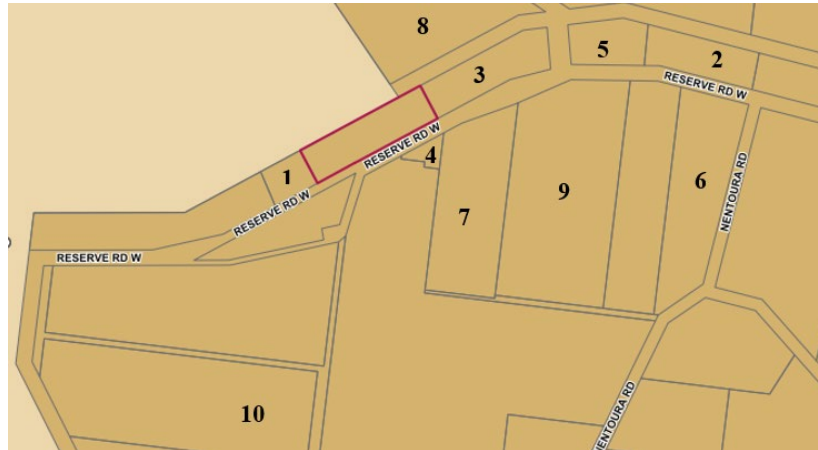
Officer comments: The proposed development will not lead to unplanned residential development in the area as there are pre-existing dwellings on surrounding lots and only one planned dwelling for the subject site to assist in the management of a rural enterprise.

The proposed dwelling will allow owners to live on site and intensify rural enterprise, security in the area, and deter any potential criminal activity by the lot not being vacant.

Most lots in the area are zoned RU4 – Primary Production Small Lots have many land sizes under the MLS of 10ha, being:

- 4557m² – Lot 2 DP 1056324 **(1)**
- 1.114ha – Lot 6 DP 1056324 **(2)**
- 1.356ha – Lot 4 DP 1056324 **(3)**
- 1.538ha – Lot 1 DP 857437 – WITH DWELLING **(4)**

- 2.486ha – Lot 5 DP 1056324 – WITH DWELLING (5)
- 3.44ha – Lot 364 DP 756961 – WITH DWELLING (6)
- 3.77ha – Lot 134 DP 756961 – WITH DWELLING (7)
- 4.9ha – Lot 798 DP 756961 (8)
- 6.24ha – Lot 133 DP 756961 – WITH DWELLING (9)
- 6.4ha – Lot 157 DP 756961 (10)



As other sites in the area with lot sizes under the MLS have dwellings, it should be considered that the subject site, with the aim to be economically productive while being under the MLS be granted development consent.

Justification for variation:

The five-part test

The Court has held that there are at least five different ways, and possibly more, through which an applicant might establish that compliance with a development standard is unreasonable or unnecessary (see *Wehbe v Pittwater Council* [2007] NSWLEC 827).

The five ways of establishing that compliance is unreasonable or unnecessary are:

1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard.
2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.
3. The objective would be defeated, thwarted or undermined (*Linfield Developments Pty Ltd v Cumberland Council* [2019] NSWLEC 131 at [24]) if compliance was required with the consequence that compliance is unreasonable.
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence the standard is unreasonable and unnecessary; and
5. The zoning of the land is unreasonable or inappropriate.

Answers:

1. The applicants written request to vary Clause 4.6 Exceptions to Development Standards in the Wentworth Local Environmental Plan (WLEP) 2011 indicates achievement of the development standards notwithstanding the proposed variation through the following:

- Development is permitted with consent in the RU4 – Primary Production Small Lots zone,
- Dwelling will enable landowners to reside on site and facilitate rural enterprise activities,
- Dwelling will not change use of land, land will be general farming and not solely residential,
- Dwelling on site will deter criminal activity and allow productive use of land, with better ability to monitor activities on site.

Officer comment: The noncompliance with the minimum lot size will have no detrimental impacts on the land or surrounding areas and is in line with the WLEP 2011 except from MLS.

2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary shown through the following:
 - Permitting dwelling on site will allow for owner to live on site and encourages redevelopment of the property for small scale or intense rural activities,
 - Dwelling on site will allow for more efficient farming practices,
 - Productivity of site will enhance,
 - Dwelling on site will contribute to economic stability of the site and for the owners.

Officer comment: Due to the existing residential development on lots surrounding the subject site, development is anticipated to have minimal impact on the surrounding area and the development will be relevant to land use objectives of zone RU4.

3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore this is unreasonable shown through the following:
 - Other allotments in the area within the same zoning of RU4 – Primary Production Small Lots have dwellings on site,
 - The lot was historically created by Crown Lands in 2009, with lots transferred from Crown ownership to freehold land, under Clause 4.2 Rural Subdivision:

4.2 Rural subdivision

(1) The objective of this clause is to provide flexibility in the application of standards for subdivision in rural zones to allow land owners a greater chance to achieve the objectives for development in the relevant zone.

(2) This clause applies to the following rural zones—

(c) Zone RU4 Primary Production Small Lots,

(3) Land in a zone to which this clause applies may, with development consent, be subdivided for the purpose of primary production to create a lot of a size that is less than the minimum size shown on the Lot Size Map in relation to that land.

Officer comment: Proposed development will not alter use of land except for allowing a dwelling for owner to live on site as others do in the area already, it can be seen as unreasonable to require this lot to be in line with the MLS as per Clause 4.2 which allows for

lots to be smaller than the MLS following subdivision if in line with the zone objective of primary production, which this lot will be.

4. The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable:
 - The standard has not been abandoned by council actions in this case as developments zoned RU4 in the area do not have any DAs on their property files.

Officer comment: no evidence to show standard has been abandoned by Council.

5. The zoning of the land is unreasonable or inappropriate:
 - The zoning of the land is reasonable and appropriate, dwellings permitted with consent under the WLEP 2011 on RU4 zoned allotments, with MLS not met for this lot,
 - As per Clause 4.2 MLS does not need to be met for this lot.

Officer comment: The proposed deferred commencement dwelling is permitted on RU4 zoned land, and, is supported by the fact that surrounding allotments have similar developments as well as Clause 4.2.

The variation is supported based on the results on the five (5) part test above.

Officer comment: The proposed variation to standard 4.2B is supported based on the results on the five (5) part test – indicating that the development complies with the test.

The 86% variation in MLS of the proposed deferred commencement dwelling is not anticipated to cause negative impact to the subject site or surrounding allotments, as the site is already utilised as farming land.

To allow a dwelling to be built for the owners on their land, it would allow for enhanced use of the subject site agriculturally with economic benefits, while no effects to surrounding allotments will be seen from the construction of a dwelling.

The minimum lot size also does not need to be adhered to following subdivision from Crown land to Freehold land in 2009, of which this lot was subject to – refer to Clause 4.2.

 <p>Wentworth SHIRE COUNCIL</p>	<p>Health & Planning Department 26-28 Adelaide Street PO Box 81 WENTWORTH NSW 2648 Tel: 03 5027 5027 council@wentworth.nsw.gov.au</p>	<p>TEMPLATE CONDITIONS</p>
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DA2024/071 DEFERRED COMMENCEMENT OF DWELLING 70 RESERVE ROAD WEST LOT 3 DP

1056324 COMMEALLA

GENERAL CONDITIONS

1.	<p>Approved development</p> <p>Approval is for a dwelling.</p> <p>Reason: To ensure all parties are aware of the approved development</p>
2.	<p>Approved Plans and Documentation</p> <p>The development shall be in accordance with the following plans, documentation and recommendations made there in:</p> <ul style="list-style-type: none"> • Site Plan: no further information provided • Asset Protection Zone Map provided by applicant <p>In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.</p> <p>Note: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.</p> <p>Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p>
3.	<p>Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989</p> <ol style="list-style-type: none"> 1. It is a condition of a development consent for development that involves building work that the work must be carried out in accordance with the requirements of the Building Code of Australia. 2. It is a condition of a development consent for development that involves residential building work for which a contract of insurance is required under the Home Building Act 1989, Part 6 that a contract of insurance is in force before building work authorised to be carried out by the consent commences. 3. It is a condition of a development consent for a temporary structure used as an entertainment venue that the temporary structure must comply with Part B1 and NSW Part H102 in Volume 1 of the Building Code of Australia. 4. In subsection (1), a reference to the Building Code of Australia is a reference to the

	<p>Building Code of Australia as in force on the day on which the application for the construction certificate was made.</p> <p>5. In subsection (3), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for development consent was made.</p> <p>6. This section does not apply-</p> <ol style="list-style-type: none"> to the extent to which an exemption from a provision of the Building Code of Australia or a fire safety standard is in force under the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, or to the erection of a temporary building, other than a temporary structure to which subsection (3) applies. <p>Reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>
4.	<p>Erection of signs</p> <p>1. This section applies to a development consent for development involving building work, subdivision work or demolition work.</p> <p>2. It is a condition of the development consent that a sign must be erected in a prominent position on a site on which building work, subdivision work or demolition work is being carried out:</p> <ol style="list-style-type: none"> showing the name, address and telephone number of the principal certifier for the work, and showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and stating that unauthorised entry to the work site is prohibited. <p>3. The sign must be-</p> <ol style="list-style-type: none"> maintained while the building work, subdivision work or demolition work is being carried out, and removed when the work has been completed. <p>4. This section does not apply in relation to-</p> <ol style="list-style-type: none"> building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or Crown building work certified to comply with the Building Code of Australia under the Act, Part 6. <p>Reason: Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.</p>
5.	<p>Fulfilment of BASIX commitments</p> <p>It is a condition of a development consent for the following that each commitment listed in a relevant BASIX certificate is fulfilled</p> <ol style="list-style-type: none"> BASIX development, BASIX optional development, if the development application was accompanied by a BASIX

	<p>certificate.</p> <p>Reason: Prescribed condition under section 75 of the Environmental Planning and Assessment Regulation 2021.</p>
6.	<p>Lapsing of Approval</p> <p>Without the further consent of the Wentworth Shire Council, in writing, this permit shall lapse and have no force or effect unless the use or development hereby permitted is physically commenced within 5 years of the date of this permit.</p> <p>Reason: Ensure everyone is aware of the lapsing of the approval</p>
7.	<p>Notification of Home Building Act 1989 requirements</p> <ol style="list-style-type: none"> 1. This section applies to a development consent for development involving residential building work if the principal certifier is not the council. 2. It is a condition of the development consent that residential building work must not be carried out unless the principal certifier for the development to which the work relates has given the council written notice of the following- <ol style="list-style-type: none"> a. for work that requires a principal contractor to be appointed <ol style="list-style-type: none"> i. the name and licence number of the principal contractor, and ii. the name of the insurer of the work under the Home Building Act 1989, Part 6, b. for work to be carried out by an owner-builder <ol style="list-style-type: none"> i. the name of the owner-builder, and ii. if the owner-builder is required to hold an owner-builder permit under the Home Building Act 1989 the number of the owner-builder permit. 3. If the information notified under subsection (2) is no longer correct, it is a condition of the development consent that further work must not be carried out unless the principal certifier has given the council written notice of the updated information. 4. This section does not apply in relation to Crown building work certified to comply with the Building Code of Australia under the Act, Part 6. <p>Reason: Prescribed condition under section 71 of the Environmental Planning and Assessment Regulation 2021.</p>
8.	<p>Works outside the property boundary</p> <p>This development consent does not authorise works outside the property boundaries on adjoining lands.</p> <p>Reason: To ensure all approved works occur within the property boundaries</p>

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

9.	7.12 Contribution
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	<p>Before the issue of the relevant construction certificate, the applicant must pay a total contribution of \$3,200.00 as calculated at the date of this consent to Wentworth Shire Council pursuant to the adopted Section 7.12 Development Contributions Plan.</p> <p>Note: The total amount payable may be adjusted at the time payment is made per clause 3.10 of the Section 7.12 Development Contributions Plan.</p> <p>Reason: To ensure the 7.12 Developer Contributions are paid.</p>
10.	<p>Access Point</p> <p>Before the issue of a Construction Certificate, the beneficiary of this consent must build a driveway crossing for the subject land (if one doesn't exist) to Council standards.</p> <p>Access during construction shall only be through the driveway crossing of the subject land.</p> <p>Reason: To control vehicular movement on road crossings.</p>
11.	<p>Building Material</p> <p>The proposed building/s and structure/s shall be clad in an approved non-reflective material e.g. colorbond.</p> <p>Reason: To ensure the materials of the building not impact the visual amenity of the surrounding character of the area.</p>
12.	<p>Construction Site Management Plan</p> <p>Before the issue of a construction certificate, the applicant must ensure a construction site management plan is prepared before it is provided to and approved by the certifier. The plan must include the following matters:</p> <ul style="list-style-type: none"> • location and materials for protective fencing and hoardings to the perimeter on the site • provisions for public safety • pedestrian and vehicular site access points and construction activity zones • details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site • protective measures for on-site tree preservation (including in accordance with AS 4970-2009 Protection of trees on development sites) and trees in adjoining public domain • details of any bulk earthworks to be carried out • location of site storage areas and sheds • equipment used to carry out all works • a garbage container with a tight-fitting lid • dust, noise and vibration control measures • location of temporary toilets. <p>The applicant must ensure a copy of the approved construction site management plan is kept on-site at all times during construction.</p>

	<p>Reason: To ensure construction works are adequately managed to protect the surrounding amenity.</p>				
13.	<p>Erosion and Sediment Control</p> <p>Before the issue of a construction certificate, the beneficiary of this consent is to ensure that an erosion and sediment control plan is prepared in accordance with the following documents before it is provided to and approved by the certifier:</p> <ul style="list-style-type: none"> the guidelines set out in the NSW Department of Housing manual Managing Urban Stormwater: Soils and Construction Certificate (the Blue Book), and the 'Do it Right On-Site, Soil and Water Management for the Construction Industry'; (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust). <p>The applicant must ensure the erosion and sediment control plan is kept onsite at all times during site works and construction.</p> <p>Reason: To ensure no substance other than rainwater enters the stormwater system and waterways.</p>				
14.	<p>Long Service Levy</p> <p>Before the issue of a construction certificate, the beneficiary of this consent is to ensure that the person liable pays the long service levy as calculated at the operational date of this consent to the Long Service Corporation or Council under section 34 of the Building and Construction Industry Long Service Payments Act 1986 and provides proof of this payment to the certifier.</p> <p>Reason: To ensure the long service levy is paid.</p>				
15.	<p>Payment of Security Deposits</p> <p><i>This condition applies to all construction works \$25,001 and above.</i></p> <p>Before the commencement of any works on the site or the issue of a construction certificate, the beneficiary of this consent must make all of the following payments to Council and provide written evidence of these payments to the certifier:</p> <table border="1"> <tr> <td>Infrastructure Bond (Security Deposit):</td><td>\$3,000.00</td></tr> <tr> <td>Infrastructure Protection Permit Fee (includes inspections)</td><td>\$232.00</td></tr> </table> <p>The payments will be used for the cost of:</p> <ul style="list-style-type: none"> making good any damage caused to any council property (including street trees, kerb, road etc) as a consequence of carrying out the works to which the consent relates, completing any public work such as roadwork, kerbing and guttering, footway construction, stormwater drainage and environmental controls, required in connection with this consent, and 	Infrastructure Bond (Security Deposit):	\$3,000.00	Infrastructure Protection Permit Fee (includes inspections)	\$232.00
Infrastructure Bond (Security Deposit):	\$3,000.00				
Infrastructure Protection Permit Fee (includes inspections)	\$232.00				

	<ul style="list-style-type: none"> any inspection carried out by Council in connection with the completion of public work or the making good any damage to council property. <p>The Infrastructure Bond will be returned on completion of the construction of the proposed development, subject to no damage being done to any council property (including street trees, kerb, road etc) as a consequence of carrying out the works to which the consent relates. The owner / developer is to arrange an inspection with an Officer of Wentworth Shire Council before any work commences on site. Any damage incurred to Council infrastructure will be repaired at the owners / developers expense and the balance of the Infrastructure Bond will be returned to the owner / developer on completion of the construction.</p> <p>Note: The inspection fee includes Councils fees and charges and includes the Public Road and Footpath Infrastructure Inspection Fee (under the Roads Act 1993). The amount payable must be in accordance with councils fees and charges at the payment date.</p> <p>Reason: To ensure any damage to public infrastructure is rectified and public works can be created.</p>
16.	<p>Utilities and services</p> <p>Reticulated water is not available at the site, as such the beneficiary of this consent must ensure that the proposed dwelling is provided access to portable water.</p> <p>Reason: To ensure the proposed dwelling is provided with appropriate servicing.</p>
17.	<p>Plumbing and Drainage - AWTs</p> <p>Before issuance of the Construction Certificate, a Plumbing and Drainage Approval Application under Section 68 of the Local Government Act NSW 1993, for an onsite sewer management system with a Land Capability Assessment (LCA), is to be submitted to and approved by Council before carrying out any plumbing and drainage work (stormwater, water and sewerage).</p> <p>Note: All plumbing and drainage work is to be carried out by a plumber and drainer, or other authorised person, licensed with the New South Wales Department of Fair Trading.</p> <p>Reason: To ensure plumbing and drainage works are carried out appropriately.</p>
18.	<p>Stormwater Management Plan</p> <p>Before the issue of a construction certificate the beneficiary of this consent is to design and submit to Council for approval a stormwater Management Plan for the development. The design is to be approved by Council before any work takes place on this site. All work detailed by the approved design is to be constructed by the beneficiary of this consent under supervision of the Principal Certifying Authority. All work is to be carried out at the beneficiary of this consent's expense.</p> <p>The plan is to include treatment measures for the water if it is to be discharged into a waterway.</p> <p>Reason: To ensure stormwater run-off is appropriately managed.</p>
19.	<p>Waste management plan</p> <p>Before the issue of a construction certificate, the applicant is to ensure that a waste management plan is prepared in accordance with the EPA's Waste Classification Guidelines and the following</p>

	<p>requirements before it is provided to and approved by the certifier:</p> <p>Details the following:</p> <ul style="list-style-type: none"> the contact details of the person(s) removing the waste an estimate of the waste (type and quantity) and whether the waste is expected to be reused, recycled or go to landfill the address of the disposal location(s) where the waste is to be taken <p>The applicant must ensure the waste management plan is referred to in the construction site management plan and kept on-site at all times during construction.</p> <p>Reason: To ensure resource recovery is promoted and local</p>
20.	<p>Works in Road Reserve</p> <p>A Road Opening Permit is required from the Wentworth Shire Council prior to any works or excavation within the road reserve including but not limited to: water tapping, sewer, driveway crossings, tree planting or removal etc.</p> <p>Please contact Councils Roads & Engineering Department on Tel: (03) 5027 5027 to arrange a permit.</p> <p>Reason: To control development in the road reserve.</p>

BEFORE BUILDING WORK COMMENCES

21.	<p>Bush fire asset protection zones</p> <p>Before any site work commences, the boundaries of the asset protection zone must be surveyed and marked on the ground by a registered surveyor.</p> <p>Reason: To provide a buffer to protect life and property from bush fire attack</p>
22.	<p>Construction Certificates and Appointment of Principal Certifier</p> <p>Prior to the commencement of any building works, the following requirements must be complied with</p> <ul style="list-style-type: none"> A Construction Certificate must be obtained from the Council or an Accredited Certifier, in accordance with the provisions of the Environmental Planning & Assessment Act 1979, A Principal Certifier must be appointed, and Council must be notified in writing of the appointment irrespective of whether Council or a Registered Certifier is appointed; and notify Council in writing of their intention to commence work (at least two [2] days' notice is required). <p>Reason: To ensure building works complies with relevant legislation and other codes.</p>
23.	<p>Contractor details notification</p>

	<p>The certifying authority must advise Council, in writing of:</p> <ol style="list-style-type: none"> 1. The name and contractor licence number of the licensee who has been contracted to do or intends to do the work, or 2. The name and permit of the owner-builder who intends to do the work. <p>If these arrangements are changed, or if a contract is entered into for the work to be done by a different licensee, Council must be immediately informed.</p> <p>Reason: To ensure building work is carried out by licensed contractor</p>
24.	<p>Dial before you dig</p> <p>Underground assets may exist in the area that is subject to your application. In the interest of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au or telephone 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contact the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary.</p> <p>Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individuals responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities."</p> <p>Reason: To ensure existing infrastructure is identified</p>
25.	<p>Erosion and sediment controls in place</p> <p>Before the commencement of any site or building work, the developer must be satisfied the erosion and sediment controls in the erosion and sediment control plan, (as approved by Council) are in place until the site is rectified (at least 70% ground cover achieved over any bare ground on site).</p> <p>Reason: To ensure runoff and site debris do not impact local stormwater systems and waterways</p>
26.	<p>Notice of commencement of works</p> <p>Subject to approval to commence works two days before any site works, building or demolition begins, the beneficiary of this consent must:</p> <ol style="list-style-type: none"> 1. Forward to Council notice of commencement of work and appointment of Principal Certifying Authority. 2. Notify the adjoining owners that work will commence. <p>Reason: To provide notification of works commencing</p>
27.	<p>Rubbish/Waste Management</p> <p>Throughout the construction period, from commencement of work, a suitable rubbish containment structure is to be located on site and utilised.</p>

	Reason: To ensure the construction site is kept clean and safe at all times.
28.	<p>Storage of materials</p> <p>Throughout the construction period, from commencement of work, the storage of materials is not permitted on footpaths, roadways or in reserves. Rubbish and building materials must be contained on the site.</p> <p>Reason: To ensure the construction materials are stored on site in a tidy & safe manner.</p>
29.	<p>Toilet facilities</p> <p>Toilet facilities are to be provided on or in the vicinity of the building site. The toilet must be connected to a public sewer, or if connection to a public sewer is not practicable, an approved chemical closet. The toilet facility must be installed on-site prior to the commencement of any other work.</p> <p>Reason: To ensure workers and contractors have access to amenities on site.</p>
30.	<p>Tree protection measures</p> <p>Before the commencement of any site or building work, the principal certifier must ensure the measures for tree protection detailed in the construction site management plan are in place.</p> <p>Reason: To protect and retain trees.</p>

DURING BUILDING WORK

31.	<p>Approved Plans</p> <p>A copy of the stamped approved and certified plans, specifications and documents incorporating conditions of approval and certification must be kept on site for the duration of site works and be made available upon request to either the Council or other Government Agencies.</p> <p>Reason: To ensure all parties are aware of the approved works to be conducted</p>
32.	<p>Clearing for asset protection zones (APZ)</p> <p>While site work is being carried out, clearing or modifying vegetation to establish the APZ must be confined within the marked APZ boundary in accordance with the supporting documentation approved under this consent, to the satisfaction of Council (where a principal certifier is not required)</p> <p>Reason: To ensure vegetation clearance or modification during construction is confined within the APZ.</p>
33.	<p>Construction noise</p> <p>While work is being carried out and where no noise and vibration management plan is approved under this consent, the applicant is to ensure that any noise caused by demolition, vegetation</p>

	<p>removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.</p> <p>Reason: To protect the amenity of the neighbourhood</p>
34.	<p>Contamination discovered during works</p> <p>If during works on the land comprising the lot, the land is found to be contaminated, within the meaning of the Contaminated Land Management Act 1997:</p> <ul style="list-style-type: none"> • all works must stop immediately, and • the Environment Protection Authority and the council must be notified of the contamination. • Land is found to be contaminated for the purposes of this condition if the principal certifying authority knows or reasonably suspects the land is contaminated. <p>Note: Depending on the nature and level of the contamination, remediation of the land may be required before further work can continue.</p> <p>Reason: To ensure contaminated land is managed appropriately</p>
35.	<p>Cut and fill (if applicable)</p> <p>While building work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:</p> <ul style="list-style-type: none"> • All excavated material removed from the site must be classified in accordance with the EPAs Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be reported to the principal certifier. • All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the Protection of the Environment Operations Act 1997 or a material identified as being subject to a resource recovery exemption by the NSW EPA. <p>Reason: To ensure soil removal & replacement meets requirements</p>
36.	<p>Encroachment of easements</p> <p>No works are to encroach over any easements.</p> <p>Reason: To ensure works are not carried out over easements</p>
37.	<p>Hours of work</p> <p>The developer must ensure that building work, demolition or vegetation removal is only carried out between:</p> <ul style="list-style-type: none"> • 7.00am to 6.00pm on Monday to Friday • 8.00am to 1.00pm on Saturdays <p>The developer must ensure building work, demolition or vegetation removal is not carried out on</p>

	<p>Sundays and public holidays, except where there is an emergency.</p> <p>Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.</p> <p>Note: Any variation to the hours of work requires Councils approval.</p> <p>Reason: To protect the amenity of the surrounding area</p>
38.	<p>Implementation of BASIX commitments</p> <p>While building work is being carried out, the applicant must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent, for the development to which the consent applies.</p> <p>Reason: To ensure BASIX commitments are fulfilled in accordance with the BASIX certificate (prescribed condition under Section 75 EP&A Regulation)</p>
39.	<p>Implementation of site management plans</p> <p>While vegetation removal, demolition and/or building work is being carried out, the applicant must ensure the measures required by the approved construction site management plan and the erosion and sediment control plan are implemented at all times. The applicant must ensure a copy of these approved plans is kept on site at all times and made available to Council officers upon request.</p> <p>Reason: To ensure the required site management measures are implemented during construction.</p>
40.	<p>Natural drainage</p> <p>Any works undertaken in the subject land including building and filling shall not cause alteration to the previous drainage in the subject land or adjacent land. Any remedies required to discharge drainage water caused to be accumulated by the works associated with this permit shall be the responsibility of the beneficiary of this consent.</p> <p>Reason: To ensure natural drainage is maintained where possible</p>
41.	<p>Procedure for critical stage inspections</p> <p>While building work is being carried out, any such work must not continue after each critical stage inspection unless the principal certifier is satisfied the work may proceed in accordance with this consent and the relevant construction certificate.</p> <p>Reason: To require approval to proceed with building work following each critical stage inspection</p>
42.	<p>Responsibility for changes to public infrastructure</p> <p>While building work is being carried out, the applicant must pay any costs incurred as a result of</p>

	<p>the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area).</p> <p>Reason: To ensure payment of approved changes to public infrastructure</p>
43.	<p>Security fencing</p> <p>An adequate security fence is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project</p> <p>Reason: To ensure the site is secured during construction</p>
44.	<p>Tree protection</p> <p>While site work is being carried out, all required tree protection measures must be maintained in good condition in accordance with:</p> <ol style="list-style-type: none"> 1. The construction site management plan 2. The relevant requirements of any Australian Standard for the protection of trees on development sites <p>This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.</p> <p>Reason: To protect trees during site works</p>
45.	<p>Uncovering relics or Aboriginal objects</p> <p>While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.</p> <p>In this condition:</p> <ul style="list-style-type: none"> • “relic” means any deposit, artefact, object or material evidence that: (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and a) is of State or local heritage significance; and • “Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains. <p>Reason: To ensure protection of objects of potential significance during works.</p>
46.	<p>Waste management</p>

	<p>While building work, demolition or vegetation removal is being carried out, the principal certifier must be satisfied all waste management is undertaken in accordance with the approved waste management plan.</p> <p>Upon disposal of waste, the applicant is to compile and provide records of the disposal to the principal certifier, detailing the following:</p> <ul style="list-style-type: none"> • The contact details of the person(s) who removed the waste • The waste carrier vehicle registration • The date and time of waste collection • A description of the waste (type of waste and estimated quantity) and whether the waste is expected to be reused, recycled or go to landfill • The address of the disposal location(s) where the waste was taken • The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste. <p>Note: If waste has been removed from the site under an EPA Resource Recovery Order or Exemption, the applicant is to maintain all records in relation to that Order or Exemption and provide the records to the principal certifier and Council.</p> <p>Reason: To require records to be provided, during construction, documenting that waste is appropriately handled.</p>
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BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

47.	<p>Completion of landscape and tree works</p> <p>Before the issue of an occupation certificate, the principal certifier must be satisfied that all landscape and tree-works, including pruning in accordance with AS 4373-2007 Pruning of amenity trees and the removal of all noxious weed species, have been completed in accordance with the approved plans and any relevant conditions of this consent.</p> <p>Reason: To ensure the approved landscaping works have been completed before occupation, in accordance with the approved landscaping plan(s).</p>
48.	<p>Completion of public utility services</p> <p>Before the issue of the relevant occupation certificate, the principal certifier must ensure any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development, is completed to the satisfaction of the relevant authority. Before the issue of the occupation certificate, the certifier must request written confirmation from the relevant authority that the relevant services have been completed.</p> <p>Reason: To ensure required changes to public utility services are completed, in accordance with the relevant agency requirements, before occupation.</p>
49.	<p>Occupation Certificate</p>

	<p>The building shall not be occupied or used until an Occupation Certificate is issued either by council or by an accredited certifier.</p> <p>Reason: To ensure development is accredited</p>
50.	<p>Removal of waste upon completion</p> <p>Before the issue of an occupation certificate, the principal certifier must ensure all refuse, spoil and material unsuitable for use on-site is removed from the site and disposed of in accordance with the approved waste management plan. Written evidence of the removal must be supplied to the satisfaction of the principal certifier.</p> <p>Before the issue of a partial occupation certificate, the applicant must ensure the temporary storage of any waste is carried out in accordance with the approved waste management plan to the principal certifier's satisfaction.</p> <p>Reason: To ensure waste material is appropriately disposed or satisfactorily stored.</p>
51.	<p>Repair of infrastructure</p> <p>Before the issue of an occupation certificate, the applicant must ensure any public infrastructure damaged as a result of the carrying out of building works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) is fully repaired to the written satisfaction of Council, and at no cost to Council.</p> <p>Note: If the council is not satisfied, the whole or part of the bond submitted will be used to cover the rectification work.</p> <p>Reason: To ensure any damage to public infrastructure is rectified</p>

OCCUPATION AND ONGOING USE

52.	<p>Additional structures</p> <p>No additional structures are to be built or installed on the site without permission from the Wentworth Shire Council.</p> <p>Reason: To ensure only approved work is carried out</p>
53.	<p>Amenity of the neighbourhood</p> <p>The operation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, dust, waste water, waste products, grit, oil or other harmful products.</p> <p>Reason: To ensure the amenity of the neighbourhood is not compromised unreasonably.</p>
54.	<p>Maintenance of wastewater and stormwater treatment device</p>

	<p>During occupation and ongoing use of the building, the beneficiary of this consent must ensure all wastewater and stormwater treatment devices (including drainage systems, sumps and traps, and on-site detention) are regularly maintained, to remain effective.</p> <p>Reason: To protect sewerage and stormwater systems.</p>
55.	<p>Management of asset protection zones (APZ)</p> <p>During ongoing use of the site, the APZ must be managed in accordance with Insert document reference, Planning for Bushfire Protection 2019 and the NSW Rural Fire Services Standards for Asset Protection Zones.</p> <p>Reason: To ensure ongoing protection from bush fires.</p>
56.	<p>Release of securities / bonds</p> <p>When Council receives an occupation certificate from the principal certifier, the applicant may lodge an application to release the securities held. Council may use part, or all of the securities held to complete the works to its satisfaction if the works do not meet Councils requirements.</p> <p>Reason: To allow release of securities and authorise Council to use the security deposit to complete works to its satisfaction.</p>

9.15 DA2024/074 TWO (2) STOREY DWELLING 24 RIVER DRIVE LOT 2 DP 1247800 BURONGA

File Number: RPT/24/410

Responsible Officer: George Kenende - Acting Director Health & Planning

Responsible Division: Health and Planning

Reporting Officer: Georgie Martin - Cadet Planner

Objective: 3.0 Wentworth Shire is a community that works to enhance and protect its physical and natural environment

Strategy: 3.1 Ensure our planning decisions and controls enable the community to benefit from development

Summary

A development application (DA2024/074) was received by Council for a deferred commencement dwelling to be located at 24 River Drive, Lot 2 DP 1247800, Buronga, being an allotment that backs onto the river but not within the river front building area.

Under the Wentworth Local Environmental Plan 2011 (WLEP 2011), this development is permitted with consent within the RU5 – Village zone as a dwelling.

The proposed dwelling is to be located within the prescribed 30m high bank setback, proposed to only have a setback of 7.25m. The land is currently vacant and cleared, with the adjoining lot containing an existing dwelling and associated structures.

The minimum setback under Clause 7.6 in a river front area is 30m for dwellings, with only boat related facilities, extension or alterations of existing buildings, environmental protection works, extensive agriculture and intensive plant agriculture, walking trails, cycleways, picnic facilities, recreation facilities and recreation facilities and water recreation structures allowed with consent in the river front area.

river front area means the land between the river front building line and the highest bank of the Murray River or, if there is no river front building line, the land within 30 metres of the highest bank of the River.

Due to the variation being 75%, greater than 10%, the application cannot be determined under delegated authority, and must be determined by Council.

Recommendation

That Council:

1. Approve DA2024/074 being a two-storey dwelling located at 24 River Drive, Lot 2 DP 1247800, Buronga.
2. Call a division in accordance with S375A of the Local Government Act 1993 (NSW).

Detailed Report

Purpose

The purpose of this report is to provide information to Council to determine Development Application DA2024/074, having consideration to the detail provided within this report and the attachments provided.

Background

A Development Application was lodged with Council on 31 May 2024 seeking consent for a two-storey dwelling on the subject site.

The subject site is located in the RU5 - Village zone under the Wentworth Local Environmental Plan (WLEP 2011).

The proposal seeks to develop a dwelling within the prescribed 30m setback of the river front area, which contravenes a development standard set out within the WLEP 2011.

Under Clause 7.6, dwellings aren't listed as development which can be within the river front area. As the proposal does not meet the minimum required setback for this area, variation is sought through the application to allow the dwelling to be constructed within the river front building area.

Where an application cannot achieve the development standards required by a Local Environmental Plan, the applicant may apply to vary the development standard.

An application to vary a development standard is made under clause 4.6 of the WLEP 2011.

Under Clause 35B of the Environmental Planning and Assessment Regulation 2021, applications involving contravention of development standards must be accompanied by a document that sets out the grounds on which the applicant seeks to demonstrate that –

- Compliance with the development standard is unreasonable or unnecessary in the circumstances, and
- There are sufficient environmental planning grounds to justify the contravention of the development standard.

The consent authority must keep a record of all 4.6 variation assessments carried out.

Clause 4.6 of the Standard Instrument LEP has been reformed to make the planning system faster, simpler, and more transparent. The reform came into effect on 1 November 2023 and removes the requirement to obtain the Planning Secretary's concurrence for a variation with new reporting frameworks. As such, council has authority to approve or refuse 4.6 variation applications.

The WLEP 2011 identifies the required high bank setback as 30m for any land with river frontage. As the subject site backs onto the river and seeks to develop within the required 30m setback at 7.25m from the high bank, a variation of 75% is created. As this is greater than 10%, this application cannot be determined under delegated authority and is presented to Council for consideration.

Refer to attachment 1 – Development Application

Refer to attachment 2 – 4.6 Variation Request

Refer to attachment 3 – Site Plans

Matters under consideration

In determining a development application that requires consent, the consent authority must take into consideration matters prescribed in Section 4.15 of the Environmental Planning and Assessment Act 1979 as relevant to the development.

The proposed development was assessed and met the relevant provisions under Chapter 5 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021.

The proposed development for a two-storey dwelling is permitted with consent and meets the zone objectives of the RU5 - Village zone under the WLEP 2011.

The proposed dwelling does not meet the required high bank setback standard and the 4.6 variation request provided by the applicant provided adequate justification for the contravention of the development standard contained in Clause 7.6.

Due to the zoning and WLEP mapping impacting the land, the development application was assessed against Clauses 4.6, 5.21, 7.1, 7.2, 7.4, 7.5, 7.6, 7.7, and 7.8.

Due to the nature of the proposed development, it was assessed against Chapter 8 – Site Specific Provision of the Wentworth Development Control Plan (DCP) 2011. The development was able to comply with most of the provisions of this chapter, apart from 4.1.4, whereby the combined total of the side setbacks should equal 4.5m, The applicant identified that the setbacks are *consistent with the side setbacks of the adjoining dwelling* as justification.

Based on assessment of the application, it is determined that the proposed development is compliant with the relevant objectives of the RU5 - Village zone, is able to meet the relevant provisions of the Wentworth Development Control Plan (DCP) 2011, is consistent with planning matters for consideration of the Wentworth Local Environmental Plan 2011 and the State Environmental Planning Policy (Biodiversity and Conservation) 2021.

Refer to attachment 4 – 4.15 Assessment Report

Refer to attachment 5 – 4.6 Variation Assessment Report

Refer to attachment 6 – Conditions of Consent

Options

Based on the information contained in this report, the options available to address this matter are to:

- Approve Development Application 2024/074 subject to conditions

Legal, strategic, financial or policy implications

Should Council issue a determination to the application, the applicant has the right to submit a request for review of determination to Council under Section 8.2 of the Environmental Planning & Assessment Act 1987.

The applicant also has the right to appeal the decision made by Council to the Land and Environment Court pursuant to Section 8.7 of the Environmental Planning & Assessment Act 1987.

Conclusion

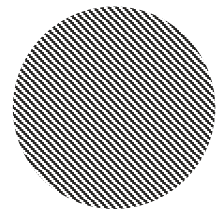
Having consideration to the consent of this report, it is concluded that the appropriate course of action is to approve the development application DA2024/034 subject to conditions in this report.

Attachments

1. Development Application (Underseparate cover)⇒
2. 4.6 Variation Request↓
3. Site Plans (Under separate cover)⇒
4. 4.15 Assessment Report↓
5. 4.6 Variation Assessment Report↓
6. Conditions of Consent↓



JACKSON
PLANNING



Planning Report

Dwelling and Variation to LEP Standard
7.6

24 River Drive

Blacktown NSW 2133

EXECUTIVE
SUMMARY

Proposal	Construction of a dwelling
Street Address	24 River Drive, Buronga
Formal Land Description	Lot 2 in Deposited Plan 1247800
Zone	RU5 – Village
Relevant State Environmental Planning Policies	Nil

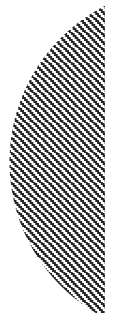


SUBJECT SITE AND SURROUNDING AREA

The subject site comprises one parcel of land commonly known as 24 River Drive, Buronga, and more formally as Lot 2 in Deposited Plan 1247800. The site is rectangular in shape and is relatively flat. It has an area of approx. 893 square metres (sqm) and a frontage of approx. 12.59 metres (m) to River Drive. The south-east boundary adjoins the bank of the Murray River, with an existing levee located between the proposed dwelling location and riverbank. The site is currently vacant, but all reticulated services are available. No heritage or cultural sensitivities affect the land and there are no natural hazards or environmental sensitivities including native vegetation.

The site is situated within an established existing residential area, directly east after the George Chaffey Bridge, with existing dwellings located on both adjoining allotments. The surrounding area is residential in nature and typically contain dwellings on similar orientated allotments.

An aerial image of the site and surrounding area as well as site photos are contained on the following pages.



Aerial Image of the Site and Surrounding Area



Figure 1: Subject site and surrounding area (Source: Landchecker Nov 2023)

Site Photos



Figure 2: View of site from River Drive



Figure 3: View of the site from the north



Figure 4: View of the site from the east



Figure 5: View of the site from the south



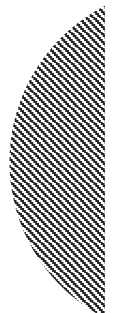
Figure 6: Access from Sturt Highway

PROPOSAL DESCRIPTION

This application is for the construction of a dwelling, as summarised under the following points:

- The dwelling is double storey and contains three bedrooms (master with WIR and ensuite), open plan kitchen, meals and family area, butlers pantry, store, bathroom and separate WC, laundry, outdoor living area (on first floor) and double garage.
- The external appearance of the dwelling is finished with a variety of cladding types on the walls. The roof will be finished in a steel roof sheeting.
- The dwelling has a maximum height of 9.3m above natural ground.
- An existing crossover will be utilised to provide access to the double garage.

This application proposes the dwelling to be 7.25 metres from eastern boundary (High Bank); by doing so a variation to Standard 7.6 (Development on river front areas) is required.



PLANNING

CONTROLS AND ASSESSMENT

Wentworth Local Environmental Plan 2011 (LEP)

The Subject site is within the RU5 – Village

The objectives of the zone are:

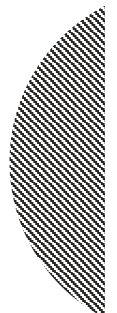
- *To provide for a range of land uses, services and facilities that are associated with a rural village.*
- *To promote development in existing towns and villages in a manner that is compatible with their urban function.*
- *To encourage well-serviced sustainable development.*
- *To ensure there are opportunities for economic development.*
- *To deliver new residential and employment growth in Buronga and Gol Gol.*
- *To ensure business and retail land uses are grouped within and around existing activity centres.*

The proposed dwelling is located within a recently subdivided estate and will support the development of Buronga. The dwelling has been designed to meet sustainability targets and is appropriately located so as not to unreasonably impact on the adjoining land. As such, the proposal supports the objectives of the RU5 zone.

Clause 5.21 Flood planning

The objectives of this clause are as follows—

- *to minimise the flood risk to life and property associated with the use of land,*
- *to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,*
- *to avoid adverse or cumulative impacts on flood behaviour and the environment,*



- *to enable the safe occupation and efficient evacuation of people in the event of a flood.*

Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—

- *is compatible with the flood function and behaviour on the land, and*
- *will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
- *will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
- *incorporates appropriate measures to manage risk to life in the event of a flood, and*
- *will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*

Discussion

It is accepted that standard conditions relating to the construction of the dwelling may be required to be certified by a qualified structural engineer certifying that the design and structural adequacy of the building can withstand the effects of inundation in the event of a flood.

In conclusion it is considered that the proposed development will allow the safe and efficient evacuation of people in the event of a flooding event.

Clause 7.5 Wetlands

The objective of this clause is to ensure that natural wetlands are preserved and protected from the impacts of development.

When assessing a development application for development on land to which this clause applies, the consent authority must consider potential adverse impacts from the proposed development on—

- the growth and survival of native flora and fauna,
- the condition and significance of the native flora on the land and whether it should be substantially retained, and
- the provision and quality of habitats for indigenous and migratory species, and
- the surface and groundwater characteristics of the site, including water quality, natural water flows and salinity, and
- any wetland in the vicinity of the proposed development and any proposed measures to minimise or mitigate those impacts.

Before granting consent to development to which this clause applies the consent authority must be satisfied that—

- the development is sited, designed and managed to avoid potential adverse environmental impacts, or
- where an impact cannot be avoided, and having taken into consideration feasible alternatives, the proposed design, construction and operational management of the development will mitigate and minimise those impacts.

Discussion

Similar with the flooding assessment above, the proposed development is not considered to have any impact on wetland health or function.

Variation to Standard 7.6

The Environmental Planning Instrument that applies to the land?

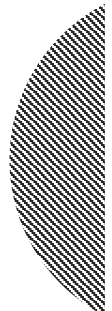
The Wentworth Local Environmental Plan 2011

Development Standard to be Varied

The 30-metre setback from the high bank of the Murray River.

Is the standard to be varied a development standard?

Yes, this standard is considered to be a development standard in accordance with the definition contained in section 1.4 of the Environmental Planning and Assessment Act 1979; and not a prohibition.



What are the objectives of the development standard?

- (a) to support natural riverine processes, including the migration of the Murray River's channels,
- (b) to protect and improve the bed and bank stability of the Murray River,
- (c) to maintain and improve the water quality of the Murray River,
- (d) to protect the amenity, scenic landscape values and cultural heritage of the Murray River and to protect public access to its riverine corridors,
- (e) to conserve and protect the riverine corridors of the Murray River, including wildlife habitat.

What is the proposed numeric value of the development you are proposing?

Plans which have been prepared contain an original "Top of Bank" which is essentially along the eastern boundary. The dwelling has been located 7.25 metres from the top of bank; which results in a variance of 75%.

Principles of Exceptions to Development Standards**Clause 4.6 Exceptions to Development Standards**

Clause 4.6 provides flexibility to vary the development standards specified within the Standard Instrument where it can be demonstrated that the development standard is unreasonable or unnecessary in the circumstances of the case, and where there are sufficient environmental grounds to justify the departure.

Clause 4.6 states the following:

- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*



- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) Development consent must not be granted for development that contravenes a development standard unless—*
 - (a) the consent authority is satisfied that—*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) the concurrence of the Planning Secretary has been obtained.*

The requirement for consideration and justification of a Clause 4.6 variation necessitates an assessment of a number of criteria. It is recognised that it is not merely sufficient to demonstrate a minimisation of environmental harm to justify a Clause 4.6 variation, although in the circumstance of this case, the absence of any environmental impact is of considerable merit.

Accordingly, justification is set out in following assessment for the departure from the 30-metre setback control applicable under the WLEP2011. The purpose of the information provided is to demonstrate that strict compliance with this development standard is unreasonable or unnecessary in the circumstances of this particular case. It also demonstrates that there are sufficient environmental planning grounds for the departure from the 30-metre high bank setback as specified in the WLEP2011.

Justification for Variation

The proposed dwelling has been located at the subject site to have a consistent setback with the adjoining dwelling (24A River Drive) which was approved by the Wentworth Shire under the current LEP provisions. It is worth noting that the dwelling has been located behind the existing levee as per the plans provided.

It is considered that further strategic work was undertaken a River Front Building Line would be established which would allow the following land to have a setback of 30 metres from the water level; resulting in a consistent setback with the existing dwellings within close proximity.

An aerial has been provided demonstrating setbacks of all dwellings within the locality.



Figure 7: Setbacks from Murray River

The Five Part Test

The five ways of establishing that compliance is unreasonable or unnecessary are:

1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard;

2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
3. The objective would be defeated, thwarted or undermined (*Linfield Developments Pty Ltd v Cumberland Council* [2019] NSWLEC 131 at [24]) if compliance was required with the consequence that compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence the standard is unreasonable and unnecessary; and
5. The zoning of the land is unreasonable or inappropriate

It is sufficient to demonstrate only one of these ways to satisfy clause 7.6, 7.9 and the definition per *Wehbe v Pittwater Council* [2007] NSWLEC 827, *Initial Action Pty Limited v Woollahra Municipal Council* [2018] NSWLEC 118 at [22] and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130 at [28]) and *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [31].

TEST 1: The objectives of the development standard are achieved notwithstanding non-compliance with the standard

The following table considers whether the objectives of the development standard are achieved notwithstanding the proposed variation (Test 1 under *Wehbe*).

Table 1: Achievement of Objectives of Clause 7.6 of WLEP2011

Objective	Discussion/Comment
(a) to support natural riverine processes, including the migration of the Murray River's channels,	Given the distance from natural riverbank and existing levee located along the property; it is considered the proposed development will have minimal impacts on the health of the bank.
(b) to protect and improve the bed and bank stability of the Murray River,	There is no work proposed in this application that will affect the bed and bank stability of the river.
(c) to maintain and improve the water quality of the Murray River,	There is no work or land uses proposed in this application that will impact on the quality of the water in the river.
(d) to protect the amenity, scenic landscape values and cultural heritage of the Murray River and to protect public access to its riverine corridors	Not applicable due to the subject land being privately owned to the riverbank.
(e) to conserve and protect the riverine corridors of the Murray River, including wildlife habitat.	The proposed development will have no further impacts on the Murray River.

In this case, it is demonstrated below that Test 1 has been satisfied.

TEST 2: The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary

The underlying objective or purpose is relevant to the development and therefore this test is not relied upon.

TEST 3: The objective would be defeated, thwarted or undermined if compliance was required with the consequence that compliance is unreasonable

The underlying objective or purpose is relevant to the development and therefore this test is not relied upon.

TEST 4: The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence the standard is unreasonable and unnecessary

The standard has not been abandoned, however it is noted that the adjoining dwelling was approved under the current LEP.

TEST 5: The zoning of the land is unreasonable or inappropriate

The zoning of the land is reasonable and appropriate and therefore this test is not relied upon.

PUBLIC INTEREST

In this section it is explained how the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

It has demonstrated that the proposed development overall achieves the objectives of the development standard notwithstanding the variation of the development standard. The table below considers whether the proposal is also consistent with the objectives of the zone.

Table 2: Consistency with Zone Objectives

Objective	Discussion/Comment
(a) To provide for a range of land uses, services and facilities that are associated with a rural village.	<p>The application is proposing a dwelling, an encouraged development with the zone.</p> <p>This variation does not affect consistency with this objective.</p>
(b) To promote development in existing towns and villages in a manner that is compatible with their urban function.	<p>A dwelling is a compatible development with the function of an urban area.</p> <p>This variation does not affect consistency with this objective.</p>
(c) To encourage well-serviced sustainable development.	<p>The proposed dwelling will be able to connect to all relevant services.</p> <p>This variation does not affect consistency with this objective.</p>
(d) To ensure there are opportunities for economic development.	<p>Not applicable to this application.</p> <p>This variation does not affect consistency with this objective.</p>
(e) To deliver new residential and employment growth in Buronga and Gol Gol.	<p>The subject land is located within Buronga.</p> <p>This variation does not affect consistency with this objective.</p>
(f) To ensure business and retail land uses are grouped within and around existing activity centres.	<p>Not applicable to this application.</p> <p>This variation does not affect consistency with this objective.</p>

Wentworth Development Control Plan

Chapter 4 – Residential Development Controls

4.1.1 Site Context and Analysis

The plans submitted with this application demonstrate how the proposed development responds to site specific conditions and the site has been described in detail previously in this report. The proposed dwelling is going to have a consistent bulk and scale as the existing dwelling located at 24A River Drive. The site does not have any specific constraints and the topography is relatively flat.

4.1.2 Streetscapes

The proposed building will have a positive impact on the streetscape. A number of habitable room windows overlook the street to provide for casual surveillance. The proposed garage has been incorporated into the design of the frontage effectively, with a setback that won't allow the area to dominate views. The building has a clearly identified entry from the street and has been designed to be energy efficient. The external materials and colours of the building will complement existing dwellings in the broader area which have external materials and colours that vary considerably.

4.1.3 Front Setback

The building has a front setback of approximately 34m, thus meeting this control.

4.1.4 Side setbacks and Corner Lot Setbacks

The side setbacks of the proposed building are 1.5m from the northern boundary and 2.07m from the southern boundary. This falls marginally short of the combined total of 4.5m specified within the development controls, however, is consistent with the side setbacks of the adjoining dwelling.

4.1.5 Rear setbacks

The proposed building is located 12.9m from the rear boundary, thus meeting this control.

4.1.6. Walls on Boundaries

Not applicable.

4.1.7 Building heights and overshadowing

Overshadowing diagrams have been provided which demonstrates that no detrimental impacts on adjoining private open spaces.

4.1.8 Site Coverage

The site coverage is approximately 22%, thus meeting this control.

4.1.9 Private Open Space

Sufficient private open space has been provided at the front and rear of the dwelling.

4.1.10 Energy Efficiency and Solar access

Appropriate solar access and energy efficiency is achieved given the orientation of the site. An Energy Efficiency Compliance Assessment is included with this application to demonstrate that the relevant energy efficiency requirements are met. A BASIX has been supplied with the application.

4.1.11 Daylight to existing windows

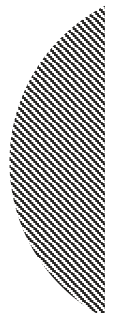
The proposed building will not impact daylight to existing dwellings due to the orientation of the sun.

4.1.12 North-facing windows

Not applicable – there are no existing north facing windows within 3m of the boundary.

4.1.13 Overlooking

Due to the location and close proximity of the adjoining dwelling (24A River Drive), overlooking will not be possible to all areas that can be considered secluded open space.



4.1.14 Fencing and Retaining Walls

No fences or retaining walls are proposed as part of this application.

4.1.15 Car Parking and Vehicle Access

Sufficient car parking has been provided for the dwelling.

4.1.16 Cut and Fill

As the site is relatively flat, only minimal earthworks are anticipated and will not exceed 0.3m of cut or fill.

State Environmental Planning Policies (SEPP)

There are no state policies application for this application.

General Assessment

Visual Impacts

Please refer to DCP assessment.

Open Space

Please refer to DCP assessment.

Overshadowing and Privacy

Please refer to DCP assessment.

Noise

Only standard domestic mechanical plant will be associated with the proposed building, which will emit noise typical for a residential area.

Erosion Control Measures

No specific erosion control measures are considered necessary for this development. Any minor earthworks will be appropriately battered and retained (if necessary).

Economic and Social Impacts

Albeit minor, the proposed dwelling will contribute to the economic and social wellbeing of the Buronga township by increasing investment in the local area and social interaction with the local community.

Environmental Benefits

Due to the nature of this development, no significant environmental benefits are envisaged.

Disabled Access

Not applicable for this application. The proposed dwelling will be required to comply with the applicable National Construction Code requirements for disabled access.

Security, Site Facilities and Safety

Not applicable for this application.

Waste Management

Standard domestic waste services will be provided by Council.

National Construction Code

The National Construction Code will be assessed as part of the Construction Certificate process by a Building Surveyor.

Traffic

The proposed building will result in standard domestic travel within the existing road network. This would have been anticipated and accounted for in the design of the subdivision.



Stormwater/flooding

The site is not subject to any identified natural hazards and stormwater will be directed to the legal point of discharge.

CONCLUSION


This report demonstrates that the proposal is consistent with the relevant provisions of the *Wentworth Local Environmental Plan 2011* and the Wentworth DCP.

The proposed dwelling is appropriate for the site as it:

- Supports the objectives of the Zone RU5 - Village;
- Is appropriately located on the subject site;
- Will have an acceptable impact on the locality in terms of amenity and visual dominance; and
- Will not result in any detrimental impacts on the environment.

Additionally, compliance with the development standard 7.6 would be unreasonable and unnecessary in the circumstances of this case.

It is considered that the proposal is worthy of support, and it is therefore respectfully requested that the Wentworth Shire Council grant Development Consent for the construction of a dwelling as described in this report at 24 River Drive, Buronga.

 <p>Wentworth SHIRE COUNCIL</p>	<p>Health & Planning Department 26-28 Adelaide Street PO Box 81 WENTWORTH NSW 2648 Tel: 03 5027 5027 council@wentworth.nsw.gov.au</p>	<p>DA Assessment Report Section 4.15 Evaluation Environmental Planning & Assessment Act 1979 as amended</p>
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File Reference:	DA2024/074 & PAN 439818
Property Title & Address:	P717/2 24 River Drive Lot 2 DP 1247800 Buronga
Property owner(s):	Mark & Janine Wilson
Applicant(s):	JACKSON PLANNING MJJR PTY LTD – Ebony Cetinich
Proposal:	Two (2) storey dwelling with garage
Previous DAs:	DA13/043 Dwelling DA15/110 Two Lot Subdivision
Cost of proposed development:	\$753,593.00

SITE AND SURROUNDING DEVELOPMENT

The subject site comprises of Lot 2 DP 1247800, 24 River Drive, Buronga. The lot has an area of 893m² and connects to Sturt Highway through service roads.

The subject site is located within the RU5 – Village zone under the Wentworth Local Environmental Plan (WLEP) 2011.

The subject site is regularly shaped and rectangular with no existing dwellings or associated structures on site. Surrounding lots are in the same zoning and have dwellings with associated structures (sheds, garages etc) on them.

The subject site has access to all services including water, sewer, stormwater, and electricity. The subject site is partially protected by a levee. The site is impacted by flood planning mapping.

The subject site is not impacted by bushfire, floodway, terrestrial biodiversity or wetlands mapping, is not located in the urban release area and is not identified as having heritage items on site.

DESCRIPTION OF PROPOSAL

The proposal seeks development consent for a two storey dwelling with garage that will contain three bedrooms (including a master with robe and ensuite), an open plan kitchen, butlers pantry, store, bathroom, laundry and outdoor living area (decking).

The dwelling will be finished with a variety of cladding types with the roof finished in steel sheeting. The dwelling will be maximum 9.3m above natural ground.

The dwelling is proposed to have a total floor area of 314.5m², broken down into the following:

Ground floor: garage – 41.7m², living – 69.6m², and porch – 5.1m². Total – 116.5m².

First floor: living – 160.1m², front balcony – 9.5m², rear deck – 28.5m². Total – 198m².

The dwelling is proposed to be 7.25m from the high bank of the river and as such a 4.6 variation to clause 7.6 is sought.

HISTORY RELEVANT TO THE DEVELOPMENT APPLICATION

DA13/043 Dwelling

DA15/110 Two Lot Subdivision

SECTION 4.15-MATTERS FOR CONSIDERATION**(1) The provisions of any environmental planning instrument and development control plan****State Environmental Planning Policy (Biodiversity and Conservation) 2021**

The proposed development is situated on a site previously disturbed for subdivision processes and as such it is not expected that any vegetation will be removed, or further, that any threatened species or native habitats will be affected through development.

Assessment against Chapters 3 and 4 not required as site is not koala habitat.

Development will be classed as river front: ***river front area*** means the land between the river front building line and the highest bank of the Murray River or, if there is no river front building line, the land within 30 metres of the highest bank of the river.

Assessment against Chapter 5 – River Murray Lands5.9 – Specific Principles

Access:

- Obstruction of river will not occur as privately owned land,
- Human access will still be possible following development,
- No stock access required as per land zoning.

Bank Disturbance:

- Bank disturbance not expected from development,
- Development proposed to be located over 7m away from river,
- Development not expected to change bank stability or size.

Flooding:

- Site is not floodway mapped but is flood planning mapped,
- Site is protected by an identified levee,
- Applicant addresses need a structural engineer to be involved in design of structures to mitigate potential effects of flooding,
- Development not expected to change flood patterns in flood event,
- Proposed development will not hinder evacuation if needed as driveway and dwelling exits not mapped to be impacted by flooding.

Land Degradation:

- Native vegetation will not be removed for development,
- Cut and fill expected to be minimal but will be conditioned,
- No water pollution expected as stormwater runoff available.

Landscape:

- Vegetation along riverbank will not be impacted or removed,
- Conditions of consent to reflect any future landscaping include native vegetation.

River Related Uses:

- Dwelling will be within high bank setback, but no direct river related uses proposed,
- No mooring site associated with subject land,

- Development not to intensify use of riverside land publicly as land is owned privately by owner.

Settlement:

- Land doesn't compromise crop or pastureland, not agricultural or farming land,
- Land is flood planning mapped and will be conditioned to reflect flood events,
- Existing services and local facilities close to proposed development site which is further reflected by RU5 – Village zoning.

Water Quality:

- Salts, nutrients, or other polluting materials not expected to impact river,
- Development does not reflect management of land in close proximity to river as merely a dwelling and no dire consequences expected.

Wetlands:

- Capacity of land to function as a wetland will not be impacted as other development is pre-existing in area and hasn't damaged the resource function,
- Human access is only by landowners privately,
- No animal access,
- Plant and animal species not to be impacted through development.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The proposed development meets the requirements of the State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 as demonstrated by the BASIX certificate.

Wentworth Local Environmental Plan (LEP) 2011

Zone objectives and permissibility

The proposed development of a two storey dwelling with garage can be permitted with consent and meets the zone objectives of the RU5 Village zone under which the subject site is located as ancillary to the existing dwelling.

Zone Objectives:

- To provide for a range of land uses, services and facilities that are associated with a rural village.
- To promote development in existing towns and villages in a manner that is compatible with their urban function.
- To encourage well-serviced sustainable development.
- To ensure there are opportunities for economic development.
- To deliver new residential and employment growth in Buronga and Gol Gol.
- To ensure business and retail land uses are grouped within and around existing activity centres.

4.6 Exceptions to Development Standards

Compliance with the development standard (7.6) is unreasonable or unnecessary in the circumstances. Outcomes from development will not be detrimental to the site or surrounding areas. Proposed dwelling will have same setback as existing dwelling on neighbouring site, keeping consistency with the area.

Standard being varied – 7.6

The proposed two storey dwelling with garage is located on an RU5 – Village zone lot and is seeking approval for a departure from the 30m high bank setback and only having a setback of 7.25m, representing a variation of 75%.

Approving 4.6 variations

Under clause 35B of the Environmental Planning and Assessment Regulation 2021, applications involving contravention of development standards must be accompanied by a document that sets out the grounds on which the applicant seeks to demonstrate that –

- compliance with the development standard is unreasonable or unnecessary in the circumstances, and
- there are sufficient environmental planning grounds to justify the contravention of the development standard.

The consent authority must keep a record of its assessment carried out under subclause (3).

The variation proposed is greater than 10% (75%), due to changes made by the NSW Government, Clause 4.6 of the Standard Instrument LEP has been reformed to make the planning system faster, simpler, and more transparent.

The reform came into effect on 1 November 2023 and removes the requirement to obtain the Planning Secretary's concurrence for a variation with new reporting framework. As such, council has authority to approve or refuse 4.6 variation applications.

4.6 Exceptions to Development Standards**Information provided by applicant:**

Clause 4.6 provides flexibility to vary the development standards specified within the Standard Instrument where it can be demonstrated that the development standard is unreasonable or unnecessary in the circumstances of the case, and where there are sufficient environmental grounds to justify the departure.

Clause 4.6 states the following:

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless—

(a) the consent authority is satisfied that—

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Planning Secretary has been obtained.

The requirement for consideration and justification of a Clause 4.6 variation necessitates an assessment of a number of criteria. It is recognised that it is not merely sufficient to demonstrate a minimisation of environmental harm to justify a Clause 4.6 variation, although in the circumstance of this case, the absence of any environmental impact is of considerable merit.

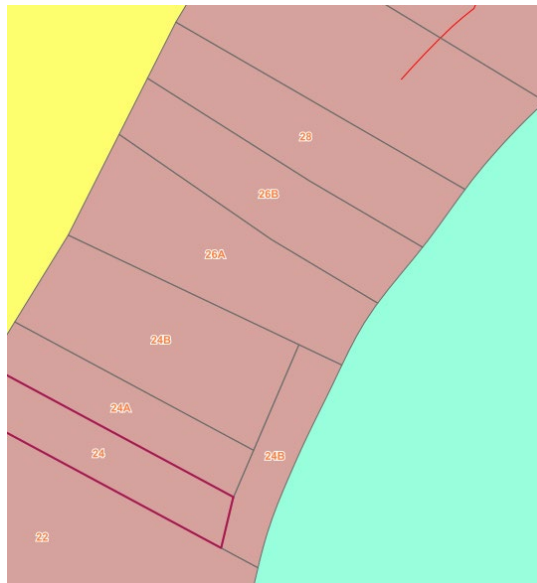
Accordingly, justification is set out in following assessment for the departure from the 30-metre setback control applicable under the WLEP2011. The purpose of the information provided is to demonstrate that strict compliance with this development standard is unreasonable or unnecessary in the circumstances of this particular case. It also demonstrates that there are sufficient environmental planning grounds for the departure from the 30-metre high bank setback as specified in the WLEP2011.

Justification for Variation

The proposed dwelling has been located at the subject site to have a consistent setback with the adjoining dwelling (24A River Drive) which was approved by the Wentworth Shire under the current LEP provisions. It is worth noting that the dwelling has been located behind the existing levee as per the plans provided.

It is considered that further strategic work was undertaken a River Front Building Line would be established which would allow the following land to have a setback of 30 metres from the water level; resulting in a consistent setback with the existing dwellings within close proximity.

Officer comment: The river front building line does not extend to the subject site, see figure below with 24 River Road highlighted by maroon lines and the river front building line in red.



An aerial has been provided demonstrating setbacks of all dwellings within the locality.



The Five Part Test

The five ways of establishing that compliance is unreasonable or unnecessary are:

- 1. The objectives of the development standard are achieved notwithstanding noncompliance with the standard;*
- 2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;*

3. The objective would be defeated, thwarted or undermined (*Linfield Developments Pty Ltd v Cumberland Council* [2019] NSWLEC 131 at [24]) if compliance was required with the consequence that compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence the standard is unreasonable and unnecessary; and
5. The zoning of the land is unreasonable or inappropriate.

It is sufficient to demonstrate only one of these ways to satisfy clause 7.6, 7.9 and the definition per *Wehbe v Pittwater Council* [2007] NSWLEC 827, *Initial Action Pty Limited v Woollahra Municipal Council* [2018] NSWLEC 118 at [22] and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130 at [28]) and *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [31].

TEST 1: The objectives of the development standard are achieved notwithstanding non-compliance with the standard.

The following table considers whether the objectives of the development standard are achieved notwithstanding the proposed variation (Test 1 under *Wehbe*).

Table 1: Achievement of Objectives of Clause 7.6 of WLEP2011.

Objective	Discussion/Comment
(a) to support natural riverine processes, including the migration of the Murray River's channels,	Given the distance from natural riverbank and existing levee located along the property; it is considered the proposed development will have minimal impacts on the health of the bank.
(b) to protect and improve the bed and bank stability of the Murray River,	There is no work proposed in this application that will affect the bed and bank stability of the river.
(c) to maintain and improve the water quality of the Murray River,	There is no work or land uses proposed in this application that will impact on the quality of the water in the river.
(d) to protect the amenity, scenic landscape values and cultural heritage of the Murray River and to protect public access to its riverine corridors,	Not applicable due to the subject land being privately owned to the riverbank.
(e) to conserve and protect the riverine corridors of the Murray River, including wildlife habitat.	The proposed development will have no further impacts on the Murray River.

In this case, it is demonstrated below that Test 1 has been satisfied.

Officer comment: proposed development not identified to have any detrimental impacts on the river as seen through objective justifications.

TEST 2: The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.

The underlying objective or purpose is relevant to the development and therefore this test is not relied upon.

Officer comment: due to existing residential development on neighbouring allotment and other lots around the subject site, the development is not anticipated to have any detrimental effects on the area, with development being relevant to land use objectives of RU5 – Village zone.

TEST 3: The objective would be defeated, thwarted or undermined if compliance was required with the consequence that compliance is unreasonable.

The underlying objective or purpose is relevant to the development and therefore this test is not relied upon.

Officer comment: see test two – officer comment.

TEST 4: The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence the standard is unreasonable and unnecessary.

The standard has not been abandoned; however, it is noted that the adjoining dwelling was approved under the current LEP.

Officer comment: applicant is correct, dwelling on adjoining allotment (24A) was approved and this development is to be in line with the pre-existing dwelling both through length and situation on site.

TEST 5: The zoning of the land is unreasonable or inappropriate.

The zoning of the land is reasonable and appropriate and therefore this test is not relied upon.

Officer comment: zoning of land is reasonable and appropriate, meeting zone objectives, considerably to deliver new residential growth in Buronga and Gol Gol.

PUBLIC INTEREST

In this section it is explained how the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

It has demonstrated that the proposed development overall achieves the objectives of the development standard notwithstanding the variation of the development standard.

Officer comment: In line with changes to the Guide to Varying Development Standards made in November 2023, public interest is no longer utilised for variations and should not be referenced as part of assessment and as such will not be referred to.

The table below considers whether the proposal is also consistent with the objectives of the zone.

Table 2: Consistency with Zone Objectives

Objective	Discussion/Comment
(a) To provide for a range of land uses, services and facilities that are associated with a rural village.	The application is proposing a dwelling, an encouraged development with the zone. This variation does not affect consistency with this objective.
(b) To promote development in existing towns and villages in a manner that is compatible with their urban function.	A dwelling is a combatable development with the function of an urban area. This variation does not affect consistency with this objective.
(c) To encourage well-serviced sustainable development.	The proposed dwelling will be able to connect to all relevant services. This variation does not affect consistency with this objective.
(d) To ensure there are opportunities for economic development.	Not applicable to this application. This variation does not affect consistency with this objective.
(e) To deliver new residential and employment growth in Buronga and Gol Gol.	The subject land is located within Buronga. This variation does not affect consistency with this objective.
(f) To ensure business and retail land uses are grouped within and around existing activity centres.	Not applicable to this application. This variation does not affect consistency with this objective.

The proposed dwelling is appropriate for the site as it:

- Supports the objectives of the Zone RU5 - Village;
- Is appropriately located on the subject site;
- Will have an acceptable impact on the locality in terms of amenity and visual dominance; and
- Will not result in any detrimental impacts on the environment.

Consideration of the applicants written request – Clause 4.6(4) (a) (i) and (ii) (b)

Does the written request adequately address those issues at Clause 4.6(4)(a)(i):

The applicant has provided a written request that demonstrates compliance should not be needed due to location of dwelling on adjoining allotment (24A) but there is no specific explanation as to why the 30m setback needs to be departed from as the lot itself is of adequate length (72.6m) to move the proposed dwelling (22m in length) forward to comply with the required 30m setback.

Justification provided by applicant relies on the adjoining lot and the consistency that could be seen between them by the proposed development being at the same location on the opposite site of the pre-existing dwelling, which can be seen as an aesthetic, visual reason for justification.

The applicant makes mention of the river front building line being established, which unfortunately does not extend to this site, being over 100m northeast, therefore not applicable to the assessment of this site.

The proposed development supports the objectives of the zone. The variation will not change use of land as the subject site is currently vacant following subdivision process in 2015. Proposed development is understood to keep in character with existing developments in the area. No detrimental effects will be seen if proposed development is approved.

Development approval will not equate to detrimental environmental, planning, or community outcomes. Design of dwelling alongside conditions will take into account flood events.

5.21 Flood Planning

- Development will be compatible with flood function as design and structural requirements will be overseen by an engineer for flood mitigation purposes,
- Development will not increase flood affection of surrounding properties due to design and situation on subject site,
- Safe occupation and efficient evacuation exist as due to dwelling design and situation on site, access to road will not be detrimentally affected in flooding and as such evacuation route will be clear towards Sturt Highway,
- Due to design and engineering anticipated, development will not affect the environment, further not causing any pollution, erosion or destruction of the environment (this will all be reflected in conditions of consent).

7.1 Earthworks

Any earthworks will form part of this approval and will be ancillary to the main approval for the dwelling and garage. However, standards will still need to be followed during any earthworks.

7.2 Essential services

All necessary services are available to the site.

7.4 Terrestrial Biodiversity

Subject site is not affected by terrestrial biodiversity.

7.5 Wetlands

Subject site is mapped as wetlands and has been assessed as such against Chapter 5 of the SEPP Biodiversity and Conservation 2011, and as follows per WLEP:

- Development will not negatively impact growth and survival of native flora or fauna as no removal proposed,
- There is no existing flora on site that can be retained or considered,
- Conditions of consent will reflect landscaping requirements to involve indigenous and low water use plants,
- Development will not alter surface or groundwater characteristics of the subject site,

- Mitigation not expected to be needed for wetland use due to design and conditioned management of the development.

7.6 Development on River Front Areas

Development is proposed to be located 7.25m from the top of the high bank, within the prescribed 30m setback, resulting in a variation to the standard by 75%.

- Development is not for boating related purposes,
- There is no existing dwelling or structures on site,
- No environmental protection works expected or required,
- No agriculture on site due to village zoning,
- No outdoor recreation facilities as privately owned land,
- Water recreation structures not proposed in application,
- No environmental harm expected through pollution, siltation, or erosion,
- Riverine habitat not expected to be impacted as no river use identified in application,
- No drainage to be affected as appropriately managed council utilities are available to site,
- Minimal visual disturbance to landscape will be seen as development is for a dwelling which is permissible on the land due to the zoning,
- Public access/opportunities not to be impacted as privately owned land to riverfront,
- No historic, scientific, cultural, social, archaeological, or natural significance on land identified or needing to be maintained.

7.7 Riparian Land and Murray River and Other Watercourses – General Principles

- Site is identified as a watercourse as per Natural Resource – Watercourse Map NWW004,
- Development will be situated within 40m of the top bank of Murray River (***Murray River includes the Darling River and the Great Darling Anabranch***),
- Adverse impact on water quality and flow not to be seen from development,
- Habitats and ecosystems not to be impacted or disturbed through development as site has previously been disturbed and is flat and vacant of anything,
- Stability of the bank, bed and shore of the river will not be impacted as development is still back from the high bank just not as per the 30m prescribed standard,
- Passage of aquatic organisms not to be impacted as development is not within the watercourse itself,
- Development will not increase extraction of water from river, no licences proposed for water allocation and not needed due to connection to council utilities.

7.8 Additional Provisions – Development on Riverbed and Banks of the Murray River

- As previously identified – no effect to habitat, flora, or fauna,
- Development will achieve objectives of the zone RU5 – Village through providing housing, residential growth, and sustainable development,
- Development will not increase erosion and potential erosion will be mitigated through conditions of consent,
- Drainage will not be impacted as per previously identified – connection to council stormwater available,

- It could be argued that the development lies on the outside bend of the river or is located before the main bend with minimal impact as other developments in the area have been permitted,
- Development will be in keeping with other structures in the area and will not impede on the appearance of the area,
- No mooring proposed as part of development for site.

Wentworth Development Control Plan (DCP) 2011

The proposed development is acceptable against the relevant provisions of the Wentworth Development Control Plan (DCP) 2011 as outlined in the table below.

Wentworth DCP	Chapter 8	Acceptable	Not Acceptable	N/A	Reason
	4.1.1 Site context & Analysis	X			Positioning of the dwelling and garage makes adequate use of available land. The proposed dwelling will consist of various types of cladding with a steel roof, this will not clash with other dwellings as there is an abundance of different dwellings constructed out of brick, colourbond and claddings, any future development will be of similar designs.
	4.1.2 Streetscape	X			The proposed dwelling with garage will be in character with existing and future developments in area as residential area. Non-reflective materials will be conditioned for use where needed.
	4.1.3 Front Setback	X			Front setback 34m
	4.1.4 Side setbacks		X		Northern boundary – 1.5m Southern boundary – 2.07m Combined total: 3.57m
	4.1.5 Rear setback	X			Rear setback 12.9m

	4.1.6 Walls on Boundaries			X	N/A as no walls on boundaries
	4.1.7 Building heights and overshadowing	X			Overshadowing diagrams provided show no detrimental impact to private open spaces from proposed dwelling
	4.1.8 Site Coverage	X			Site coverage 22%
	4.1.9 Private open space	X			Adequate private open space available on site
	4.1.10 Energy & solar access	X			BASIX provides expectations that have been met
	4.1.11 Daylight to existing windows	X			Will not be impacted due to orientation of the sun
	4.1.12 North facing windows	X			No existing north facing windows within 3m of site boundary
	4.1.13 Overlooking			X	Overlooking not possible to areas considered secluded open space
	4.1.14 Fencing and retaining walls			X	N/A approval not for front fencing or retaining walls
	4.1.15 Car parking and vehicle access	X			The site provides space for access and carparking
	4.1.16 Cut and fill	X			Earthworks to be conditioned as part of approval

Development Control	WDCP 2011 requirement for RU5 Village zone	Proposed two storey dwelling with garage
Front setback	6m minimum	34m
North side setback	1m minimum	1.5m
South side setback	1m minimum	2.07m
Rear setback	3m minimum	12.9m

The side setbacks meet the minimum 1m but do not meet the required 4.5m combined total, this is permissible in this case as the adjoining lot has the exact same setbacks and no

detrimental effects will be caused by the setbacks being mirrored to the identified subject site.

(2) The provisions of any draft environmental planning instrument

There is no Division 3.4 draft environmental planning instrument that affect the proposed development. (Post 1 July 2009 LEP amendments).

(3) Any matters prescribed by regulations

There are no further matters prescribed by regulations.

(4) The likely impacts of the development

There are no likely impacts from the proposal as discussed in the table below.

Impact item (insert an 'x' in the relevant section)	Acceptable	Not acceptable	Not relevant	Comment
Context and setting	X			The surrounding area supports eclectic styled dwellings and associated structures, with any future developments anticipated to be residential and fitting with the area.
Public domain & Streetscape	X			The proposed location of the dwelling and garage mostly meets requirements from the WLEP spare the variation in high bank setback.
Landscaping	X			Not part of this application but conditions of consent will be utilised to encourage use of local plant varieties for future landscaping.
Stormwater	X			Discharge to legal point of Council stormwater to be conditioned as connection pre-existing.
Heritage			X	None located on site.
Soils & Soils Erosion	X			Earthworks and erosion control to be conditioned as part of approval.
Air and microclimate	X			No air or microclimate effect or pollution will be seen from development. Conditions of consent to reflect this.
Water Resources	X			No effect anticipated – distance from waterway will not meet the setback standard of 30m but SEE identifies no effect.
Biodiversity (Flora & Fauna)	X			Site has previously been cleared of vegetation and debris for the subdivision process, no existing flora on site. Future landscaping should encourage rehabilitation and growth of native species and create suitable habitat for fauna.
Land Resources			X	None at this location.
Utilities	X			Utilities provided by council fully available to this location.

Access & Parking	X			Adequate room and access for parking on site.
Roads & Traffic	X			Increase to area anticipated during construction only.
Solar Access and Energy Efficiency	X			Development meets BASIX requirements.
Overshadowing	X			Overshadowing plans provided by applicant show no overshadowing to neighbouring property will occur on 21 st June as per requirements.
Privacy & Overlooking	X			No north facing windows within 3m of the property boundary, situation of proposed development will not allow for overlooking due to close proximity.
Flooding	X			Site is protected by an identified levee and is not within the floodway mapped zone. Site is however located within the flood planning mapped zone and will be conditioned as such to mitigate effects of flood events.
Bushfire Prone Area	X			Site is not mapped as bushfire prone.
Noise	X			Standard domestic noise for residential area following construction associated noise.
Technological hazards	X			No technological hazards exist to site.
Safety, Security & Crime Prevention	X			No safety, security or crime matters anticipated to arise from development as site is in an area with pre-existing developments. Construction fencing to be conditioned for approval as cautionary measure for crime prevention and security to site.
Social and Economic Impacts	X			Proposed development identified as contributing minorly to economic and social wellbeing of township through providing employment opportunities and increasing investment and interaction.

(5) The suitability of the site for development

The site is suitable for the proposed dwelling with garage as it will not have any adverse impact on the locality. The proposed development is permitted with consent in the RU5 – Village zoning as per the Wentworth Local Environmental Plan 2011. The character and use of the proposed development is consistent with existing and anticipated development in the surrounding areas. The site where the development will be located is vacant and utilities are available for connection.

(6) Any submissions made in accordance with this Act or Regulation

The application was notified for 14 days as per the Wentworth Community Participation Plan. No submissions were received.

(7) The public interest

The proposed development is consistent with public interest as it will have no detrimental effect on the surrounding area. Moreover, no objections were made by the surrounding neighbours.

COMMENTS FROM COUNCIL INTERNAL DEPARTMENTS


Department	Referred Y/N	Comments
Building	N	
Subdivision Engineer	N	
Roads & Engineering	N	
Finance & Policy	N	
Heritage Advisor	N	
Environmental Health	N	
Local Laws	N	
Floodplain Mgt Committee	N	
Sustainable Infrastructure	N	


CONCLUSIONS

1. General comments:
2. The proposal satisfies the points for consideration listed under Section 4.15 part b, c, d and e of the *Environmental Planning and Assessment Act*.
3. The proposal occurs on land zoned RU5 - Village. The proposal is not considered to have detrimental impact on the site and surrounds. (Sec 4.15 (a))
4. The proposal is consistent with the Wentworth Shire Development Control Plan (Dec 2011). The proposal meets Chapter 4 of the provisions set out in the Wentworth Development Control Plan. (Sec 4.15 (a))
5. The proposed two storey dwelling with garage accords with the relevant objectives and provisions of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 and the State Environmental Planning Policy (Building and Sustainability Index: BASIX) 2004.
6. There is no draft local environmental plan affecting the proposed development.

Recommendation:

Approve the application subject to conditions

Delegate report author	Delegated approval and endorsement
Signature: 	Signature:
Georgie Martin Cadet Planning Officer	George Kenende Acting Director Health & Planning
Date: 05/07/2024	Date:

 <p>Health & Planning Department 26-28 Adelaide Street PO Box 81 WENTWORTH NSW 2648 Tel: 03 5027 5027 council@wentworth.nsw.gov.au</p>	<p>Clause 4.6 Assessment</p> <p>Environmental Planning & Assessment Act 1979 as amended</p>
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4.6 VARIATION ASSESSMENT

Approving 4.6 variations

Under clause 35B of the Environmental Planning and Assessment Regulation 2021, applications involving contravention of development standards must be accompanied by a document that sets out the grounds on which the applicant seeks to demonstrate that –

- compliance with the development standard is unreasonable or unnecessary in the circumstances, and
- there are sufficient environmental planning grounds to justify the contravention of the development standard.

The consent authority must keep a record of its assessment carried out under subclause (3).

The variation proposed is greater than 10% (75%), due to changes made by the NSW Government, Clause 4.6 of the Standard Instrument LEP has been reformed to make the planning system faster, simpler, and more transparent.

The reform came into effect on 1 November 2023 and removes the requirement to obtain the Planning Secretary's concurrence for a variation with new reporting framework. As such, council has authority to approve or refuse 4.6 variation applications.

4.6 Exceptions to Development Standards

Information provided by applicant:

Clause 4.6 provides flexibility to vary the development standards specified within the Standard Instrument where it can be demonstrated that the development standard is unreasonable or unnecessary in the circumstances of the case, and where there are sufficient environmental grounds to justify the departure.

Clause 4.6 states the following:

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from

the applicant that seeks to justify the contravention of the development standard by demonstrating—

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless—

(a) the consent authority is satisfied that—

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Planning Secretary has been obtained.

The requirement for consideration and justification of a Clause 4.6 variation necessitates an assessment of a number of criteria. It is recognised that it is not merely sufficient to demonstrate a minimisation of environmental harm to justify a Clause 4.6 variation, although in the circumstance of this case, the absence of any environmental impact is of considerable merit.

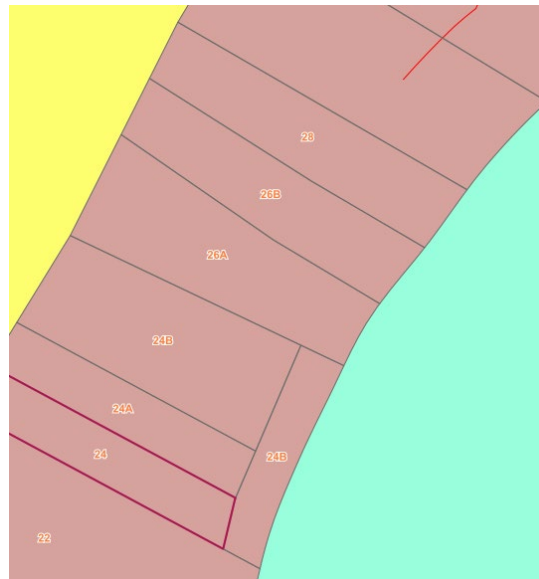
Accordingly, justification is set out in following assessment for the departure from the 30-metre setback control applicable under the WLEP2011. The purpose of the information provided is to demonstrate that strict compliance with this development standard is unreasonable or unnecessary in the circumstances of this particular case. It also demonstrates that there are sufficient environmental planning grounds for the departure from the 30-metre high bank setback as specified in the WLEP2011.

Justification for Variation

The proposed dwelling has been located at the subject site to have a consistent setback with the adjoining dwelling (24A River Drive) which was approved by the Wentworth Shire under the current LEP provisions. It is worth noting that the dwelling has been located behind the existing levee as per the plans provided.

It is considered that further strategic work was undertaken a River Front Building Line would be established which would allow the following land to have a setback of 30 metres from the water level; resulting in a consistent setback with the existing dwellings within close proximity.

Officer comment: The river front building line does not extend to the subject site, see figure below with 24 River Road highlighted by maroon lines and the river front building line in red.



An aerial has been provided demonstrating setbacks of all dwellings within the locality.



The Five Part Test

The five ways of establishing that compliance is unreasonable or unnecessary are:

1. The objectives of the development standard are achieved notwithstanding noncompliance with the standard;
2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
3. The objective would be defeated, thwarted or undermined (*Linfield Developments Pty Ltd v Cumberland Council* [2019] NSWLEC 131 at [24]) if compliance was required with the consequence that compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence the standard is unreasonable and unnecessary; and
5. The zoning of the land is unreasonable or inappropriate.

It is sufficient to demonstrate only one of these ways to satisfy clause 7.6, 7.9 and the definition per *Wehbe v Pittwater Council* [2007] NSWLEC 827, *Initial Action Pty Limited v Woollahra Municipal Council* [2018] NSWLEC 118 at [22] and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130 at [28]) and *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [31].

TEST 1: The objectives of the development standard are achieved notwithstanding non-compliance with the standard.

The following table considers whether the objectives of the development standard are achieved notwithstanding the proposed variation (Test 1 under *Wehbe*).

Table 1: Achievement of Objectives of Clause 7.6 of WLEP2011.

Objective	Discussion/Comment
(a) to support natural riverine processes, including the migration of the Murray River's channels,	Given the distance from natural riverbank and existing levee located along the property; it is considered the proposed development will have minimal impacts on the health of the bank.
(b) to protect and improve the bed and bank stability of the Murray River,	There is no work proposed in this application that will affect the bed and bank stability of the river.
(c) to maintain and improve the water quality of the Murray River,	There is no work or land uses proposed in this application that will impact on the quality of the water in the river.
(d) to protect the amenity, scenic landscape values and cultural heritage of the Murray River and to protect public access to its riverine corridors,	Not applicable due to the subject land being privately owned to the riverbank.
(e) to conserve and protect the riverine corridors of the Murray River, including wildlife habitat.	The proposed development will have no further impacts on the Murray River.

In this case, it is demonstrated below that Test 1 has been satisfied.

Officer comment: proposed development not identified to have any detrimental impacts on the river as seen through objective justifications.

TEST 2: The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.

The underlying objective or purpose is relevant to the development and therefore this test is not relied upon.

Officer comment: due to existing residential development on neighbouring allotment and other lots around the subject site, the development is not anticipated to have any detrimental effects on the area, with development being relevant to land use objectives of RU5 – Village zone.

TEST 3: The objective would be defeated, thwarted or undermined if compliance was required with the consequence that compliance is unreasonable.

The underlying objective or purpose is relevant to the development and therefore this test is not relied upon.

Officer comment: see test two – officer comment.

TEST 4: The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence the standard is unreasonable and unnecessary.

The standard has not been abandoned; however, it is noted that the adjoining dwelling was approved under the current LEP.

Officer comment: applicant is correct, dwelling on adjoining allotment (24A) was approved and this development is to be in line with the pre-existing dwelling both through length and situation on site.

TEST 5: The zoning of the land is unreasonable or inappropriate.

The zoning of the land is reasonable and appropriate and therefore this test is not relied upon.

Officer comment: zoning of land is reasonable and appropriate, meeting zone objectives, considerably to deliver new residential growth in Buronga and Gol Gol.

PUBLIC INTEREST

In this section it is explained how the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

It has demonstrated that the proposed development overall achieves the objectives of the development standard notwithstanding the variation of the development standard.

Officer comment: In line with changes to the Guide to Varying Development Standards made in November 2023, public interest is no longer utilised for variations and should not be referenced as part of assessment and as such will not be referred to.

The table below considers whether the proposal is also consistent with the objectives of the zone.

Table 2: Consistency with Zone Objectives

Objective	Discussion/Comment
(a) To provide for a range of land uses, services and facilities that are associated with a rural village.	The application is proposing a dwelling, an encouraged development with the zone. This variation does not affect consistency with this objective.
(b) To promote development in existing towns and villages in a manner that is compatible with their urban function.	A dwelling is a combatable development with the function of an urban area. This variation does not affect consistency with this objective.
(c) To encourage well-serviced sustainable development.	The proposed dwelling will be able to connect to all relevant services. This variation does not affect consistency with this objective.
(d) To ensure there are opportunities for economic development.	Not applicable to this application. This variation does not affect consistency with this objective.
(e) To deliver new residential and employment growth in Buronga and Gol Gol.	The subject land is located within Buronga. This variation does not affect consistency with this objective.
(f) To ensure business and retail land uses are grouped within and around existing activity centres.	Not applicable to this application. This variation does not affect consistency with this objective.

The proposed dwelling is appropriate for the site as it:

- Supports the objectives of the Zone RU5 - Village;
- Is appropriately located on the subject site;
- Will have an acceptable impact on the locality in terms of amenity and visual dominance; and
- Will not result in any detrimental impacts on the environment.

Consideration of the applicants written request – Clause 4.6(4) (a) (i) and (ii) (b)

Does the written request adequately address those issues at Clause 4.6(4)(a)(i):


The applicant has provided a written request that demonstrates compliance should not be needed due to location of dwelling on adjoining allotment (24A) but there is no specific explanation as to why the 30m setback needs to be departed from as the lot itself is of adequate length (72.6m) to move the proposed dwelling (22m in length) forward to comply with the required 30m setback.

Justification provided by applicant relies on the adjoining lot and the consistency that could be seen between them by the proposed development being at the same location on the opposite site of the pre-existing dwelling, which can be seen as an aesthetic, visual reason for justification.

The applicant makes mention of the river front building line being established, which unfortunately does not extend to this site, being over 100m northeast, therefore not applicable to the assessment of this site.

The proposed development supports the objectives of the zone. The variation will not change use of land as the subject site is currently vacant following subdivision process in 2015. Proposed development is understood to keep in character with existing developments in the area. No detrimental effects will be seen if proposed development is approved.

Development approval will not equate to detrimental environmental, planning, or community outcomes. Design of dwelling alongside conditions will take into account flood events.

 <p>Wentworth SHIRE COUNCIL</p>	<p>Health & Planning Department 26-28 Adelaide Street PO Box 81 WENTWORTH NSW 2648 Tel: 03 5027 5027 council@wentworth.nsw.gov.au</p>	<p>TEMPLATE CONDITIONS</p>
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DA2024/074 TWO STOREY DWELLING WITH GARAGE LOT 2 DP 1247800 24 RIVER DRIVE BURONGA

GENERAL CONDITIONS

1.	<p>Approved development</p> <p>Approval is for a two-storey dwelling with garage.</p> <p>Reason: To ensure all parties are aware of the approved development</p>
2.	<p>Approved Plans and Documentation</p> <p>The development shall be in accordance with the following plans, documentation and recommendations made there in:</p> <ul style="list-style-type: none"> • Site Plan by Imagine by Design; DWG No: 100; Issue: L; Rev L Date: 30.04.24. • Shadow Diagrams – 21st June by Imagine by Design; DWG No: 101; Issue: L; Rev L Date: 30.04.2024. • Shadow Diagrams – 21st September by Imagine by Design; DWG No: 102; Issue: L; Rev L Date: 30.04.2024. • Ground Floor Plan by Imagine by Design; DWG No: 200; Issue: L; Rev L Date: 30.04.2024. • First Floor Plan by Imagine by Design; DWG No: 201; Issue: L; Rev L Date: 30.04.2024. • Elevations – North & East by Imagine by Design; DWG No: 300; Issue: L; Rev L Date: 30.04.2024. • Elevations – South & West by Imagine by Design; DWG No: 301; Issue: L; Rev L Date: 30.04.2024. • BASIX: Certificate number: 1746067S; Date of Issue: Friday, 03 May 2024; Pages: 1-12. <p>In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.</p> <p>Note: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.</p> <p>Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p>
3.	<p>Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989</p> <p>1. It is a condition of a development consent for development that involves building work</p>

	<p>that the work must be carried out in accordance with the requirements of the Building Code of Australia.</p> <ol style="list-style-type: none"> 2. It is a condition of a development consent for development that involves residential building work for which a contract of insurance is required under the Home Building Act 1989, Part 6 that a contract of insurance is in force before building work authorised to be carried out by the consent commences. 3. It is a condition of a development consent for a temporary structure used as an entertainment venue that the temporary structure must comply with Part B1 and NSW Part H102 in Volume 1 of the Building Code of Australia. 4. In subsection (1), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for the construction certificate was made. 5. In subsection (3), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for development consent was made. 6. This section does not apply- <ol style="list-style-type: none"> a. to the extent to which an exemption from a provision of the Building Code of Australia or a fire safety standard is in force under the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, or b. to the erection of a temporary building, other than a temporary structure to which subsection (3) applies. <p>Reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>
4.	<p>Erection of signs</p> <ol style="list-style-type: none"> 1. This section applies to a development consent for development involving building work, subdivision work or demolition work. 2. It is a condition of the development consent that a sign must be erected in a prominent position on a site on which building work, subdivision work or demolition work is being carried out: <ol style="list-style-type: none"> a. showing the name, address and telephone number of the principal certifier for the work, and b. showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and c. stating that unauthorised entry to the work site is prohibited. 3. The sign must be- <ol style="list-style-type: none"> a. maintained while the building work, subdivision work or demolition work is being carried out, and b. removed when the work has been completed. 4. This section does not apply in relation to- <ol style="list-style-type: none"> a. building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or b. Crown building work certified to comply with the Building Code of Australia under

	<p>the Act, Part 6.</p> <p>Reason: Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.</p>
5.	<p>Fulfilment of BASIX commitments</p> <p>It is a condition of a development consent for the following that each commitment listed in a relevant BASIX certificate is fulfilled</p> <ol style="list-style-type: none"> 1. BASIX development, 2. BASIX optional development, if the development application was accompanied by a BASIX certificate. <p>Reason: Prescribed condition under section 75 of the Environmental Planning and Assessment Regulation 2021.</p>
6.	<p>Lapsing of Approval</p> <p>Without the further consent of the Wentworth Shire Council, in writing, this permit shall lapse and have no force or effect unless the use or development hereby permitted is physically commenced within 5 years of the date of this permit.</p> <p>Reason: Ensure everyone is aware of the lapsing of the approval</p>
7.	<p>Notification of Home Building Act 1989 requirements</p> <ol style="list-style-type: none"> 1. This section applies to a development consent for development involving residential building work if the principal certifier is not the council. 2. It is a condition of the development consent that residential building work must not be carried out unless the principal certifier for the development to which the work relates has given the council written notice of the following- <ol style="list-style-type: none"> a. for work that requires a principal contractor to be appointed <ol style="list-style-type: none"> i. the name and licence number of the principal contractor, and ii. the name of the insurer of the work under the Home Building Act 1989, Part 6, b. for work to be carried out by an owner-builder <ol style="list-style-type: none"> i. the name of the owner-builder, and ii. if the owner-builder is required to hold an owner-builder permit under the Home Building Act 1989 the number of the owner-builder permit. 3. If the information notified under subsection (2) is no longer correct, it is a condition of the development consent that further work must not be carried out unless the principal certifier has given the council written notice of the updated information. 4. This section does not apply in relation to Crown building work certified to comply with the Building Code of Australia under the Act, Part 6. <p>Reason: Prescribed condition under section 71 of the Environmental Planning and Assessment Regulation 2021.</p>
8.	<p>Works outside the property boundary</p>

	<p>This development consent does not authorise works outside the property boundaries on adjoining lands.</p> <p>Reason: To ensure all approved works occur within the property boundaries</p>
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BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

9.	<p>Access Point</p> <p>Before the issue of a Construction Certificate, the beneficiary of this consent must build a driveway crossing for the subject land (if one doesn't exist) to Council standards.</p> <p>Access during construction shall only be through the driveway crossing of the subject land.</p> <p>Reason: To control vehicular movement on road crossings.</p>
10.	<p>Building Material</p> <p>The proposed building/s and structure/s shall be clad in an approved non-reflective material e.g. colorbond.</p> <p>Reason: To ensure the materials of the building not impact the visual amenity of the surrounding character of the area.</p>
11.	<p>Building material and flooding</p> <p>Any building elements below the 1% AEP flood level of 39.8m must be of a durable nature suitable for prolonged periods of inundation.</p> <p>Reason: To ensure building materials suitable for inundation are used</p>
12.	<p>Construction Site Management Plan</p> <p>Before the issue of a construction certificate, the applicant must ensure a construction site management plan is prepared before it is provided to and approved by the certifier. The plan must include the following matters:</p> <ul style="list-style-type: none"> • location and materials for protective fencing and hoardings to the perimeter on the site • provisions for public safety • pedestrian and vehicular site access points and construction activity zones • details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site • protective measures for on-site tree preservation (including in accordance with AS 4970-2009 Protection of trees on development sites) and trees in adjoining public domain • details of any bulk earthworks to be carried out • location of site storage areas and sheds

	<ul style="list-style-type: none"> • equipment used to carry out all works< • a garbage container with a tight-fitting lid • dust, noise and vibration control measures • location of temporary toilets. <p>The applicant must ensure a copy of the approved construction site management plan is kept on-site at all times during construction.</p> <p>Reason: To ensure construction works are adequately managed to protect the surrounding amenity.</p>
13.	<p>Erosion and Sediment Control</p> <p>Before the issue of a construction certificate, the beneficiary of this consent is to ensure that an erosion and sediment control plan is prepared in accordance with the following documents before it is provided to and approved by the certifier:</p> <ul style="list-style-type: none"> • the guidelines set out in the NSW Department of Housing manual Managing Urban Stormwater: Soils and Construction Certificate (the Blue Book), and • the 'Do it Right On-Site, Soil and Water Management for the Construction Industry'; (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust). <p>The applicant must ensure the erosion and sediment control plan is kept onsite at all times during site works and construction.</p> <p>Reason: To ensure no substance other than rainwater enters the stormwater system and waterways.</p>
14.	<p>Flood level</p> <p>The floor level of all habitable sections of the dwelling is to be not less than 750 mm above the 1% AEP flood level. The 1%AEP for the land is 39.8 metres, as such the finished floor level must be 40.55m A.H.D.</p> <p>Reason: To provide protection to habitable structures in 1% AEP.</p>
15.	<p>Long Service Levy</p> <p>Before the issue of a construction certificate, the beneficiary of this consent is to ensure that the person liable pays the long service levy as calculated at the operational date of this consent to the Long Service Corporation or Council under section 34 of the Building and Construction Industry Long Service Payments Act 1986 and provides proof of this payment to the certifier.</p> <p>Reason: To ensure the long service levy is paid.</p>
16.	<p>Payment of Security Deposits</p> <p><i>This condition applies to all construction works \$25,001 and above.</i></p> <p>Before the commencement of any works on the site or the issue of a construction certificate, the beneficiary of this consent must make all of the following payments to Council and provide written evidence of these payments to the certifier:</p>

	Infrastructure Bond (Security Deposit):	\$3,000.00
	Infrastructure Protection Permit Fee (includes inspections)	\$232.00
	<p>The payments will be used for the cost of:</p> <ul style="list-style-type: none"> • making good any damage caused to any council property (including street trees, kerb, road etc) as a consequence of carrying out the works to which the consent relates, • completing any public work such as roadwork, kerbing and guttering, footway construction, stormwater drainage and environmental controls, required in connection with this consent, and • any inspection carried out by Council in connection with the completion of public work or the making good any damage to council property. <p>The Infrastructure Bond will be returned on completion of the construction of the proposed development, subject to no damage being done to any council property (including street trees, kerb, road etc) as a consequence of carrying out the works to which the consent relates. The owner / developer is to arrange an inspection with an Officer of Wentworth Shire Council before any work commences on site. Any damage incurred to Council infrastructure will be repaired at the owners / developers expense and the balance of the Infrastructure Bond will be returned to the owner / developer on completion of the construction.</p> <p>Note: The inspection fee includes Councils fees and charges and includes the Public Road and Footpath Infrastructure Inspection Fee (under the Roads Act 1993). The amount payable must be in accordance with councils fees and charges at the payment date.</p> <p>Reason: To ensure any damage to public infrastructure is rectified and public works can be created.</p>	
17.	<p>Plumbing and Drainage</p> <p>Before issuance of the Construction Certificate, a Plumbing and Drainage Application under Section 68 of the Local Government Act NSW 1993 is to be submitted to and approved by Council before any plumbing and drainage works (stormwater, water and sewerage).</p> <p>Note: All stormwater from the site is to be directed towards a legal point of discharge. All plumbing and drainage work is to be carried out by a plumber and drainer, or other authorised person, licensed with the New South Wales Department of Fair Trading.</p> <p>Reason: To ensure plumbing and drainage works are carried out appropriately.</p>	
18.	<p>Stormwater Management Plan</p> <p>Before the issue of a construction certificate the beneficiary of this consent is to design and submit to Council for approval a stormwater Management Plan for the development. The design is to be approved by Council before any work takes place on this site. All work detailed by the approved design is to be constructed by the beneficiary of this consent under supervision of the Principal Certifying Authority. All work is to be carried out at the beneficiary of this consent's expense.</p>	

	<p>The plan is to include treatment measures for the water if it is to be discharged into a waterway.</p> <p>Reason: To ensure stormwater run-off is appropriately managed.</p>
19.	<p>Utilities and services - water and sewerage</p> <p>Raw water, filtered water and sewerage are available and are to be connected to Councils services. Dual water supply lines are to be provided from the front boundary of the property. One line is to convey filtered water to all fittings within the house and the other line to convey unfiltered water to all fittings outside the house i.e. garden taps, etc. A separate application is to be made to Council for approval to connect to Council's water mains prior to commencing any plumbing and drainage work.</p> <p>Reason: To ensure relevant utility and service providers requirements are provided to the certifier.</p>
20.	<p>Waste management plan</p> <p>Before the issue of a construction certificate, the applicant is to ensure that a waste management plan is prepared in accordance with the EPA's Waste Classification Guidelines and the following requirements before it is provided to and approved by the certifier:</p> <p>Details the following:</p> <ul style="list-style-type: none"> • the contact details of the person(s) removing the waste • an estimate of the waste (type and quantity) and whether the waste is expected to be • reused, recycled or go to landfill • the address of the disposal location(s) where the waste is to be taken <p>The applicant must ensure the waste management plan is referred to in the construction site management plan and kept on-site at all times during construction.</p> <p>Reason: To ensure resource recovery is promoted and local</p>
21.	<p>Works in Road Reserve</p> <p>A Road Opening Permit is required from the Wentworth Shire Council prior to any works or excavation within the road reserve including but not limited to: water tapping, sewer, driveway crossings, tree planting or removal etc.</p> <p>Please contact Councils Roads & Engineering Department on Tel: (03) 5027 5027 to arrange a permit.</p> <p>Reason: To control development in the road reserve.</p>

BEFORE BUILDING WORK COMMENCES

22.	Construction Certificates and Appointment of Principal Certifier
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	<p>Prior to the commencement of any building works, the following requirements must be complied with</p> <ul style="list-style-type: none"> • A Construction Certificate must be obtained from the Council or an Accredited Certifier, in accordance with the provisions of the Environmental Planning & Assessment Act 1979, • A Principal Certifier must be appointed, and Council must be notified in writing of the appointment irrespective of whether Council or a Registered Certifier is appointed; and notify Council in writing of their intention to commence work (at least two [2] days' notice is required). <p>Reason: To ensure building works complies with relevant legislation and other codes.</p>
23.	<p>Contractor details notification</p> <p>The certifying authority must advise Council, in writing of:</p> <ol style="list-style-type: none"> 1. The name and contractor licence number of the licensee who has been contracted to do or intends to do the work, or 2. The name and permit of the owner-builder who intends to do the work. <p>If these arrangements are changed, or if a contract is entered into for the work to be done by a different licensee, Council must be immediately informed.</p> <p>Reason: To ensure building work is carried out by licensed contractor</p>
24.	<p>Dial before you dig</p> <p>Underground assets may exist in the area that is subject to your application. In the interest of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au or telephone 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contact the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary.</p> <p>Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individuals responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities."</p> <p>Reason: To ensure existing infrastructure is identified</p>
25.	<p>Erosion and sediment controls in place</p> <p>Before the commencement of any site or building work, the developer must be satisfied the erosion and sediment controls in the erosion and sediment control plan, (as approved by Council) are in place until the site is rectified (at least 70% ground cover achieved over any bare ground on site).</p> <p>Reason: To ensure runoff and site debris do not impact local stormwater systems and waterways</p>

26.	<p>Notice of commencement of works</p> <p>Subject to approval to commence works two days before any site works, building or demolition begins, the beneficiary of this consent must:</p> <ol style="list-style-type: none"> 1. Forward to Council notice of commencement of work and appointment of Principal Certifying Authority. 2. Notify the adjoining owners that work will commence. <p>Reason: To provide notification of works commencing</p>
27.	<p>Rubbish/Waste Management</p> <p>Throughout the construction period, from commencement of work, a suitable rubbish containment structure is to be located on site and utilised.</p> <p>Reason: To ensure the construction site is kept clean and safe at all times.</p>
28.	<p>Storage of materials</p> <p>Throughout the construction period, from commencement of work, the storage of materials is not permitted on footpaths, roadways or in reserves. Rubbish and building materials must be contained on the site.</p> <p>Reason: To ensure the construction materials are stored on site in a tidy & safe manner.</p>
29.	<p>Toilet facilities</p> <p>Toilet facilities are to be provided on or in the vicinity of the building site. The toilet must be connected to a public sewer, or if connection to a public sewer is not practicable, an approved chemical closet. The toilet facility must be installed on-site prior to the commencement of any other work.</p> <p>Reason: To ensure workers and contractors have access to amenities on site.</p>
30.	<p>Tree protection measures</p> <p>Before the commencement of any site or building work, the principal certifier must ensure the measures for tree protection detailed in the construction site management plan are in place.</p> <p>Reason: To protect and retain trees.</p>

DURING BUILDING WORK

31.	<p>Approved Plans</p> <p>A copy of the stamped approved and certified plans, specifications and documents incorporating conditions of approval and certification must be kept on site for the duration of site works and be made available upon request to either the Council or other Government Agencies.</p> <p>Reason: To ensure all parties are aware of the approved works to be conducted</p>
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32.	<p>Construction noise</p> <p>While work is being carried out and where no noise and vibration management plan is approved under this consent, the applicant is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.</p> <p>Reason: To protect the amenity of the neighbourhood</p>
33.	<p>Contamination discovered during works</p> <p>If during works on the land comprising the lot, the land is found to be contaminated, within the meaning of the Contaminated Land Management Act 1997:</p> <ul style="list-style-type: none"> • all works must stop immediately, and • the Environment Protection Authority and the council must be notified of the contamination. • Land is found to be contaminated for the purposes of this condition if the principal certifying authority knows or reasonably suspects the land is contaminated. <p>Note: Depending on the nature and level of the contamination, remediation of the land may be required before further work can continue.</p> <p>Reason: To ensure contaminated land is managed appropriately</p>
34.	<p>Cut and fill (if applicable)</p> <p>While building work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:</p> <ul style="list-style-type: none"> • All excavated material removed from the site must be classified in accordance with the EPAs Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be reported to the principal certifier. • All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the Protection of the Environment Operations Act 1997 or a material identified as being subject to a resource recovery exemption by the NSW EPA. <p>Reason: To ensure soil removal & replacement meets requirements</p>
35.	<p>Encroachment of easements</p> <p>No works are to encroach over any easements.</p> <p>Reason: To ensure works are not carried out over easements</p>
36.	<p>Hours of work</p> <p>The developer must ensure that building work, demolition or vegetation removal is only carried out between:</p>

	<ul style="list-style-type: none"> • 7.00am to 6.00pm on Monday to Friday • 8.00am to 1.00pm on Saturdays <p>The developer must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.</p> <p>Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.</p> <p>Note: Any variation to the hours of work requires Councils approval.</p> <p>Reason: To protect the amenity of the surrounding area</p>
37.	<p>Implementation of BASIX commitments</p> <p>While building work is being carried out, the applicant must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent, for the development to which the consent applies.</p> <p>Reason: To ensure BASIX commitments are fulfilled in accordance with the BASIX certificate (prescribed condition under Section 75 EP&A Regulation)</p>
38.	<p>Implementation of site management plans</p> <p>While vegetation removal, demolition and/or building work is being carried out, the applicant must ensure the measures required by the approved construction site management plan and the erosion and sediment control plan are implemented at all times. The applicant must ensure a copy of these approved plans is kept on site at all times and made available to Council officers upon request.</p> <p>Reason: To ensure the required site management measures are implemented during construction.</p>
39.	<p>Natural drainage</p> <p>Any works undertaken in the subject land including building and filling shall not cause alteration to the previous drainage in the subject land or adjacent land. Any remedies required to discharge drainage water caused to be accumulated by the works associated with this permit shall be the responsibility of the beneficiary of this consent.</p> <p>Reason: To ensure natural drainage is maintained where possible</p>
40.	<p>Procedure for critical stage inspections</p> <p>While building work is being carried out, any such work must not continue after each critical stage inspection unless the principal certifier is satisfied the work may proceed in accordance with this consent and the relevant construction certificate.</p> <p>Reason: To require approval to proceed with building work following each critical stage inspection</p>

41.	<p>Responsibility for changes to public infrastructure</p> <p>While building work is being carried out, the applicant must pay any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area).</p> <p>Reason: To ensure payment of approved changes to public infrastructure</p>
42.	<p>Security fencing</p> <p>An adequate security fence is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project</p> <p>Reason: To ensure the site is secured during construction</p>
43.	<p>Tree protection</p> <p>While site work is being carried out, all required tree protection measures must be maintained in good condition in accordance with:</p> <ol style="list-style-type: none"> 1. The construction site management plan 2. The relevant requirements of any Australian Standard for the protection of trees on development sites <p>This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.</p> <p>Reason: To protect trees during site works</p>
44.	<p>Uncovering relics or Aboriginal objects</p> <p>While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.</p> <p>In this condition:</p> <ul style="list-style-type: none"> • “relic” means any deposit, artefact, object or material evidence that: (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and a) is of State or local heritage significance; and • “Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

	Reason: To ensure protection of objects of potential significance during works.
45.	<p>Waste management</p> <p>While building work, demolition or vegetation removal is being carried out, the principal certifier must be satisfied all waste management is undertaken in accordance with the approved waste management plan.</p> <p>Upon disposal of waste, the applicant is to compile and provide records of the disposal to the principal certifier, detailing the following:</p> <ul style="list-style-type: none"> • The contact details of the person(s) who removed the waste • The waste carrier vehicle registration • The date and time of waste collection • A description of the waste (type of waste and estimated quantity) and whether the waste is expected to be reused, recycled or go to landfill • The address of the disposal location(s) where the waste was taken • The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste. <p>Note: If waste has been removed from the site under an EPA Resource Recovery Order or Exemption, the applicant is to maintain all records in relation to that Order or Exemption and provide the records to the principal certifier and Council.</p> <p>Reason: To require records to be provided, during construction, documenting that waste is appropriately handled.</p>

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

46.	<p>Completion of landscape and tree works</p> <p>Before the issue of an occupation certificate, the principal certifier must be satisfied that all landscape and tree-works, including pruning in accordance with AS 4373-2007 Pruning of amenity trees and the removal of all noxious weed species, have been completed in accordance with the approved plans and any relevant conditions of this consent.</p> <p>Reason: To ensure the approved landscaping works have been completed before occupation, in accordance with the approved landscaping plan(s).</p>
47.	<p>Completion of public utility services</p> <p>Before the issue of the relevant occupation certificate, the principal certifier must ensure any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development, is completed to the satisfaction of the relevant authority. Before the issue of the occupation certificate, the certifier must request written confirmation from the relevant authority that the relevant services have been completed.</p> <p>Reason: To ensure required changes to public utility services are completed, in accordance with</p>

	the relevant agency requirements, before occupation.
48.	<p>Occupation Certificate</p> <p>The building shall not be occupied or used until an Occupation Certificate is issued either by council or by an accredited certifier.</p> <p>Reason: To ensure development is accredited</p>
49.	<p>Removal of waste upon completion</p> <p>Before the issue of an occupation certificate, the principal certifier must ensure all refuse, spoil and material unsuitable for use on-site is removed from the site and disposed of in accordance with the approved waste management plan. Written evidence of the removal must be supplied to the satisfaction of the principal certifier.</p> <p>Before the issue of a partial occupation certificate, the applicant must ensure the temporary storage of any waste is carried out in accordance with the approved waste management plan to the principal certifier's satisfaction.</p> <p>Reason: To ensure waste material is appropriately disposed or satisfactorily stored.</p>
50.	<p>Repair of infrastructure</p> <p>Before the issue of an occupation certificate, the applicant must ensure any public infrastructure damaged as a result of the carrying out of building works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) is fully repaired to the written satisfaction of Council, and at no cost to Council.</p> <p>Note: If the council is not satisfied, the whole or part of the bond submitted will be used to cover the rectification work.</p> <p>Reason: To ensure any damage to public infrastructure is rectified</p>

OCCUPATION AND ONGOING USE

51.	<p>Additional structures</p> <p>No additional structures are to be built or installed on the site without permission from the Wentworth Shire Council.</p> <p>Reason: To ensure only approved work is carried out</p>
52.	<p>Amenity of the neighbourhood</p> <p>The operation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, dust, waste water, waste products, grit, oil or other harmful products.</p>

	Reason: To ensure the amenity of the neighbourhood is not compromised unreasonably.
53.	<p>Maintenance of wastewater and stormwater treatment device</p> <p>During occupation and ongoing use of the building, the beneficiary of this consent must ensure all wastewater and stormwater treatment devices (including drainage systems, sumps and traps, and on-site detention) are regularly maintained, to remain effective.</p> <p>Reason: To protect sewerage and stormwater systems.</p>
54.	<p>Ongoing use - garage</p> <p>The garage cannot be used for habitation.</p> <p>Reason: To ensure appropriate use as per approval</p>
55.	<p>Release of securities / bonds</p> <p>When Council receives an occupation certificate from the principal certifier, the applicant may lodge an application to release the securities held. Council may use part, or all of the securities held to complete the works to its satisfaction if the works do not meet Councils requirements.</p> <p>Reason: To allow release of securities and authorise Council to use the security deposit to complete works to its satisfaction.</p>

9.16 WENTWORTH LOCAL ENVIRONMENTAL PLAN 2011 – PLANNING PROPOSAL TO HERITAGE LIST THE WOW TREE AND AMEND HERITAGE MAPPING LOT 1170 DP 820161

File Number: RPT/24/406

Responsible Officer: George Kenende - Acting Director Health & Planning

Responsible Division: Health and Planning

Reporting Officer: George Kenende - Acting Director Health & Planning

Objective: 4.0 Wentworth Shire is supported by strong and ethical civic leadership with all activities conducted in an open, transparent and inclusive manner

Strategy: 4.1 Consistently engage and consult the whole community to ensure that feedback is captured and considered as part of decision-making and advocating processes

Summary

Wentworth Shire Council has received a Planning Proposal from Cadell Consulting Services on behalf of Australian Inland Botanic Gardens Inc.

The Planning Proposal seeks to:

1. Amend Schedule 5 of the Wentworth Local Environmental Plan 2011 by adding a 2,500 year old Eucalyptus Oleosa tree, also known as or commonly referred to as the 'Wow Tree'.
2. Amending the Wentworth Local Environmental Plan 2011 mapping *Heritage Map – Sheet HER_004 Item - General*

Recommendation

That Council:

- a) Submit the Planning Proposal to the Department of Planning Housing and Infrastructure for consideration of a Gateway Determination to amend the Wentworth Local Environmental Plan 2011 in accordance with Section 3.34 of the *Environmental Planning and Assessment Action 1979*.
- b) Call a division in accordance with S375A of the Local Government Act 1993 (NSW).

Detailed Report

Purpose

The purpose of this report is to provide Council with the information required to make an informed decision with regard to the Planning Proposal, based on the content of the planning proposal submitted by Cadell Consulting Services (the proponent) and the Planning Proposal Assessment (the assessment) undertaken by the Health and Planning Division.

Background

The Local Strategic Planning Statement was undertaken by Council's Health and Planning Department and formerly endorsed by the Department of Planning. One of the priority areas identified by the LSPS was the preservation and promotion of heritage within the Council area.

The subject land is located at 1183 River Road, Mourquong in southwestern New South Wales between Buronga and Dareton. The closest town, Buronga, is situated approximately

4.5 kilometres to the southeast of the subject site. The regional city of Mildura is located approximately 7 kilometres to the south via Buronga.

The subject site has direct access from River Road on the southern boundary and Buronga Hill Road on the north eastern boundary. The subject site is Crown Land with Australian Inland Botanic Gardens Inc designated as the Crown Land Manager of NSW Reserve R230087 and R230088.

The planted garden area of the subject site where the WOW tree is located encompasses an area of approximately 50 hectares and includes multiple buildings used for souvenir sales, weddings, events, conferences and activities include train tours, nature walks and community events.

Based on an overall view of the surrounding area and existing uses of the subject land, the heritage listing will not impact any of the existing uses.

Refer to Attachment 1 Planning Proposal with attachments.

Matters under consideration

This Planning Proposal has been prepared to list a significant heritage item within the Wentworth Local Environmental Plan 2011 and to promote and provide addition protection to it against any future land uses on the land.

Early consultation with the Department of Planning Housing and Infrastructure was undertaken to gauge the agencies support or concerns for the proposed amendments to the Wentworth Local Environmental Plan 2011. The response received from the agency regarding the proposed amendments to the Wentworth Local Environmental Plan 2011 identified some further work to the planning proposal which have been addressed by the applicant.

A detailed assessment of the planning proposal has been undertaken to determine if the proposed heritage listing and map amendment is justified in seeking the support from Council to submit to the Department of Planning Housing and Infrastructure for consideration of a Gateway Determination.

Refer to Attachment 2 Planning Proposal Assessment Report

The Assessment Report concludes that the planning proposal as submitted, with minor amendments to the timeframe, satisfactorily addresses the requirements of the Guide to Preparing Planning Proposals, Ministerial Directions, applicable State Environmental Planning Policies and other relevant local and state strategies and plans.

Options

Based on the information contained in this report, the options available to address this matter are to:

1. Submit the Planning Proposal to the Department of Planning Housing and Infrastructure for consideration of a Gateway Determination,
Or
2. Refuse to support the Planning Proposal.

Legal, strategic, financial or policy implications

The endorsement of the attached Planning Proposal will allow it to be submitted to the Department of Planning Housing and Infrastructure for consideration of a Gateway Determination in accordance with the Environmental Planning and Assessment Act 1979.

Conclusion

The Planning Proposal prepared by Cadell Consulting Services requests Council's support for the heritage listing the WOW tree and amending the heritage mapping.

The assessment of the Planning Proposal determines that the proposal is justifiably supportable and adequately responds to the requirements of the Guide to Preparing

Planning Proposals, Ministerial Directions and applicable State Environmental Planning Policies.

Attachments

1. Planning Proposal with attachments [↓](#)
2. Planning Proposal Assessment Report [↓](#)



PLANNING PROPOSAL

***WENTWORTH LOCAL ENVIRONMENTAL PLAN
2011***

AUSTRALIAN INLAND BOTANIC GARDENS

EUCALYPTUS OLEOSA (WOW TREE)

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Version	Date	Author	Approved
Pre-lodgement	January 2024	Michele Bos	Cadell Consulting Services
Lodgement on NSW Planning Portal	April 2024	Michele Bos	Cadell Consulting Services

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Attachment 6 – Ordinary Meeting Minutes 20 April 2022 (separate)	

1. Introduction

1.1 Overview

This Planning Proposal has been prepared by Cadell Consulting Services on behalf of the Australian Inland Botanic Gardens Inc.

The Proposal seeks to amend the Wentworth Local Environmental Plan 2011 (WLEP) by amending Schedule 5 Environmental heritage Part 1 Heritage items and associated heritage mapping by adding a 2,500 year old Eucalyptus Oleosa tree, also known as or commonly referred to as the 'Wow Tree'.

This Planning Proposal has been prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), together with satisfying the requirements of the NSW Department of Planning, Industry and Environment *Local Environmental Plan Making Guideline August 2023* (DPIE Guideline).

This Planning Proposal and the Application prepared by Victor Eddy have been reviewed by Mr Allen Grimwood, Zenith Town Planning Pty Ltd. The outcome of that review supports and recommends the listing of the Wow Tree as an item of heritage significance in the Wentworth LEP 2011.

As a result of a report to Council at its Ordinary Meeting held 20 April 2022, Council resolved to support the listing of the Wow Tree, including preparing the Planning Proposal on behalf of the AIBG.

The Planning Proposal is categorised as a 'Basic' application, as it proposes to list a local heritage item.

1.2 Format of the Planning Proposal

This Planning Proposal has been structured as follows:

- Section 1 introduces the Planning Proposal and supporting documentation
- Section 2 provides a description of the subject site, its locality and the surrounding land uses
- Section 3 contains the Planning Proposal prepared in accordance with the DPIE Guideline.

1.3 Supporting Documentation

The following documentation and plans have been prepared to support this Planning Proposal. These attachments are identified in Table 1 below:

Table 1 Attachments to Planning Proposal

Attachment Name		Prepared by
1.	Application for Heritage Listing of Wow Tree	Victor Ian Pierce Eddy for AIBG
2.	Consistency with State Environmental Planning Policies	Cadell Consulting Services
3.	Consistency with Section 9.1 Ministerial Directions	Cadell Consulting Services
4.	Statement of Heritage Justification	Zenith Town Planning Pty Ltd
5.	Ordinary Meeting Agenda 20 April 2022	Wentworth Shire Council
6.	Ordinary Meeting Minutes 20 April 2022	Wentworth Shire Council

2. Site & Locality Details

2.1 Site Location

The Australian Inland Botanic Gardens (AIBG) is located at 1183 River Road, Mourquong in south western New South Wales between Buronga and Dareton.

The closest town, Buronga, is situated approximately 4.5 kilometres to the south east of the subject site. The regional Victorian city of Mildura is located approximately 7 kilometres to the south via Buronga.

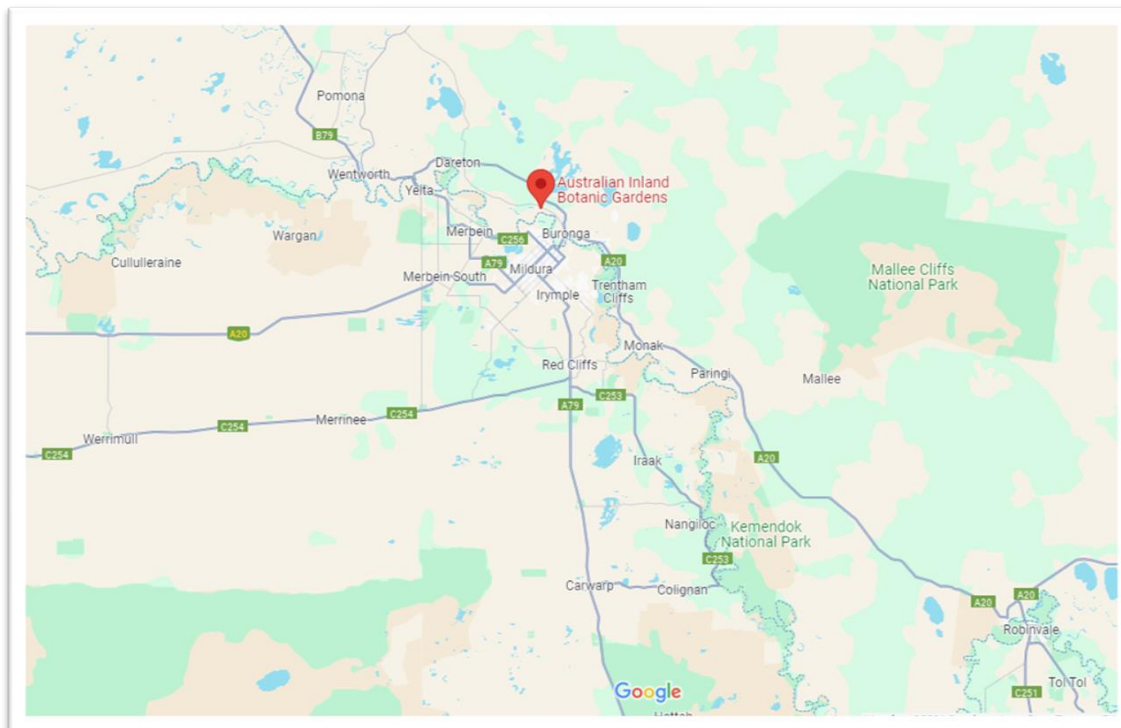


Figure 1 Locality (Source: Google Maps)

2.2 Site Description

The subject site is located at 1183 River Road, Mourquong, with direct access from River Road on the southern boundary and Buronga Hill Road on the north eastern boundary.

Table 2 Lot Identifier & Address

Lot Identifier	Address	Area	Zone	MLS
Lot 1170 DP820161	1183 River Road Mourquong	Total 106 hectares - Planted garden area 50 hectares	RU1 Primary Production zone	10,000 hectares

The subject site is Crown Land with AIBG Inc designated as the Crown Land Manager of NSW Reserve R230087 and R230088.

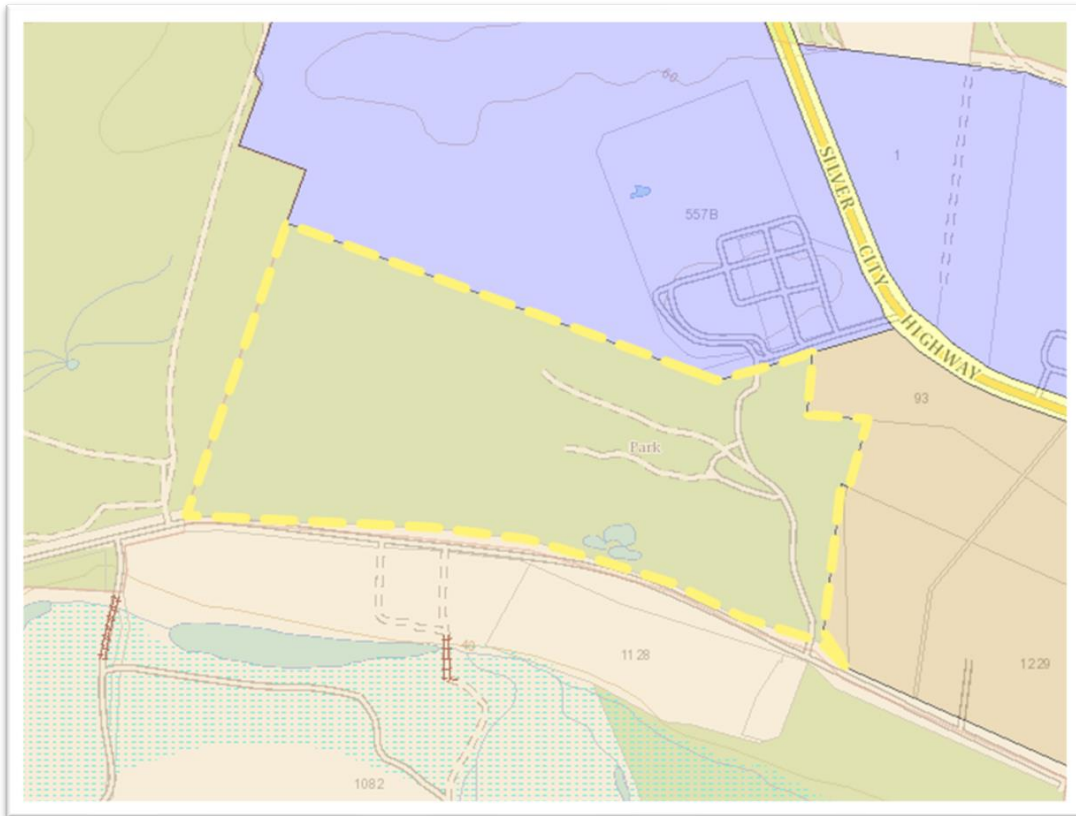


Figure 2 Subject site (Source: NSW Spatial Viewer)

The planted garden area encompasses an area of approximately 50 hectares and includes multiple buildings used for souvenir sales, weddings, events, conferences and activities include train tours, nature walks and community events.

Figure 3 below shows an aerial of the botanic gardens and the location of the Wow tree within the gardens.



Figure 3 Site Aerial Map of Australian Inland Botanical Gardens (Source: Nearmap)

The subject site is identified as Vegetation Category 1 under bushfire prone land mapping.

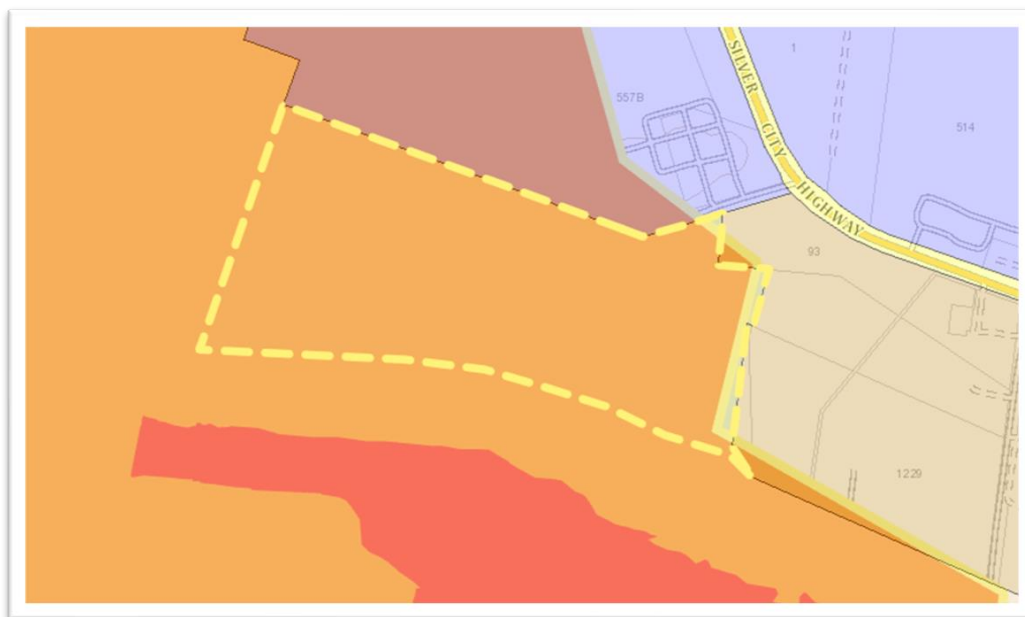


Figure 4 Bushfire Prone Map (Source: NSW Spatial Viewer)

2.3 Surrounding Development

The subject site is surrounded by land zoned RU1 Primary Production, RU4 Primary Production Small Lots and E4 General Industrial.

Surrounding land uses include a mix of pastoral, industrial and horticultural activities.



Figure 5 Surrounding Land Use Map (Source: Nearmap)

3. Planning Proposal

3.1 Objectives or Intended Outcomes

The objective of this Planning Proposal is to amend the *Wentworth Local Environmental Plan 2011* by:

- Adding the Eucalyptus Oleosa (Wow Tree) to the local heritage list in Part 1 Heritage items.

The intended outcomes of the Planning Proposal are to:

- Acknowledge and promote the age and resilience of the Wow Tree, and
- Celebrate and recognise the significance of the Wow Tree to the first nations people and visitors to the Australian Inland Botanical Gardens.

It is considered that the above intended outcomes will be achieved by including the Wow Tree in the local heritage list.

3.2 Explanation of Provisions

To achieve the objectives and intended outcomes of the Planning Proposal, the proposal seeks to amend the *Wentworth Local Environmental Plan 2011* by adding the following:

Schedule 5 Environmental heritage Part 1 Heritage items:

Mourquong	2,500 year old Eucalyptus Oleosa (Wow Tree)	1183 River Road	Lot 1 P820161	Local	198
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Heritage Map – Sheet HER_004 Item - General

3.3 Justification

Section A – Need for the Planning Proposal

3.3.1 Is the Planning Proposal a result of an endorsed local strategic planning statement, strategic study or report?

Local Strategic Planning Statement (LSPS)

Though not a direct result of a specific recommendation in the LSPS, the Planning Proposal is consistent with *Planning Priority 8 – Preserve and promote heritage*, as it seeks to preserve and promote the Wow Tree as a significant contributor to the history of the species in the Wentworth region.

Attachment 1 Application for Heritage Listing of the (Wow Tree)

This document is a report on the Wow Tree that has been prepared for AIBG by Victor Eddy, a qualified Forester.

The report provides extensive details of the importance and significance of the Wow Tree, including a response to applicable NSW heritage assessment criteria. This report is also supported by Zenith Planning Pty Ltd.

3.3.2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The Planning Proposal is the best means of achieving the objectives and intended outcomes for recognising and promoting the heritage significance of the Wow Tree.

Section B – Relationship to Strategic Planning Framework

3.3.3 Will the Planning Proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

Far West Regional Plan 2036 (FWRP)

Goal 2 Direction 18 aims to respect and protect Aboriginal cultural heritage assets. While the Wow Tree is not a registered cultural heritage site, Section 8 of Attachment 1 provides details of the importance of the species to the local indigenous community, being the Mallee tree, for their water-bearing roots and resilience in times of extreme heat and drought.

Draft Far West Regional Plan 2041 (DFWRP)

Objective 2 Protect and enhance culture and heritage includes narrative that aims to value and protect heritage items as they are irreplaceable. It also states that ‘Better promotion and targeted community education initiatives can increase community support for heritage assets’.

It is therefore considered that the Planning Proposal gives effect to heritage conservation as set out in the FWRP and DFWRP.

3.3.4 Is the Planning Proposal consistent with a Council Local Strategic Planning Statement that has been endorsed by the Planning Secretary or Greater Sydney Commission, or another strategy or strategic plan?

Local Strategic Planning Statement (LSPS)

The purpose of the LSPS is to guide and inform new and existing development through a strategic framework that is focused at a local level. It also identifies and aims to negate potential issues through the development of planning priorities and broad actions.

Planning Priority 8 – Preserve and promote heritage

The Planning Proposal is consistent with this planning priority as it seeks to *preserve and promote* a significant item that is not known to exist anywhere else in Australia (refer to Attachment 1).

Wentworth Community Strategic Plan 2022-2032 (WCSP)

The WCSP aims to respond to a holistic vision of the shire community and acts as a guide and reference point for decision making by elected representatives, community members and council staff.

The community vision of the WCSP is ‘*Wentworth Shire will work together to create a thriving, attractive and welcoming community*’.

The four key strategies of the WCSP include:

Economic – A vibrant, growing and thriving region

Social – A great place to live

Environmental – A community that works to enhance and protect its physical and natural environment

Civic Leadership – is supported by strong and ethical civic leadership with all activities conducted in an open, transparent and inclusive manner.

One of the key outcomes of consultation of the WCSP is increasing promotion of built and natural attractions that exist in the Shire, with the aim to increase tourism and economic activity. By

identifying the Wow Tree as a locally significant heritage item, it upscales and enhances its promotional opportunities and provides another environmental and heritage attraction in the AIBG.

3.3.5 Is the Planning Proposal consistent with any other applicable State and regional studies or strategies?

There are no other known state or regional strategies or studies applicable to this Planning Proposal.

3.3.6 Is the Planning Proposal consistent with applicable State Environmental Planning Policies (SEPPs)?

An assessment of consistency of the Planning Proposal with the State Environmental Planning Policies is provided in Attachment 2.

3.3.7. Is the Planning Proposal consistent with applicable Ministerial Directions (Section 9.1 Directions)?

An assessment of consistency of the Planning Proposal with the Section 9.1 Ministerial Directions is provided in Attachment 3.

Section C – Environmental, social and economic impact

3.3.8 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

There is no likelihood of critical habitat, threatened species, ecological communities or their habitats being present on the subject site.

6.3.9 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

There are no other known potential environmental effects as a consequence of this Planning Proposal.

6.3.10 Has the Planning Proposal adequately addressed any social and economic effects?

Promotion and advertising of a heritage site within the AIBG will increase visitor awareness and knowledge of the resilience, importance and age of the Wow Tree. Additional attractions also build interest and may increase the number of visitors, which will contribute to the ongoing financial management of the AIBG.

Section D – State and Commonwealth interests

3.3.11 Is there adequate public infrastructure for the planning proposal?

The outcomes of the Planning Proposal will not require additional public infrastructure.

3.3.12 What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway Determination?

It is understood that initial consultation of the request was undertaken with NSW Heritage and NSW Department of Planning & Environment – Biodiversity & Conservation Division in early 2022. Both agencies had no objection to the proposal.

It is anticipated that any additional relevant agencies will be consulted through the community consultation process, as conditioned by the Gateway Determination.

Wentworth Shire Council requested additional justification for the Planning Proposal by a registered heritage consultant. That request has been satisfied by Zenith Town Planning Pty Ltd. Refer to Attachment 4.

3.4 Mapping

The Planning Proposal seeks to amend the following map in the Wentworth LEP 2011, as it applies to the subject site:

Heritage Map – Sheet HER_004 Item - General

3.5 Community Consultation

In accordance with Section 3.33(2)(e) of the Environmental Planning & Assessment Act 1979, community consultation may need to be conducted.

Schedule 1, Part 1, Division 1, 4 of the EP&A Act prescribes community consultation timeframes are either determined by the Gateway Determination to be issued, or 28 days. This is also consistent with the timeframe set out in Table 4 of the Wentworth Shire Council Community Participation Plan.

For this Planning Proposal, the following consultation process may include:

- ❖ Written notification to adjoining landowners
- ❖ Public notice in the local newspaper and on Council's website
- ❖ Display of the Planning Proposal and supporting documentation made available in Council's administrative buildings
- ❖ Planning Proposal documentation made available for public viewing on Council's website.

During the consultation period, the following documents should be made available for public viewing:

1. Planning Proposal
2. Gateway Determination
3. All attachments and supporting documentation
4. Relevant Council reports and subsequent resolutions.

Consultation with any relevant state agencies will be determined by the Gateway Determination.

At the conclusion of the consultation period, Council will review and consider submissions received regarding the Planning Proposal, and will determine if the Planning Proposal is to be finalised.

3.6 Project Timeline

The *NSW Department of Planning, Industry and Environment Local Planning Guideline August 2023* sets a benchmark timeframe for completion of the Planning Proposal process.

For a 'Basic' Planning Proposal, the benchmark is a total of 220 days for all stages of the process to be completed. This timeframe does not include pre-lodgement of the Planning Proposal with Council for initial review.

There are many factors that can influence the timeframe process. However, the following table provides indicative timeframes for each stage:

Table 3 Indicative Timeframe

Stage	Timeframe
Pre-lodgement	January 2024
Submission of Planning Proposal	April 2024
Gateway Determination	June 2024
Post Gateway	July 2024
Public Exhibition & Assessment	August 2024
Finalisation	October 2024

AUSTRALIAN INLAND BOTANIC GARDENS INC
REG NO. A0007905N

**APPLICATION FOR HERITAGE LISTING OF THE
 2,500-YEAR-OLD EUCALYPTUS OLEOSA (WOW TREE)
 AT THE AUSTRALIAN INLAND BOTANIC GARDENS**

1. General Information	
Local Council:	Wentworth Shire Council, NSW
Local Area:	Mourquong, NSW
State Electorate:	Murray
Name of Organization:	Australian Inland Botanic Gardens Inc
Address:	1183, River Road, Mourquong, NSW 2739
Postal Address:	P. O. Box 2809, Mildura, VIC 3502
Legal Status:	Not-for-profit
Date of Incorporation/Reg. No:	15 th January 1986/ A0007905N
Organization Structure:	The Australian Inland Botanic Gardens Inc, is led by a Board of Management made up of volunteers. Volunteers work in every area of the Gardens, including the office. The only paid staff are currently the Coordinator and three employees all of whom engage in field work.
Status re NSW Reserve	NSW Crown Land Manager of Reserve nos. 230087 and 230088
Name of Primary Contact:	Christine Gunaratnam
Position:	Office Manager
Contact Details:	M. 0416-459-469; E: aibgfiles@gmail.com;
Name of Secondary Contact:	Brian Cuddy
Position:	Coordinator
Contact Details:	M. 0408-604-879; E: ausibgmw@gmail.com

AUSTRALIAN INLAND BOTANIC GARDENS INC
REG NO. A0007905N

**APPLICATION FOR HERITAGE LISTING OF THE
2,500-YEAR-OLD EUCALYPTUS OLEOSA (WOW TREE)
AT THE AUSTRALIAN INLAND BOTANIC GARDENS**

2. Summary of Item Description:

The majestic *Eucalyptus oleosa* at the Australian Inland Botanic Gardens (AIBG) is estimated to be around 2,500-years-old. It has weathered drought and threat of bushfire over centuries and has overcome the challenges of climate change. The estimate of its age was undertaken by Victor Eddy, a Forestry Expert who first volunteered his expertise to the AIBG in 2002 and has since then continued his voluntary services at AIBG (refer **Annex A** for Eddy's CV). The *Eucalyptus oleosa* is situated at the top of the ridge at AIBG some distance away from other trees which has enabled to some extent, its protection from bushfires. AIBG has avoided interfering with nature, thus promoting the natural growth and development of the tree. The only protection is a wooden fence erected around the tree as a signal to visitors that they should not progress beyond the fence.

Currently (September 2021), The lignotuber (mallee root) at ground level has an average diameter of 3.075metres (refer **Figure 1** below).

Figure 1. Lignotuber of the WOW Tree



Source: Cuddy, Brian (2021). Coordinator, Australian Inland Botanic Gardens.

AUSTRALIAN INLAND BOTANIC GARDENS INC
REG NO. A0007905N

**APPLICATION FOR HERITAGE LISTING OF THE
 2,500-YEAR-OLD EUCALYPTUS OLEOSA (WOW TREE)
 AT THE AUSTRALIAN INLAND BOTANIC GARDENS**

The lignotuber has five stems growing out of it. Some years ago (30+), prior to the creation of AIBG, for whatever reason the northern most stem was cut off at what foresters would refer to as "breast height" (the nominal point for measuring a tree's diameter is referred to as breast height which is 1.4m above ground-level on the high side of the tree if on sloping ground. Usually referred to as 'dbhob' or 'dbhub' depending on whether the measurement was over or under bark). At the time that stem was cut it measured 32.5cm dbhub. That stem now has 7 younger stems (referred to as epicormic shoots) growing out of the stump, these measured at breast height over bark (dbhob) are 21.6cm; 7.4cm; 6.0cm; 8.5cm; 8.4cm; 9.1cm; and 5.7cm. The tree is 13.125 meters tall.¹ (refer **Annex B - C** for photographs of the *E. oleosa*).

AIBG refers to this 'oil mallee' or 'giant mallee' as the '**WOW Tree**' in view of its longevity in comparison to its other neighbors at AIBG and in the local area.

3. Location of the WOW Tree:

Enter the AIBG from River Road and drive the 400 metres through the colonnade of lemon scented gums (*Corymbia citriodora*) and park in the Rose Garden Carparks. At the top of the carparks turn right and walk the hilltop ridge to the west for approximately 450 metres. You will approach a 5-way crossroads intersection near the Australian Summerhouse. Just to the south of the intersection is the WOW Tree. The Tree is enclosed with a wooden post fence, which has a sign "WOW Tree, Australian Flora, Bed 6" and another display board detailing "The Story of the Mallee Tree" and a box of informative brochures about Mallee Trees. (Map of the AIBG - refer **Annex D**).

4. History of the species in Australia:

According to a report prepared by ABARES for the Department of Agriculture, 77% equivalent to 101 million hectares of total native forest area is covered by Eucalypt². The *Eucalyptus* is a genus of trees, shrubs and mallee that belong to the Myrtle family, Myrtaceae. The report further states that almost all types of *Eucalyptus* trees are native to Australia and can be found in all States. Eucalypt forests have remained throughout centuries, because of their unique ability to survive. There are between 700 and 900 species of *Eucalyptus* endemic to Australia. It is noted that over 50 per cent of them are known as Mallees.

Mallee is the Aboriginal name, now a part of common parlance, given to a large group of *Eucalyptus* species and comes from the Aboriginal word for a multi-stemmed or multi-trunked

¹ Eddy Vic, the WOW tree summary, email dated 13th September 2021.

² ABARES, (2019). [Australian forest profiles, Eucalypt](#).

AUSTRALIAN INLAND BOTANIC GARDENS INC
REG NO. A0007905N

**APPLICATION FOR HERITAGE LISTING OF THE
 2,500-YEAR-OLD EUCALYPTUS OLEOSA (WOW TREE)
 AT THE AUSTRALIAN INLAND BOTANIC GARDENS**

tree. The Mallee trees also give their name to the Mallee region. Mallee woodlands and shrublands are considered one of Australia's major vegetation groups.

Large scale clearing of the Mallee for farming began in the late 1800s. The pioneers cleared the land and planted crops only to find the Mallee reshooting and requiring further cutting back before harvest could commence. Serious wind erosion occurred, reducing the fertility due to topsoil losses and increasing the dryland salinity of the soil. However, the Mallee has the capacity to survive even in the harshest conditions.

Today, at least 35% of Mallee in New South Wales, 65% in Victoria and 75% of Mallee vegetation in South Australia has been cleared for agriculture.³ Hence, it is important that remaining Mallee are protected as far as possible and the WOW Tree especially in view of its age from extinction.

5. Background to the species in the Murray region:

In 2016 of around 1.3 million hectares of native forests, 'Eucalypt Mallee Open' occupied 556,000 hectares in the Murray region⁴.

According to a UNESCO study (2017)⁵, the Barkindji Biosphere Reserve lies within the Murray-Darling River Basin. This Basin that encompasses New South Wales and Victoria consists of eleven land systems and the surface area is 191,823 hectares. Among the Administrative Authorities for the Reserve is the AIBG, as the land area falls within the Barkindji Biosphere.

The Barkindji were the original Aboriginal inhabitants of the biosphere area. Many of the Barkindji died in combat or moved away after the first Europeans moved into the area in 1830s. Today, the remnants of the Aboriginal community in the biosphere area are considered to be descendants of the Barkindji community.

It is a well-known fact that ancient Aboriginal communities had the capacity to live and adapt to the natural environment for over 60,000 years, in a way that was not mastered by more recent European settlers. Hence, the Mallee features significantly in Aboriginal history, and particularly in the biosphere.

To quote from the UNESCO report on the biosphere reserve:

"The Biosphere Reserve is of great ecological value, as it is home to 800-year-old river red gums and 3,500-year-old Mallee lignotubers." (UNESCO,2017).

³ Eddy Victor, (2019). AIBG, Mallee Brochure.

⁴ Department of Agriculture, (2021). "[About my region – Murray region New South Wales](#)".

⁵ UNESCO,(2017). Barkindji.

AUSTRALIAN INLAND BOTANIC GARDENS INC
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**APPLICATION FOR HERITAGE LISTING OF THE
 2,500-YEAR-OLD EUCALYPTUS OLEOSA (WOW TREE)
 AT THE AUSTRALIAN INLAND BOTANIC GARDENS**

Hence, the above information gives some credibility to the existence of a 2,500-year-old Mallee tree.

The Aboriginal community's relationship to the Mallee and particularly the *Eucalyptus oleosa* is discussed in a subsequent section.

6. Background to the *Eucalyptus oleosa*:

The word '*oleosa*' is derived from the Latin word, '*olesosus*' that means bearing oil, as the *E. oleosa* has glossy-green oil-bearing leaves. The seedling can be distinguished by the 'dense, spiral linear seedling leaves.' The mature leaves are seen to have oil glands and in the past the leaves were used to manufacture cineole-based Eucalyptus oil.⁶ Hence, the *E. oleosa* is also called the Oil Mallee or Giant Mallee. Refer **Figure 2** below for a picture of the leaf from the *E. oleosa* at the AIBG. Note the oil glands on the larger section of the leaf below. The tree generally grows to a height of 8 to 10 metres and forms a lignotuber. The lignotuber contains resources, such as starch and buds that may promote re-growth if the tree branches are destroyed for example in a bushfire

Figure 2. The *Eucalyptus oleosa* (WOW Tree) Leaf



Source: Cuddy, Brian, (2021). Coordinator, Australian Inland Botanic Gardens.

⁶ Wikipedia, (2021). *Eucalyptus oleosa*.

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The *E. oleosa* is commonly found in the Southern parts of Australia, including Western Australia, Southern Australia, Victoria and New South Wales. It is a drought-tolerant tree and has water-bearing roots similar to certain other types in the species.

7. Significance of the *Eucalyptus* in the State of NSW:

The National Parks Association of NSW undertook a preliminary assessment of the Eucalypt forests in the north-east of NSW located in the World Heritage-listed Greater Blue Mountains range.⁷ "Eucalypts are the defining feature of the Australian biota, with almost 900 species occurring continent wide". (p.8) states the report giving due importance to the Eucalyptus. The Eucalypts ability to adapt to diverse environments, taxonomy and ecology across the continent, has made it significant as a key part of a World Heritage site.

Whilst no other over 2000-year-old *Eucalyptus oleosa* could be identified in Australia, there were a few from other Eucalyptus species. One Eucalyptus is deemed to be around 13,000 years old and the article in the TIME magazine with photograph by renowned photographer Rachel Sussman reports that it is critically endangered and that there are less than five trees of the same kind remaining on the planet.⁸

Other Eucalyptus trees regarded as noteworthy both in and outside NSW are as follows⁹:

- A flooded gum, *Eucalyptus grandis* deemed to be around 400 years old in the Myall Lakes National Park, north of New Castle in NSW.
- Meelup Mallee, six *Eucalyptus phylacis*, that have sprouted from a clone deemed to be around 6,600 years old from a single ridgeline, south of Perth in Western Australia.
- Five Mongarlowe Mallee, *Eucalyptus recurva*, deemed to be in the range of 3,000 to 13,000 years old growing across four distinct sites in the Southern Tablelands of NSW. One of these ice age gums may be around 13,000 years old and corresponds to details of the Eucalyptus mentioned in the preceding paragraph. However, it is understood that it is not available for public viewing, given that it is critically endangered.

We note from the above information, that there appears to be no aged Eucalyptus tree other than those in South-West NSW mentioned above, and observe specifically that no such aged *Eucalyptus oleosa* similar to the WOW Tree exists in the State of NSW, or in Australia.

⁷ Cerese Boudicca, (2012), The Eucalypt Forests of Northeast New South Wales.

⁸ TIME, (2015). "These are 11 of the Oldest Things in the World."

⁹ Rykers Ellen, (2017). "Oldest continuously living things in Australia", Australian Geographic.

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8. Significance for the Aboriginal people of Australia:

The Aboriginal people of Australia the earliest known inhabitants of Australia, deemed to have arrived here from around 40,000 to 60,000 years ago, lived close to nature. In their primitive state their lives revolved around satisfying their basic physiological needs utilizing their natural habitat. Water was a part of such basic needs, just as it is for most other organisms. Over centuries the Aborigines developed practices, some of which according to historical records could not be replicated by more recent settlers from the West. In this search for sustainable living plants and trees that had water-bearing roots became of paramount importance.

The first known reference to Aboriginals extracting root water from mallee trees was made by Edward Eyre on his acclaimed travels across southern Australia from 1840 to 1841.¹⁰

Ecologists, Noble and Kimber on the ethno-ecology of mallee root water mention that the *Eucalyptus oleosa* is one among the few mallee trees that retain water in their roots. Hence, in areas that are prone to drought and bushfires, the water bearing mallee trees were of great importance to the early Aboriginal communities, and a key part of their traditional and religious life. The said Ecologists mention that early Europeans were astonished at the abundance of clear, drinking water derived from the roots dug up by the Aborigines, and they (early Europeans) could not replicate this skill. Naturally, the water-bearing mallee became a life-giving resource for the Aborigines.

Quoting from Tindale's 1972 works:

'Men also wave *Eucalyptus oleosa*, water mallee branches, in the air to fetch cold, rainladen southerly winds.' (Tindale 1972, pp. 233, 236, 244)'

Hence, the *Eucalyptus oleosa* was regarded by the Aborigines as having spiritual properties in returning the rains to drought-ridden areas. In this context, it would not be wrong to observe that the *Eucalyptus oleosa* was revered by the Aboriginal community. It was hence, of cultural and spiritual value to the Aborigines who lived in the Murray region during and prior to European settlement in the area approximately 200 years earlier and their ancestors.

9. Significance in terms of NSW heritage assessment criteria:

Assessing the WOW Tree in terms of NSW heritage assessment criteria, it is observed as follows:

¹⁰ Aboriginal History, Volume 21 1997, Noble, James C and Kimber, Richard G, On the ethno-ecology of mallee root water, pp. 170-202.

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- a. The WOW Tree species (*Eucalyptus oleosa*) occupies an important place in both the cultural and natural history of NSW, given its importance in the traditions and religious life of the Aborigines.
- b. This item has a special association with the life and works of 19th century ecologists/explorers who explored the Australian continent, including Edward Eyre, Ernest Giles, Richard Kimber and James Noble.
- c. It demonstrates aesthetic characteristics, in regard to its natural beauty in this semi-arid landscape as can be seen in Annexes B, C and D.
- d. It has special association with the Aboriginal community especially the Barkindji people who were the early inhabitants of the area and whose descendants still remain in and around the Murray region.
- e. The characteristics of the WOW Tree yield important information that enables an understanding of both NSW's natural as well as cultural history, as explained in the preceding sections.
- f. While the WOW Tree is not considered as uncommon or rare as regards its species, it is certainly rare in terms of age, estimated at 2,500 years.
- g. The WOW Tree being the only one of its kind and age according to existing records, is a stand-alone indicator of the ability to withstand natural disasters (bushfires, drought, climate change) over centuries in the natural environment.

10. Analysis of heritage significance:

The analysis of heritage significance is outlined below:

- a. Level of significance: research has not brought to light any other trees of the same or similar age group in the local government area of Wentworth Shire. The WOW Tree is observed to be the only survivor in this area, as well as in the Sunraysia and Murray regions and hence should be noteworthy in this context. Furthermore, it is the only one of the species *Eucalyptus oleosa* of this age in the State of NSW and there is no indication of such an aged *Eucalyptus oleosa* elsewhere in Australia.

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b. Statement of heritage significance:

The 2,500-year-old WOW Tree (*Eucalyptus oleosa*) in the Australian Inland Botanic Gardens is of significant importance in the local government area of Wentworth Shire, as well as in the greater Sunraysia area, as it is observed there are no records of other trees of the same age and same species in these areas. The WOW Tree is historically important to the Aboriginal community in NSW as it has water-bearing roots and hence, has cultural significance for ancient Aboriginal rain-making ceremonies, that has been mentioned in historical records, along with its spiritual significance to the Aborigines.

Hence, Australian Inland Botanic Gardens Inc, submits the heritage listing application for the 2,500-year-old WOW Tree (*Eucalyptus oleosa*), located at the Australian Inland Botanic Gardens in Mourquong, NSW for the further consideration of the Wentworth Shire Council.

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CV OF VICTOR I P EDDY

ANNEX A

Curriculum Vitae
Victor Ian Pierce Eddy B.Sc. (For) ANU

5 Dr. Abramowski Court ~ Mildura 3500
 Mobile 0488 038 835 ~ Home 03 5023 4795
 E-mail victor.eddy@bigpond.com

5/5/1943 **BORN** in Epping Sydney

EDUCATION

1948-1954 Eastwood Infants and Primary School

1955-1960 Fort Street Boys' High School

1961-1965 Bachelor of Science (Forestry) ANU. [yrs 1 & 2 at Sydney University]

(1962-1965 Trainee, Forestry Commission of NSW. As a trainee 1963 was a compulsory field year which involved thinning natural regrowth *P. radiata* post 1939 wildfires; measuring both *P. radiata* and native hardwood inventory and research plots ranging from Tumut in the south to Coffs Harbour in the north)

EMPLOYMENT

It was the need of employment between school and tertiary education that led me to forestry as a career. I wanted paid work between completing the Leaving Certificate exams and receiving my results. The NSW Forestry Commission provided me with that employment and encouraged me to apply for one of their traineeships.

1966-1988 **Forestry Commission of New South Wales**

Forester Mullumbimby (1966-68)- Native hardwood management & assessment. I designed and established the continuous forest inventory for the native hardwood forests of the Mullumbimby Management Area

Forester Kyogle (1968-70) - Native hardwood, rainforest & hoop pine plantation management; road survey, design & construction; tree nursery supervision; forest fire control

District Forester Forbes (1970-73) - Cypress pine & river red gum management; Amenity nursery management & tree planting extension.

District Forester Glen Innes (1973-84)- Native hardwood management; Pine plantation establishment & management; road survey, design, & construction; forest fire control; management planning.

District Forester Mildura (1984-88) - River red gum forest and arid woodlands, management, protection, and marketing.

1989-2010 **Company Forester, A.B. Rowe & Son Pty Ltd.**

I provided management & initiated assessment of 17 000ha of private river red gum forest (1989 – 2006) on Yanga Station on the Murrumbidgee floodplain at Balranald. I liaised with NSW & Vic Govt. Forest Services. I was the company representative on various committees. Forestry consulting, specialising in all aspects of river red gum forests, standing forest value estimation, establishment, management, harvest and conservation. This position became redundant when NSW Government converted its River Red Gum State Forests to conservation reserves effectively terminating this company's involvement in the river red gum timber industry.

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ANNEX A

EXPERIENCE

As the District Forester Forbes I managed one of the NSW Forestry Commission's five Amenity Nurseries. Forbes Nursery supplying tree seedlings and extension advice to serve the Central Western Slopes and Plains, and the Southern Tablelands of NSW.

For A.B. Rowe & Son I established some 10ha of woodlot/windbreak plantings involving irrigation including drip, flood, and furrow. I established 20x0.6ha inventory plots

For 19 years I supervised the salvage of 10,000+tonnes/annum of firewood from logging residue on Yanga and Glen Avon Stations

Since the early 2000s I have provided Culpra Station with advice on river red gum forestry. In 2008 and 2010 I supervised a harvesting operation in compliance with the NSW Code of Native Forest Practice for River Red Gum. Culpra Station of 15,884 ha has 230ha of river red gum river frontage. Purchased by the Indigenous Lands Council it has been divested to Culpra Milli Aboriginal Corporation.

Over the past 25 years I have been a keen observer of irrigated woodlot plantings both successful and less than successful. In particular they include effluent irrigation woodlots of Sunraysia, Loxton, and Wagga Wagga.

I have provided specific consultation on the effects of indiscriminate flooding, and irrigation drainage reuse for tree planting on lands to the west of the Murrumbidgee Irrigation Area (MIA).

In 1990 I attended the "Direct Seeding and Natural Regeneration" Conference of Greening Australia. Then in 1992 I presented a paper on "The Lowbidgee Experience" to the "Catchments of Green" Conference of Greening Australia.

In 1992 I attended an international biodiversity conference in Canberra.

In 1993 I presented a poster-paper on "Private Native Forests" to the Inaugural Maurice Wyndham Conference at the University of New England "Sustainable Forests in Australia".

Consultation has included advice on current condition and future management options of private forests, and value estimates of standing forests, both red gum and mountain ash.

In 2005 the NSW National Parks and Wildlife Service purchased Yanga Station owner of the 17,000ha river red gum forest referred to above, to become National Park, specifically for its red gum forest values. This forest was purchased because the NPWS considered it to be a forest in good condition.

MEMBERSHIPS

Pre 1961

I was a member of the Caloola Club that identified itself as an expeditionary society. It owned an ex-airways coach that could carry 27 members and all their necessary camping and hiking gear, Christmas 1959 we set out to survey the flora and fauna of Nadgee Fauna Reserve to the north of Cape Howe (NSW/Vic Border) but due to the weather we spent 2 weeks on Gabo Island instead. I remained a member until 1961.

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ANNEX A

- 1966-2018** *Institute of Foresters of Australia.* I was Secretary/Treasurer of the North Coast NSW Branch 1969/70. From 1989 to 2009 I attended every annual conference. At an Annual Conference in Canberra, I moved a motion that the IFA affirm its support of native forest harvesting. Despite influential efforts to water that motion down it was passed.
- 1966-1980** *Association of Apex Clubs* Elected to Club Board in my first year. I was a member of Mullumbimby; Kyogle; Forbes; and Glen Innes Clubs. I was a Board Member for at least part of every year I was a member, and held the positions of Club President, District Governor, and Zone Secretary/Treasurer along the way.
- 1989-2010** On behalf of A.B.Rowe and Son I represented Glen Avon Station, Balranald on the following: Chairman and Project Manager **Redbank Riparian Landcare Group Inc.** which was a Land & Water Management Planning Committee, within the Lowbidgee Controlled Flooding and Irrigation District on the lower Murrumbidgee River.
Lowbidgee League
 Representative of the *League* to the **Murrumbidgee River Water Users Association** from 1997-2000
NSW Farmer's Association: District delegate to Annual Conference 2008 & 2009
- 1989-2000** *Murray Darling Association* Private member.
- 1989-2001** *Australian Conservation Foundation;* Foundation member of the Sunraysia-Mallee Branch
- 1990-1993** *Nyah to the S.A. Border Salinity Management Planning Committee.* I was a member through to the launch of the completed salinity management plan. This Plan is for the private diversion of irrigation water in Victoria from the Murray River downstream of Nyah (near Swan Hill).
- 1994-2016** **Yelta Landcare Group Inc.** Treasurer since its foundation. I was also the Public Officer until the Act determined that this was to be the secretary's responsibility.
- 1995-2018** **Australian Forest Growers**
- 1996-2000** **Lower Murray-Darling Catchment Management Committee.** As a land user member.
- 1996-2003** **Murray-Riverina Farm Forestry.** This was a NSW Dept. Regional Development Committee set up to promote forest establishment, including irrigated plantations, and management. I was the NSW Forest Products Association representative.
- 1996-1997** *Friends of Nyah-Vinifera Forest:* Foundation member but resigned when they amended their constitution to deny those with a commercial interest the right to vote.
- 1998-2000** **Mallee Agroforestry Initiative Steering Committee** Set up by greening Australia in Sunraysia and comprising a select group of some 6 experienced people both private & govt.
- 1999-2003** *Western Riverina Regional Vegetation Committee* As a representative of rural interests through to completion of the management plan.

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CV OF VICTOR I P EDDY

ANNEX A

- 2001- *Palm Terrace Owners Corporation:* A townhouse strata development. President 2008-9 Secretary from 2009.
- 2002-2006 *River Red Gum Forest Industry Strategy:* Chairman of the *Forest and Log Residue Working Group* 2003 to 2006.
- 2002-.... *Australian Inland Botanic Gardens:* Committee member. I was elected Vice-president 2010. From June 2012 to May 2016, I was the Honorary Director. Since June 2016 I have been President of The Friends of the Australian Inland Botanic Gardens. For the last three years I have been working as a volunteer to help overcome a labour shortage. These Gardens are owned and run by a not-for-profit committee and believed it could not afford to replace three staff members that left. I was awarded "Life Membership" on 7th March 2019.
- 2003-2004 *River Red Gum Grading Review & Log Grading Training Committee:* Represented the River Red Gum industry on the committee of State Forests, TEMS (training provider), and industry. Reviewed the Red Gum log grading manual and developed a training programme for the accreditation of red gum log graders. As a result, I received a certificate to certify me as competent to "Grade Logs and Mark for Segregation (Red Gum)" dated 5/07/2004
- 2004 *Private Native Forestry Working Group:* By Ministerial appointment I represented private forest owners and the red gum timber industry. This group's purpose was to write a Code of Forest Practice to serve as the Private Native Forest Regulation under the Native Vegetation Act 2003 (NSW). The Minister disbanded this group for not completing the code within six months and the task was handed to the newly formed Natural Resource Advisory Council (NRAC) Sub-committee. In October 2006, by invitation, I gave a presentation on river red gum silviculture to the NRAC PNF Sub-committee. After some 2.5 years that committee had not completed the regulatory code and the task was given to a Departmental Forester. I claim responsibility for a spatial condition being written into the code for river red gum forests which allows small dense clumps to be thinned.
- 2009-2010 *Private Native Forestry Training Steering Committee:* In March 2009 I was invited to represent the NSW Farmers' Association on this Committee.

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THE WOW TREE (POST-DROUGHT) 2020

ANNEX B



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THE WOW TREE – 30TH SEPTEMBER 2021

ANNEX C



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MAP OF THE AUSTRALIAN INLAND BOTANIC GARDENS

Map : Australian Inland Botanic Gardens

Map Key

01 Information Centre, Ganapang Coffee and Gift Shop
An original homestead built in 1870. It was relocated to the gardens from Ganapang Station 150km NE of Mildura by the South Mildura Rotary Club in 1992.

02 Magenta in the Gardens
This building was a shearing shed built by Chinese workmen in the 1800's and brought to the gardens in 2000 and rebuilt in 2004 by garden volunteers.

03 Information Hut and Train Station
Here you can view some interesting displays about the AIBG

04 Nature Trail
Wander through this numbered educational trail full of local plants and birds, including a Malleefowl nest.

05 Bush Chapel
A popular setting for weddings, christenings and memorial services

06 Salinity Information

07 Weather Station

08 Rockery

09 Rose Garden

10 American Summerhouse

11 European Summerhouse

12 African mud brick Summerhouse

13 Australian Summerhouse & Seedpod Ceiling

14 WOW Tree
A must see, this Eucalyptus Oleosa (Red Mallee) is 2500 years old.

15 Salt Tolerant Stroll

16 The Children's Garden
Peek in the Rose Garden Carpark and walk towards the east of the Rose Garden, you'll soon see the entrance to the Children's Garden

17 Sturt Desert Pea Display
Enjoy the man-made display of South Australia's Floral emblem.

Origin Key

18 Rare & Threatened plants
Plants in this bed are in different states, within a 200km radius of the gardens

19 Office & Maintenance Area
11 beds

20 European beds
11 beds

21 American beds
7 beds

22 Asian Flora beds
14 beds

23 African beds
8 beds

24 Australian beds
19 beds

25 New Zealand Flora
4 beds

26 Western Australian flora
10 beds

27 South Australian flora
6 beds

28 Mallee Flora
27 beds

29 Salt Tolerant flora
13 beds

30 W/New South Wales flora
9 beds

31 Heritage-Indigenous Food Garden

Legend

Staff Vehicles & Walking Tracks only
Visitors not permitted to drive these tracks

Self Guided Tour Road

Toilets

Information

Parking

Plant labels – How to read them

Plant Family name
Access
Botanical name
Some plants will have a variety or cultivar
Common name
Country / State of origin

Family : Santalaceae
Santalum acuminatum
Access
Sweet Quandong
Country : Australia

Enjoy your visit
Free entry - Donations Welcome
Open Sun-4pm week days
10am-4pm Weekends
1183 River Road Burunga NSW, Phone 0350233612
www.aibg.live or facebook.com/AIBGMW

Safety in the gardens
Adults just a reminder that you are responsible for your children's safety, please supervise them at all times and remember to take water with you on a hot day.

Please be aware that there is native wildlife in the Garden's enjoy them from a distance as this includes snakes. Dogs are welcome in the gardens but please clean up after them and keep them on a leash.

Self Guided Tour Road Entry Only Point
This is the only track you can drive on

TO SILVER CITY HWY

RIVER ROAD

ENTRANCE

MILDURA 10km

← WENTWORTH 40km

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MAP OF THE AUSTRALIAN INLAND BOTANIC GARDENS

ANNEX D

<p>Features of the Australian Inland Botanic Gardens</p> <p>Mallee Bed 16 (M 16) Combined with M 18 this bed is made up of plants donated by The Royal Melbourne Botanic Gardens to celebrate their 150th anniversary.</p> <p>Australia Bed 1 (Aus 1) This bed features a display of some Rare & Threatened Species within a 200km radius of Mildura</p> <p>Australia Bed 6 (Aus 6) This bed is one of the gardens main features and contains only 1 plant, a 2500+ year old Mallee Tree. We call this our WOW tree.</p> <p>Australian Beds 17, 18, 19 (Aus 17, Aus 18, Aus 19) These beds contain a variety of Sub Tropical plants from throughout Australia</p> <p>The Australian Summer House This typical Australian Treated Pine Summer House contains a beautiful Seed Pod Ceiling using an assortment of seed pods and dried flowers to create a spectacular ceiling display.</p> <p>The Rose Garden The Rose garden consists of over 1500 roses set to range in height and colour. Beautiful scents and amazing colours.</p> <p>The Bush Chapel The Bush Chapel was created to bring much needed cash injections to the gardens. It is a popular location for weddings, funerals, church services and christenings</p> <p>The Nature Trail The Nature Trail is an 800m walk through a mixture of Australian Native plants. Interpretative signs, a Childrens class room and a mock Mallee Fowl Nest also add to the experience.</p> <p>The Salt Tolerant Walk Take the time to walk through one of the first areas planted in the Gardens. This area was affected by salt due to a high water table. Salt Tolerant Australian Native Plants were placed in several beds and were very successful in removing the water table and salt problem. Left mostly untouched it is definitely worth a look.</p> <p>Desert Pea Display The Desert Pea Display area is certainly worth a visit. Plants have been growing and regenerating for the last few years and when in flower create a beautiful carpet of red. Worth taking the time to find the plant with a different coloured boss (eye).</p> <p>Garrung Coffee Shop Garrung Coffee Shop is located at the end of the bitumen drive. It is an amazing 150+ year old drop log homestead that was transported and re-erected at its current site in 1992. Have a look at the way the building was created whilst you enjoy a drink and something to eat.</p>	<p>Features of the Australian Inland Botanic Gardens</p> <p>Magenta In the Gardens The Magenta Shearing Shed was erected in 2004 to serve as a function area for a lot of the weddings held at these gardens. It holds around 150 guests and although not re-built to look like a shearing shed inside, the structure, created using Chinese Migrant skills is well worth the look.</p> <p>Peaka Homestead Peaka Homestead is another 150+ year old drop log homestead that has been added to Magenta. It has been built onto a modern frame and lined outside with all of the original materials. Inside is a modern catering kitchen allowing for the whole Wedding Function to be done in one place.</p> <p>Self Guided Tour Road The Self Guide Tour road is designed to allow visitor to see as much of the 124 acres as possible. Starting at the Garrung Coffee Shop car park it is the only driveable track within the gardens. Car parks are located along its length to allow visitors to stop and wander to the various different sites around the gardens.</p> <p>Children's Garden European Bed 3 has been adapted into an amazing Children's Garden full of fabulous things for the kids to play with, on or in. Relax on a park bench as the kids run amok.</p> <p>The gardens are a No Smoking area and we would appreciate those who smoke to please refrain unless you are in the designated area at the rear of Garrung Coffee Shop</p> <p>Dogs are permitted within the gardens but must be on a lead and you must clean up any accidents</p> <p>All tracks apart from the main driveway and the Self Guided Tour Road are walking tracks only. There are plenty of car parks to leave your car and have a wander. Please be aware of pedestrians and other moving vehicles.</p>	<p>Events at the Australian inland Botanic Gardens</p> <p>Big Brekkie The Big Brekkie is held on the 4th Saturday of every month. Starting at 8:30 am and running to 12:00pm you can relax and enjoy a gourmet brekkie before doing a Tractor Train Tour of the gardens. These run at 10:00am and 11:00am</p> <p>Magenta Art Show Held every Easter weekend, the Art Show is a major attraction. Artworks from all around Australia are on display and prizes are determined by reputable judges. A gold coin donation is welcome as you enter.</p> <p>Magenta Artists The Magenta Artists is a group of people who create beautiful artwork using many different types of media. They operate out of Peaka Homestead every Wednesday from 10:00am until 4:00pm and you are more than welcome to visit them and see what they are creating.</p> <p>Weddings and Functions These can be booked by going to venuehire.abtg@gmail.com or phoning Gwen Wilkinson on 0418 969 475</p> <p>Tractor Train Tours Tractor Train Tours are available throughout the year. The train will seat 48 passengers and takes approximately 1 hour. The driver will give a running commentary over the PA system as you go along. The cost is \$10 per adult, children 12 and under ride free. To book the train you can ring 03 50233612 or speak to Brian On 0408 604879</p> <p>Please note that the drivers are volunteers and as such may not be available at certain times</p> <p>This Speed Limit applies throughout the gardens</p> <p>These Gardens are run by Donation Money. Please assist us by putting a donation in any of the donation boxes throughout the gardens</p>
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Attachment 1 - Application for Heritage Listing of Wow Tree

Refer to separate attachment.

Attachment 2 – State Environmental Planning Policy Assessment

State Environmental Planning Policy (SEPP)	Applicable (Y/N)	Consistent (Y/N)	Comments/Justification
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Y	Y	<p><u>Chapter 2 – Vegetation in non-rural areas</u> The aims of this SEPP are to <i>protect the biodiversity values of trees and other vegetation in non-rural areas and to preserve the amenity of non-rural areas through preservation of trees and other vegetation.</i></p> <p>Not applicable as the subject site is located in a rural zone.</p> <p><u>Chapter 3 – Koala habitat protection 2020</u> The aim of this SEPP is to <i>encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas...and reverse the current trend of koala population decline.</i></p> <p>The Planning Proposal is consistent with this SEPP as it does not seek to alter or harm any vegetation that would decrease koala habitat.</p> <p><u>Chapter 4 – Koala habitat protection 2021</u> The aim of this SEPP is to <i>encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range...</i></p> <p>The Planning Proposal is consistent with this SEPP as it does not seek to alter or harm any vegetation that would decrease koala habitat.</p> <p><u>Chapter 5 – River Murray lands</u> The aims of this SEPP <i>are to conserve and enhance the riverine environment of the River Murray for the benefit of all users.</i></p> <p>The subject site is identified as being included in Map 35 of the Murray Regional Environmental Plan No. 2 – Riverine Land. It is considered that the Planning Proposal is</p>

			<p>consistent with this SEPP as the subject site is well setback from the Murray River and therefore, it is unlikely there will be any impact on or near the Murray River.</p> <p><u>Chapter 6 – Water catchments</u> Not applicable.</p> <p><u>Chapter 13 Strategic conservation planning</u> No applicable.</p>
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Y	Y	<p>The aims of this policy are to encourage sustainable residential development and to ensure consistency in the implementation of the BASIX scheme across the state of New South Wales.</p> <p>The Planning Proposal does not detract from the aims of this policy.</p>
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	Y	Y	<p>The aims of this policy are to streamline the assessment process for development that complies with specified development standards.</p> <p>The Planning Proposal does not detract from the aims of this policy.</p>
State Environmental Planning Policy (Housing) 2021	Y	Y	<p>The principles of this policy include enabling the provision of diverse housing that meets the needs of the community, whilst ensuring that amenity and services are adequately provided to support the development.</p> <p>The Planning Proposal does not detract from the aims and principles of this policy.</p>
State Environmental Planning Policy (Industry and Employment) 2021	Y	Y	<p><u>Chapter 2 Western Sydney employment area</u> Not applicable.</p> <p><u>Chapter 3 Advertising and signage</u> The aims of this SEPP are to ensure that signage is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish.</p> <p>The Planning Proposal does not detract from the aims of this policy.</p>
State Environmental Planning Policy No 65 Design Quality of	N		

Residential Apartment Development			
State Environmental Planning Policy (Planning Systems) 2021	N		The proposed development as a consequence of this Planning Proposal is not state or regionally significant, the site is not aboriginal land and will not require concurrence.
State Environmental Planning Policy (Precincts – Central River City) 2021	N		
State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021	N		
State Environmental Planning Policy (Regional) 2021	N		
State Environmental Planning Policy (Western Parkland City) 2021	N		
State Environmental Planning Policy (Primary Production) 2021	Y	Y	<p><u>Chapter 2 Primary production and rural development</u></p> <p>The aims of this SEPP are to:</p> <p>(a) to facilitate the orderly economic use and development of lands for primary production,</p> <p>(b) to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources,</p> <p>(c) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,</p> <p>(d) to simplify the regulatory process for smaller-scale low risk artificial waterbodies, and routine maintenance of artificial water supply or drainage, in irrigation areas and districts, and for routine and emergency work in irrigation areas and districts,</p> <p>(e) to encourage sustainable agriculture, including sustainable aquaculture,</p> <p>(f) to require consideration of the effects of all proposed development in the State on oyster aquaculture,</p> <p>(g) to identify aquaculture that is to be treated as designated development using a well-defined and concise development</p>

			<p><i>assessment regime based on environment risks associated with site and operational factors.</i></p> <p>The Planning Proposal does not detract from the aims of this policy.</p>
State Environmental Planning Policy (Resilience and Hazards) 2021	N		<p><u>Chapter 2 Coastal management</u> Not applicable. <u>Chapter 3 Hazardous & offensive development</u> The aims of this SEPP are to:</p> <ul style="list-style-type: none"> <i>a) to amend the definitions of hazardous and offensive industries where used in environmental planning instruments, and</i> <i>b) to render ineffective a provision of any environmental planning instrument that prohibits development for the purpose of a storage facility on the ground that the facility is hazardous or offensive if it is not a hazardous or offensive storage establishment as defined in this Chapter, and</i> <i>c) to require development consent for hazardous or offensive development proposed to be carried out in the Western Division, and</i> <i>d) to ensure that in determining whether a development is a hazardous or offensive industry, any measures proposed to be employed to reduce the impact of the development are taken into account, and</i> <i>e) to ensure that in considering any application to carry out potentially hazardous or offensive development, the consent authority has sufficient information to assess whether the development is hazardous or offensive and to impose conditions to reduce or minimise any adverse impact, and</i> <i>f) to require the advertising of applications to carry out any such development.</i> <p>This SEPP does not apply as the Planning Proposal does not relate to land in a coastal environment, hazardous or offensive development.</p>

			Therefore, the Planning Proposal will not detract from the aims of this policy. <u>Chapter 4 Remediation of land</u> Not applicable.
State Environmental Planning Policy (Resources and Energy) 2021	N		<u>Chapter 2 Mining, petroleum production and extractive industries</u> Not applicable. <u>Chapter 3 Extractives industries in Sydney area</u> Not applicable.
State Environmental Planning Policy (Transport and Infrastructure) 2021	N		<u>Chapter 2 Infrastructure</u> The aim of this SEPP is to ensure there is an effective delivery of infrastructure to support new development. The Planning Proposal will not detract from the aims of this policy.
State Environmental Planning Policy (Sustainable Buildings) 2022	N		The aims of this policy are to encourage the development of sustainable buildings to minimise the use of natural resources and ensure thermal performance of buildings. The Planning Proposal will not detract from the aims of this policy.

Attachment 3 – Section 9.1 Ministerial Directions Assessment

Section 9.1 Direction	Applicable (Y/N)	Consistent (Y/N)	Comments/Justification
1. Planning Systems			
1.1 Implementation of Regional Plans	Y	Y	The Planning Proposal is consistent with the goals, directions and actions of the <i>Far West Regional Plan 2036</i> and the <i>draft Far West Regional Plan 2041</i> .
1.2 Development of Aboriginal Land Council land	N		
1.3 Approval and Referral Requirements	Y	Y	The Planning Proposal does not propose any referral or concurrence requirements, nor does it nominate any development as 'designated development'.
1.4 Site Specific Provisions	N		
1.5 Parramatta Road Corridor Urban Transformation Strategy	N		
1.6 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	N		
1.7 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	N		
1.8 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	N		
1.9 Implementation of Glenfield to Macarthur Urban Renewal Corridor	N		
1.10 Implementation of the western Sydney Aerotropolis Plan	N		
1.11 Implementation of Bayside West Precincts 2036 Plan	N		

1.12 Implementation of Planning Principles for the Cooks Cove Precinct	N		
1.13 Implementation of St Leonards and Crows Nest 2036 Plan	N		
1.14 Implementation of Greater Macarthur 2040	N		
1.15 Implementation of the Pyrmont Peninsula Place Strategy	N		
1.16 North West Rail Link Corridor Strategy	N		
1.17 Implementation of the Bays West Place Strategy	N		
1.18 Implementation of the Macquarie Park Innovation Precinct	N		
1.19 Implementation of the Westmead Place Strategy	N		
1.20 Implementation of the Camellia-Rosehill Place Strategy	N		
1.21 Implementation of South West Growth Area Structure Plan	N		
1.22 Implementation of the Cherrybrook Station Place Strategy	N		
2. Design and Place			
2.1			
3. Biodiversity and Conservation			
3.1 Conservation Zones	Y	Y	The Planning Proposal is consistent with this Direction as it does not involve land identified as environmentally sensitive and does not seek to reduce environmental protect standards.
3.2 Heritage Conservation	Y	Y	The Planning Proposal is consistent with this Direction as it aims to conserve an additional item on the subject site.
3.3 Sydney Drinking Water Catchments	N		
3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	N		

3.5 Recreation Vehicle Areas	Y	Y	The Planning Proposal does not enable the land to be developed for the purposes of a recreation vehicle area, as defined by the <i>Recreation Vehicles Act 1983</i> .
3.6 Strategic Conservation Planning	N		The subject site is not identified as avoided land or a strategic conservation area.
3.7 Public Bushland	N		
3.8 Willandra Lakes Region	N		The subject site is not located within the Willandra Lakes World Heritage Property.
3.9 Sydney Harbour Foreshores and Waterways Area	N		
3.10 Water Catchment Protection	N		
4. Resilience and Hazards			
4.1 Flooding	Y	Y	A portion of the subject site is identified as being flood prone. However, the Planning Proposal does not seek to rezone the subject site or to enable new development in the flood affected area.
4.2 Coastal Management	N		
4.3 Planning for Bushfire Protection	Y	Y	The southern portion of the subject site is identified as being bushfire prone land on the NSW Rural Fire Service map. However, the Planning Proposal does not seek to enable new development in the bushfire prone area.
4.4 Remediation of Contaminated Land	Y	Y	The subject site is currently zoned RU1 Primary Production and the Planning Proposal does not seek to rezone the site or to alter the future use of the site.
4.5 Acid Sulfate Soils	N		
4.6 Mine Subsidence and Unstable Land	N		
5. Transport and Infrastructure			
5.1 Integrating Land Use and Transport	N		
5.2 Reserving Land for Public Purposes	Y	Y	The Planning Proposal does not propose to remove or propose any land to be dedicated for public purposes.
5.3 Development Near Regulated Airports and Defence Airfields	N		The subject site is not located near an airport or defence airfield.
5.4 Shooting Ranges	N		The subject site is not located near a shooting range.
6. Housing			
6.1 Residential Zones	N		

6.2 Caravan Parks and Manufactured Home Estates	N		The Planning Proposal does not alter the permissibility or prohibition of caravan parks and manufactured homes estates.
7. Industry and Employment			
7.1 Employment Zones	N		
7.2 Reduction in Non-Hosted Short-term Rental Accommodation period	N		
7.3 Commercial and Retail Development along the Pacific Highway North Coast	N		
8. Resources and Energy			
8.1 Mining, Petroleum Production and Extractive Industries	N		The Planning Proposal does not impact mining, petroleum or extractives industries.
9. Primary Production			
9.1 Rural Zones	N		The Planning Proposal is not seeking to rezone from or to a rural zone.
9.2 Rural Lands	N		The Planning Proposal will not affect land within an existing rural zone or alter the minimum lot size applied to rural land.
9.3 Oyster Aquaculture	N		
9.4 Farmland of State and Regional Significance on the NSW Far North Coast	N		

Michele Bos
Cadell Consulting Services
michele@cadellconsulting.com.au

27 March 2024

Dear Michele

RE: APPLICATION TO LIST EUCALYPTUS OLEOSA AT THE AUSTRALIAN INLAND BOTANIC GARDENS AS AN ITEM OF ENVIRONMENTAL HERITAGE

As instructed, I have reviewed the application that has been prepared by Victor Eddy to list an eucalyptus oleosa tree known as the 'Wow Tree' located at the Australian Inland Botanic Gardens as an item of environmental heritage in *Wentworth Local Environmental Plan 2011*. I have also reviewed the draft planning proposal prepared by Cadell Consulting to amend the planning scheme.

Qualifications

I am a human geographer and town planner with over 30 years' experience including recognised expertise in heritage conservation and management. I established and managed the heritage conservation program at Eurobodalla Shire Council in 1998 and have prepared many heritage impact statements, assessments of heritage value and conservation management plans as a consultant. I have degrees in the social sciences and planning and attended the Heritage Planning in Practice short course run by the NSW Heritage Office in the year 2000. In my practice as a heritage consultant, I am qualified to carry out a peer review of the assessment of the heritage values of the Wow Tree prepared by Victor Eddy.

Statement

The application prepared by Victor Eddy is comprehensive and demonstrates that the significance of the Wow Tree satisfies the criteria for assessing heritage significance as contained in guideline *Assessing heritage significance* published by the NSW Department of Planning and Environment dated May 2023. These criteria and a response are given below.

Criterion (a) Historic significance – An item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area).

The Wow Tree is the longest surviving example of the species *Eucalyptus oleosa*. This species is also known as the water mallee. It occupies an important place in both the cultural and natural history of NSW, given its significance in the spiritual life of the Indigenous tribes of western NSW including the Barkindji nation that occupied the Wentworth district. The species possesses symbolic meaning to the local Indigenous community and was a key part of traditional and religious life. It was regarded by Indigenous peoples as having spiritual properties in returning the rains to drought-ridden areas and the roots of the tree were a source of water during dry times.

sustainable thinking



Criterion (b) Historical association – An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area).

The Wow Tree has special significance to the Indigenous inhabitants of the Wentworth district who have occupied the Australian continent for around 60,000 years. Ancient communities had the capacity to live and adapt to the natural environment. They lived close to nature and used the roots of the species *Eucalyptus oleosa* to obtain water.

The tree also has a special association with the life and works of 19th century ecologists and explorers of the Australian continent, including Edward Eyre, Ernest Giles, Richard Kimber and James Noble, who witnessed the use of the roots of the species by Indigenous peoples as a source of water.

Criterion (c) Aesthetic/creative/technical achievement – An item is important in demonstrating aesthetic characteristics and/ or a high degree of creative or technical achievement in NSW (or the local area).

The Wow Tree demonstrates aesthetic characteristics that contribute to the scenic qualities of the semi-arid landscape of the Wentworth district. It is a landmark tree and representative of a landscape that has been largely cleared and modified for European agricultural pursuits.

Criterion (d) Social, cultural and spiritual – An item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural, or spiritual reasons.

The *Eucalyptus oleosa*, of which the Wow Tree is the longest surviving example, has a special association with the Barkindji people who were the early inhabitants of the area and whose descendants still remain in and around the Murray River region. The species possesses symbolic meaning to the Barkindji and was sacred due to its life-giving properties as a source of water.

Criterion (e) Research potential – An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area).

The characteristics of the Wow Tree yield important information that enables an understanding of the natural and cultural history of NSW. As the oldest example of the species, it remains a benchmark or reference for the natural landscape that existed before European settlement in the district. Being located at the Australian Inland Botanic Gardens enables visitors to gain knowledge and an understanding of the importance of the species to the Indigenous people and of the characteristics of the landscape before settlement.

Criterion (f) Rare – An item possesses uncommon, rare, or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area).

Over 35% of the *Eucalyptus oleosa* species has been cleared in NSW. The species is not considered uncommon or rare and is not listed as critically endangered, endangered or vulnerable in the *Biodiversity Conservation Act 2016*. However, the Wow Tree is rare in terms of its age which is estimated to be 2,500 years.



Criterion (g) Representative - An item is important in demonstrating the principal characteristics of a class of NSW's cultural or natural places; or cultural or natural environments (or a class of the local area's cultural or natural places; or cultural or natural environments).

The Wow Tree is a stand-alone indicator of the ability of the species *Eucalyptus oleosa* to withstand natural disasters including bushfires and prolonged drought and more recently human-induced climate change. It is a representative example of the type of vegetation that has thrived and survived over thousands of years in a semi-arid landscape.

In summary, the application to list an *eucalyptus oleosa* tree known as the Wow Tree as an item of environmental heritage is supported. The assessment and *Statement of Significance* adequately demonstrate that the Wow Tree is of local heritage significance within Wentworth local government area. The Wow Tree is deemed to be of cultural significance due to its setting, associations and meanings and is particularly representative in terms of historic, social and spiritual values to past, present and future generations of the Indigenous Barkindji people.

It is recommended that the planning proposal to list the Wow Tree as an item of environmental heritage in *Wentworth LEP 2011* proceed.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Allen Grimwood".

Allen Grimwood BA(Hons), MURP, RPIA
Director



Ordinary Meeting AGENDA**20 April 2022**

9.18 AUSTRALIAN INLAND BOTANIC GARDENS HERITAGE REQUEST

File Number: RPT/22/250

Responsible Officer: Matthew Carlin - Director Health and Planning

Responsible Division: Health and Planning

Reporting Officer: Michele Bos - Strategic Development Officer

Objective: 2.0 Wentworth is a desirable Shire to visit, live, work and invest

Strategy: 2.1 Grow visitation to the Shire by developing a quality visitor experience and promoting our destination

Summary

Council has received a request, from the Australian Inland Botanic Gardens, to add an item to the Wentworth Local Environmental Plan 2011 Schedule 5 Environmental heritage list.

The item is a 2,500 year old Eucalyptus Oleosa tree, also known as the WOW tree, located within the Botanic Gardens at 1183 River Road, Mourquong.

Recommendation

That Council:

1. Resolve to support the request for listing the 2,500 year old Eucalyptus Oleosa tree, known as the WOW tree, in the Wentworth Local Environmental Plan 2011 Schedule 5 Environmental heritage.
2. Resolve to prepare the Planning Proposal to amend the Wentworth Local Environmental Plan 2011 Schedule 5 Environmental heritage on behalf of the Australian Inland Botanic Garden.
3. That a division be called in accordance with S375A of the *Local Government Act 1993 (NSW)*.

Detailed Report**Purpose**

The purpose of this report is to provide details of the request received from the Australian Inland Botanic Gardens (AIBG) to add an item to the Wentworth Local Environmental Plan 2011 (WLEP) Schedule 5 Environmental heritage list and the process required to add the listing, should Council support the request.

Background

Council was contacted in July 2021 by the AIBG Office Manager seeking advice as to the process of heritage listing a 2,500 year old Eucalyptus Oleosa tree, also known as the WOW tree.

A subsequent onsite inspection of the tree, including a meeting with relevant Board members, was conducted to discuss the matter and the process of requesting Council to add an item to the WLEP heritage list.

Council is now in receipt of the request from AIBG to consider including the WOW tree to the WLEP Schedule 5 Environmental heritage list.

To support the request, the AIBG engaged a local forestry expert to prepare a report on the subject tree which includes comprehensive details of the tree, the state and national significance of the species and a heritage assessment of the tree based on NSW Heritage assessment criteria. It is considered that this report provides sufficient justification to support the request.

Ordinary Meeting AGENDA**20 April 2022**

Refer to Attachment 1 – AIBG Request for Local Heritage listing of the WOW Tree.

Matters under consideration

The process to amend the WLEP, including adding items to the list contained in Schedule 5 Environmental heritage, is through the planning proposal process.

The planning proposal process is briefly outlined as follows:

- Preparation of a Planning Proposal which includes details of what the planning proposal aims to do, how it amends the WLEP, its consistency with strategic plans and state policy
- Submitting the Planning Proposal to the Department of Planning and Environment (DPE) requesting a Gateway Determination to proceed
- Exhibition of the Planning Proposal
- Consideration of submissions
- Request for Parliamentary Counsel Opinion
- Final submission to DPE for approval and notification of the amendment to the WLEP on the legislative website.

The request submitted to Council is not a Planning Proposal.

Council could support the request both in principle and by preparing the Planning Proposal on behalf of AIBG. Alternatively, Council could respond in writing advising that while it supports the request, a planning consultant will need to be engaged to prepare the Planning Proposal for the AIBG.

Options

Based on the information contained in this report, the options available to address this matter are to:

- Support the request for adding the WOW tree as an item to the WLEP Schedule 5 Environmental heritage list, and
- Prepare the Planning Proposal on behalf of the AIBG, or
- Advise AIBG that a Planning Proposal must be prepared by a planning consultant to progress the request to add the WOW tree as an item to the WLEP Schedule 5 Environmental heritage list.

Legal, strategic, financial or policy implications

Should Council resolve to prepare the Planning Proposal on behalf of AIBG, the financial implications for Council include forfeiting the planning proposal fee, as per the 2021-2022 Fees and Charges, as it would then be a Council initiated Planning Proposal.

Conclusion

It is concluded that the most appropriate course of action is to advise AIBG that Council supports the request to list the WOW tree in Schedule 5 Environmental heritage of the WLEP and prepare the Planning Proposal on behalf of AIBG.

Attachments

1. AIBG Request for Local Heritage listing of WOW Tree (Eucalyptus oleosa).[↓](#)

ORDINARY MEETING MINUTES

20 APRIL 2022

9.18 AUSTRALIAN INLAND BOTANIC GARDENS HERITAGE REQUEST

File Number: RPT/22/250

Responsible Officer: Matthew Carlin - Director Health and Planning

Responsible Division: Health and Planning

Reporting Officer: Michele Bos - Strategic Development Officer

Objective: 2.0 Wentworth is a desirable Shire to visit, live, work and invest

Strategy: 2.1 Grow visitation to the Shire by developing a quality visitor experience and promoting our destination

Summary

Council has received a request, from the Australian Inland Botanic Gardens, to add an item to the Wentworth Local Environmental Plan 2011 Schedule 5 Environmental heritage list.

The item is a 2,500 year old Eucalyptus Oleosa tree, also known as the WOW tree, located within the Botanic Gardens at 1183 River Road, Mourquong.

Recommendation

That Council:

1. Resolve to support the request for listing the 2,500 year old Eucalyptus Oleosa tree, known as the WOW tree, in the Wentworth Local Environmental Plan 2011 Schedule 5 Environmental heritage.
2. Resolve to prepare the Planning Proposal to amend the Wentworth Local Environmental Plan 2011 Schedule 5 Environmental heritage on behalf of the Australian Inland Botanic Garden.
3. That a division be called in accordance with S375A of the *Local Government Act 1993 (NSW)*.

Council Resolution

That Council:

1. Resolve to support the request for listing the 2,500 year old Eucalyptus Oleosa tree, known as the WOW tree, in the Wentworth Local Environmental Plan 2011 Schedule 5 Environmental heritage.
2. Resolve to prepare the Planning Proposal to amend the Wentworth Local Environmental Plan 2011 Schedule 5 Environmental heritage on behalf of the Australian Inland Botanic Garden.
3. That a division be called in accordance with S375A of the *Local Government Act 1993 (NSW)*.

Moved Cr Rodda, Seconded Cr Linklater**CARRIED UNANIMOUSLY**

ORDINARY MEETING MINUTES

20 APRIL 2022

In accordance with Section 375A of the Local Government Act the Mayor called for a division.

For the Motion : ***Clr.s Beaumont, Cooper, Crisp, Elstone, Evans, Linklater, Nichols and Rodda.***

Against the Motion: ***Nil.***



Our Reference:
 Prepared By: George Kenende
 Date:

PLANNING PROPOSAL ASSESSMENT REPORT

Application Details

Application No: L1/103 (PP-2024-798)

Applicant: Cadell Consulting Services

Proposal Summary: Amend the Planning instrument by adding the WOW tree as a local heritage item and adding it to the heritage mapping

Land Owner/s: Crown Land (AUSTRALIAN INLAND BOTANIC GARDENS as land managers)

Assessment Officer: George Kenende, Acting Director Health and Planning

Site and Locality Details

Subject Land: 1183 River Road, Mourquong (Lot 1170 DP 820161)

Current LEP provisions: No heritage item on the land

Current DCP Provisions: None applicable

Proposed amendment controls: List existing tree on the land as a local heritage item and amend heritage mapping

Existing Character and Use: The subject land is located at 1183 River Road, Mourquong in south western New South Wales between Buronga and Dareton. The closest town, Buronga, is situated approximately 4.5 kilometres to the south east of the subject site. The regional Victorian city of Mildura is located approximately 7 kilometres to the south via Buronga.

The subject site has direct access from River Road on the southern boundary and Buronga Hill Road on the north eastern boundary. The subject site is Crown Land with AUSTRALIAN INLAND BOTANIC GARDENS Inc (AIBG Inc) designated as the Crown Land Manager of NSW Reserve R230087 and R230088.

The planted garden area of the subject site encompasses an area of approximately 50 hectares and includes multiple buildings used for souvenir sales, weddings, events, conferences and activities include train tours, nature walks and community events.

The subject site is identified as Vegetation Category 1 under bushfire prone land mapping.

Locality: The subject site is surrounded by land zoned RU1 Primary Production (west, south), RU4 Primary Production Small Lots (east) and E4 General Industrial (north). Surrounding land uses include a mix of pastoral, industrial and horticultural activities.



Figure 1: WOW Tree Site location (extracted from planning proposal)



Figure 2: Surrounding land use (extracted from planning proposal)

Planning Proposal

Council is in receipt of an application to amend the Wentworth Local Environmental Plan 2011 (WLEP) to:

1. Amend Schedule 5 of the Wentworth Local Environmental Plan 2011 (WLEP) by adding a 2,500 year old Eucalyptus Oleosa tree, also known as or commonly referred to as the 'Wow Tree'.
2. Amend WLEP mapping *Heritage Map – Sheet HER_004 Item - General*

The planning proposal outlines the purpose of the proposal to:

- a) Acknowledge and promote the age and resilience of the Wow Tree, and
- b) Celebrate and recognise the significance of the Wow Tree to the first nations people and visitors to the Australian Inland Botanical Gardens.



Figure 3: Current and Proposed Heritage Mapping

The applicant's description of the proposal, including supporting information are provided within the Planning Proposal.

Strategic Assessment

1. Consistency with WSC Community Strategic Plan 2022-2032

The planning proposal seeks to identify the WOW tree as a local heritage item within the WLEP. The is proposed to provide an additional heritage attraction to the AIBG, which will be in line with future vision of the land in terms of creating a thriving, attractive and welcoming community. The listing of the tree as a heritage item will also protect it from any future development on the land. This will be in line with the vision of protecting natural environment within the shire.

Consistent

2. Consistency with WSC Local Strategic Planning Statement

The proposed planning proposal is consistent with *Planning Priority 8 - Preserve and promote heritage* of the Local Strategic Planning Statement (LSPS) as outlined on Page 10 of the Planning Proposal. The planning proposal is for heritage listing a tree with significant heritage value thus protecting it from any future land uses.

Consistent

3. Consistency with any other relevant strategy/study/report

No other strategy/study/report is relevant for the proposed planning proposal.

n/a
<p>4. <i>Consistency with Far West Regional Plan 2036</i></p> <p>The planning proposal addresses and shows consistency with <i>Goal 2 Direction 18</i>.</p> <p>While the Wow Tree is not a registered cultural heritage site, the planning proposal has shown the importance of the species to the local indigenous community, being the Mallee tree, for their water-bearing roots and resilience in times of extreme heat and drought.</p> <p>Consistent</p>
<p>5. <i>Consistency with Draft Far West Regional Plan 2041</i></p> <p>The planning proposal addresses and shows consistency with <i>Objective 2 Protect and enhance culture and heritage</i>. The objective aims to value and protect heritage items as they are irreplaceable.</p> <p>Consistent</p>
<p>6. <i>Consistency with applicable State Environmental Planning Policies</i></p> <p>Refer to Table 1 below.</p>
<p>7. <i>Consistency with applicable Section 9.1 Ministerial Directions</i></p> <p>Refer to Table 2 below.</p>

Table 1: State Environmental Planning Policies consistency assessment

State Environmental Planning Policy (SEPP)	Applicable (Y/N)	Consistent (Y/N)	Assessment
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Y	Y	<p>The Planning Proposal is consistent with this SEPP as it does not seek to alter or harm any vegetation that would decrease koala habitat.</p> <p>The subject site is well setback from the Murray River and therefore, it is unlikely there will be any impact on or near the Murray River.</p> <p>The site is not riverine land.</p>
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	N		
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	Y	Y	<p>The aims of this policy are to streamline the assessment process for development that complies with specified development standards.</p> <p>The Planning Proposal does not detract from the aims of this policy.</p>
State Environmental Planning Policy (Housing) 2021	Y	Y	<p>The aims of this policy are to streamline the assessment process for development that complies with specified development standards.</p>



Our Reference:
 Prepared By: George Kenende
 Date:

		The Planning Proposal does not detract from the aims of this policy.
State Environmental Planning Policy (Industry and Employment) 2021	N	
State Environmental Planning Policy No 65 Design Quality of Residential Apartment Development	N	
State Environmental Planning Policy (Planning Systems) 2021	N	
State Environmental Planning Policy (Precincts – Central River City) 2021	N	
State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021	N	
State Environmental Planning Policy (Regional) 2021	N	
State Environmental Planning Policy (Western Parkland City) 2021	N	
State Environmental Planning Policy (Primary Production) 2021	N	<p>The site relates to land zoned RU1 Primary Production.</p> <p>The Planning Proposal does not detract from the aims of this policy.</p>
State Environmental Planning Policy (Resilience and Hazards) 2021	N	
State Environmental Planning Policy (Resources and Energy) 2021	N	
State Environmental Planning Policy (Transport and Infrastructure) 2021	N	

Table 2: Ministerial Directions consistency assessment

Section 9.1 Direction	Applicable (Y/N)	Consistent (Y/N)	Comments/Justification
1. Planning Systems			
1.1 Implementation of Regional Plans	Y	Y	<p>Based on the objective of this planning proposal the following Direction of the <i>Far West Regional Plan 2036</i> are considered to be relevant and consistent:</p> <ul style="list-style-type: none"> - <i>Goal 2 Direction 18 Respect and protect Aboriginal cultural heritage assets</i> <p>Based on the objective of this planning proposal the following Objectives of the <i>Draft Far West Regional Plan 2041</i> are considered to be relevant and consistent:</p> <ul style="list-style-type: none"> - <i>Objective 2 Protect and enhance culture and heritage</i>
1.2 Development of Aboriginal Land Council land	N		
1.3 Approval and Referral Requirements	Y	Y	The planning proposal is consistent with direction.
1.4 Site Specific Provisions	N		
1.5 Parramatta Road Corridor Urban Transformation Strategy	N		
1.6 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	N		
1.7 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	N		
1.8 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	N		
1.9 Implementation of Glenfield to Macarthur Urban Renewal Corridor	N		
1.10 Implementation of the western Sydney Aerotropolis Plan	N		



Our Reference:
 Prepared By: George Kenende
 Date:

1.11 Implementation of Bayside West Precincts 2036 Plan	N		
1.12 Implementation of Planning Principles for the Cooks Cove Precinct	N		
1.13 Implementation of St Leonards and Crows Nest 2036 Plan	N		
1.14 Implementation of Greater Macarthur 2040	N		
1.15 Implementation of the Pyrmont Peninsula Place Strategy	N		
1.16 North West Rail Link Corridor Strategy	N		
1.17 Implementation of the Bays West Place Strategy	N		
2. Design and Place			
2.1 Not yet applied			
3. Biodiversity and Conservation			
3.1 Conservation Zones	Y	Y	The Planning Proposal is consistent with this Direction as it does not involve land identified as environmentally sensitive and does not seek to reduce environmental protect standards.
3.2 Heritage Conservation	Y	Y	The Planning Proposal is consistent with this Direction as it aims to conserve an additional item on the subject site.
3.3 Sydney Drinking Water Catchments	N		
3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	N		
3.5 Recreation Vehicle Areas	N		
4. Resilience and Hazards			
4.1 Flooding	N		The subject site is not subject to flooding.
4.2 Coastal Management	N		
4.3 Planning for Bushfire Protection	Y	Y	The subject site is bushfire mapped. However, the Planning Proposal does not seek to enable new development in the bushfire prone area.
4.4 Remediation of Contaminated Land	Y	Y	The subject site is currently zoned RU1 Primary Production and the Planning Proposal does not seek to rezone the site or to alter the future use of the site.
4.5 Acid Sulfate Soils	N		

4.6 Mine Subsidence and Unstable Land	N		
5. Transport and Infrastructure			
5.1 Integrating Land Use and Transport	N		
5.2 Reserving Land for Public Purposes	N		
5.3 Development Near Regulated Airports and Defence Airfields	N		
5.4 Shooting Ranges	N		
6. Housing			
6.1 Residential Zones	N	N	
6.2 Caravan Parks and Manufactured Home Estates	N		
7. Industry and Employment			
7.1 Employment zones	N		
7.2 Reduction in Non-Hosted Short-term Rental Accommodation period	N		
7.3 Commercial and Retail Development along the Pacific Highway North Coast	N		
8. Resources and Energy			
8.1 Mining, Petroleum Production and Extractive Industries	N		
9. Primary Production			
9.1 Rural Zones	N		
9.2 Rural Lands	N		
9.3 Oyster Aquaculture	N		
9.4 Farmland of State and Regional Significance on the NSW Far North Coast	N		

Site Assessment*Suitability of site for proposal*

The site is deemed suitable for the heritage listing. Due to the current use of the land as a botanical garden, the heritage listing will provide another attraction to the subject land. The heritage listing is not anticipated to impact existing uses of the land.

Infrastructure

The planning proposal will not create impacts on infrastructure on the subject land or surrounding area.



Our Reference:
 Prepared By: George Kenende
 Date:

Consultation
<i>Internal consultation</i>
N/A
<i>External consultation</i>
Department of Planning, Housing and Infrastructure

Financial Implications
Council's 2023/2024 Fees and Charges includes a fee for planning proposals which is \$7,885.90. This fee was fully waived by council at the 15 May 2024 ordinary Council meeting. .
Should the planning proposal proceed and an amendment to the LEP be made, the contribution plan will apply to future development on the subject site.

Recommended Amendments	
Minor amendments to the project timeframe are as follows:	
Stage	Timeframe
Pre-lodgement	January 2024
Planning proposal	July 2024
Gateway determination	September 2024
Post Gateway	September 2024
Consultation & Assessment	October – November 2024
Finalisation	January – February 2025

Conclusion and Recommendation
<p>That Council:</p> <ol style="list-style-type: none"> Support the planning proposal to amend the Wentworth LEP 2011 by: <ol style="list-style-type: none"> Amending Schedule 5 of the Wentworth Local Environmental Plan 2011 (WLEP) by adding a 2,500 year old Eucalyptus Oleosa tree, also known as or commonly referred to as the 'Wow Tree'. Amending WLEP Heritage Map – Sheet HER_004 Item - General Submit the planning proposal to the NSW Department of Planning Housing and Infrastructure for Gateway Determination

9.17 WENTWORTH LOCAL ENVIRONMENTAL PLAN 2011 PLANNING PROPOSAL TO REDUCE MINIMUM LOT SIZE FROM 3,000SQM TO 2,000SQM LOT 2 DP 875018

File Number: RPT/24/422

Responsible Officer: George Kenende - Acting Director Health & Planning
 Responsible Division: Health and Planning
 Reporting Officer: George Kenende - Acting Director Health & Planning

Objective: 4.0 Wentworth Shire is supported by strong and ethical civic leadership with all activities conducted in an open, transparent and inclusive manner

Strategy: 4.1 Consistently engage and consult the whole community to ensure that feedback is captured and considered as part of decision-making and advocating processes

Summary

Wentworth Shire Council resolved to proceed with a Planning Proposal to amend planning provisions in the Wentworth Local Environmental Plan 2011 (WLEP) that specifically relate to amendment to the Minimum Lot Size (MLS) mapping.

The Department of Planning, Housing and Infrastructure (DPHI) issued a Gateway Determination to proceed on 26 February 2024.

The Planning Proposal sought to amend the following provisions:

- Reduce the Minimum Lot Size (MLS) from 3,000sqm to 2,000sqm of Lot 2 DP 875018 (Lot Size Map - Sheet LSZ_004G)

Public exhibition consultation was conducted in accordance with the Gateway Determination. Five (5) public submissions were received, with 2 of the submissions

being duplicates of each other.

No amendments have been made to the Planning Proposal as an outcome of public exhibition.

This report seeks Council endorsement of the Planning Proposal and approval to proceed with finalisation of the amendment to the Wentworth Local Environmental Plan 2011 as Council are the plan-making authority.

Recommendation

That Council:

- a) Endorse the post exhibition documentation as outlined in this report.
- b) Support and resolve to proceed with the finalisation of the Planning Proposal in accordance with section 3.36 of the *Environmental Planning and Assessment Act 1979*.
- c) Call a division in accordance with S375A of the Local Government Act 1993 (NSW).

Detailed Report

Purpose

The purpose of this report is to advise Council of the Gateway Determination conditions, the subsequent outcomes from exhibition of the Planning Proposal and process for the Planning Proposal to be finalised.

Background

Council's Health and Planning Department received a planning proposal from Cadell Consulting Services on 24 November 2023 to amend the MLS of a block of land in Gol Gol. The planning proposal was reported to Council seeking a resolution to submit the Planning Proposal to DPHI requesting a Gateway Determination to proceed.

The Gateway Determination to proceed was issued by DPHI on 26 February 2024. The Gateway Determination contained two (2) conditions, both of which Council is obligated to comply. The next section of this report details how compliance with the conditions was achieved.

Refer to **Attachment 1** Planning proposal.

Matters under consideration

Gateway Determination

The Gateway Determination was issued 26 February 2024.

Refer to **Attachment 2** Section 3.36 Planning Report (Attachment 1 - Gateway Determination Cover Letter).

Refer to **Attachment 2** Section 3.36 Planning Report (Attachment 2 - Gateway Determination).

The timeframe for completing the LEP is to be on or before **3 December 2024**.

A summary of compliance with the conditions of the Gateway Determination are provided, as follows:

1. Public exhibition was conducted in accordance with the conditions of the Gateway Determination. Further details are provided below.
2. A public hearing was not required.

All conditions of the Gateway Determination have been satisfied.

Public exhibition

In accordance with Schedule 1 Clause 4 Community participation requirements of the Environmental Planning and Assessment Act 1979, and Condition 1 of the Gateway Determination, the planning proposal was placed on public exhibition from 1 March 2024 to 20 March 2024.

Public notice was provided in the Sunraysia Daily and posts on social media.

The proposed amendment and accompanying exhibition material were made available for viewing by the public on Council's website and at Council's Customer Service Counter in Wentworth and Midway Centre in Buronga.

As conditioned by the Gateway Determination, Council exhibited the following information:

- Gateway Determination
- Gateway Determination Letter
- Planning Proposal

Five (5) community submissions were received. One of the submissions was a duplicate of another submission. The submissions have been reviewed, considered and a response to each topic or comment is included in the attached submissions table.

No amendments were made to the Planning Proposal in response to the submissions.

Refer to **Attachment 2** Section 3.36 Planning Report (Attachment 3 – Submission Table).

Refer to **Attachment 3** Submissions

Refer to **Attachment 4** Applicants response to submissions

Next Process

The Gateway Determination authorises Council as the local plan-making authority.

Therefore, the process to finalise the Planning Proposal is as follows:

- Council to proceed with the finalisation process of the planning proposal as Council are the Local Plan-making Authority

Options

Based on the information contained in this report, the options available to address this matter are to:

- a) Resolve to support and proceed with finalisation of the Planning Proposal.

Or

- b) Resolve to not proceed with the finalisation of the Planning Proposal.

Legal, strategic, financial or policy implications

The options contained in this report ensure that Council:

- a) Satisfies its legal obligations under the Gateway Determination; and
- b) Is consistent with the Community Strategic Plan 2022-2023 and Local Strategic Planning Statement;

There are no known financial or policy implications for Council.

Conclusion

It is concluded that the most appropriate course of action is to support and proceed finalisation of the proposal and notification of the amendment on the legislative website.

Attachments

1. Planning Proposal[↓](#)
2. Section 3.36 Planning Report[↓](#)
3. Submissions (Under separate cover)[⇒](#)
4. Applicants Response to Submissions (Under separate cover)[⇒](#)



PLANNING PROPOSAL

AMEND MINIMUM LOT SIZE

18 WILGA ROAD, GOL GOL

Michele Bos

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Version	Date	Author	Approved
Pre-lodgement	October 2023	Michele Bos	Cadell Consulting Services
Lodgement	October 2023	Michele Bos	Cadell Consulting Services

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1. Introduction

1.1 Overview

This Planning Proposal has been prepared by Cadell Consulting Services on behalf of Quad Property Investments Pty Ltd.

The Proposal seeks to amend the Wentworth Local Environmental Plan 2011 (WLEP) by amending the minimum lot size from 3,000 m² to 2,000 m² applied to the subject site.

This Planning Proposal has been prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), together with satisfying the requirements of the NSW Department of Planning, Industry and Environment *Local Environmental Plan Making Guideline August 2023* (DPIE Guideline).

The Planning Proposal is categorised as a 'Standard' application, as it proposes to amend a development standard.

1.2 Format of the Planning Proposal

This Planning Proposal has been structured as follows:

- Section 1 introduces the Planning Proposal and supporting documentation
- Section 2 provides a description of the subject site, its locality and the surrounding land uses
- Section 3 contains the Planning Proposal prepared in accordance with the DPIE Guideline

1.3 Supporting Documentation

The following documentation and plans have been prepared to support this Planning Proposal. These attachments are identified in Table 1 below:

Table 1 Attachments to Planning Proposal

Attachment Name		Prepared by
1.	Proposed Subdivision Concept Plan	MH ² Engineering & Architectural Services Pty Ltd
2.	Consistency with State Environmental Planning Policies	Cadell Consulting Services
3.	Consistency with Section 9.1 Ministerial Directions	Cadell Consulting Services

2. Site & Locality Details

2.1 Site Location

The site is located in Gol Gol in south western New South Wales.

Gol Gol is situated approximately 7 kilometres from the central business district of the regional city of Mildura, in north western Victoria.

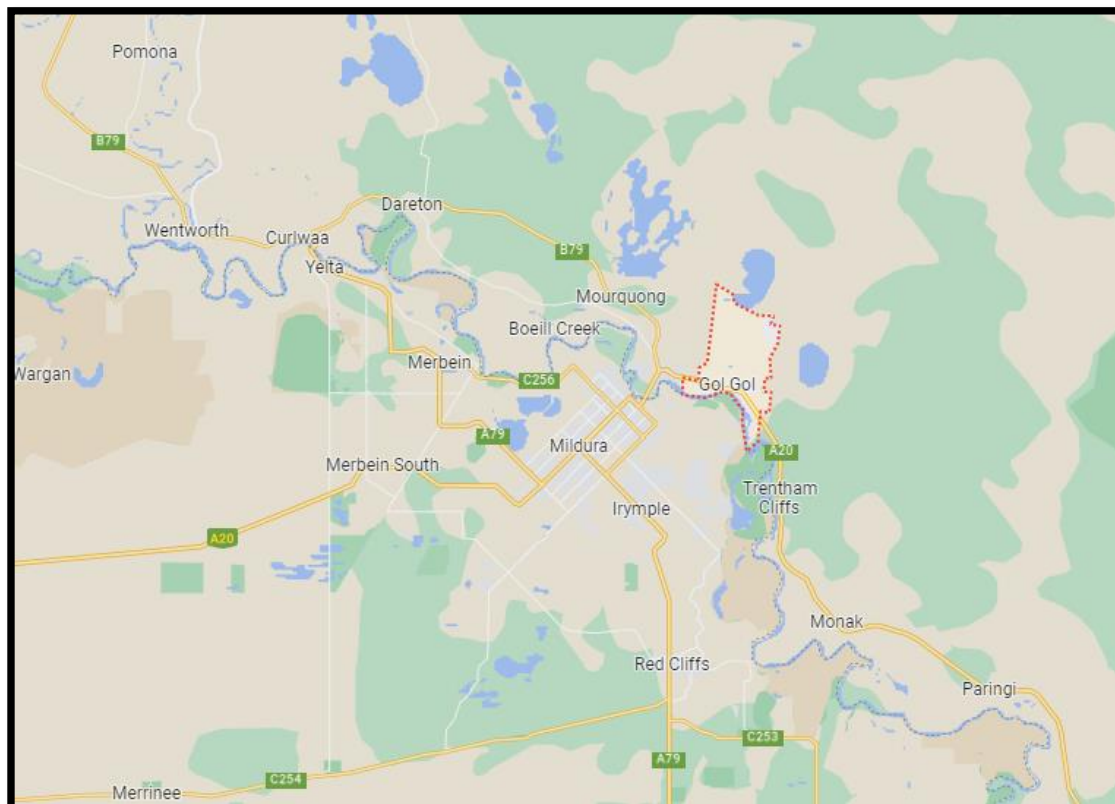


Figure 1 Locality Map (Source: Google Maps)

2.2 Site Description

The subject site is located on the eastern fringe of Gol Gol.

The site is bounded by the Sturt Highway to the west and Fayer Lane to the south.

Access to the subject site is from Wilga Road via an internal lane. The site also has frontage to Moontongue Drive to the north.

The topography of the site is flat and does not contain any significant landforms.

Table 2 Lot Identifier & Addresses

Lot Identifier	Address	Area
Lot 2 DP875018	18 Wilga Road, Gol Gol 2738	8.7 hectares

There is an existing dwelling and associated agricultural sheds on the site.

The site is predominantly under horticultural crop. Other than the existing horticultural crop, the vegetation on the site includes some planted ornamental trees on the south and east facades of the existing dwelling.



Figure 2 Site Aerial Map (Source: Nearmap)

The subject site, which is irregular in shape, has the R5 Large Lot Residential zone applied.

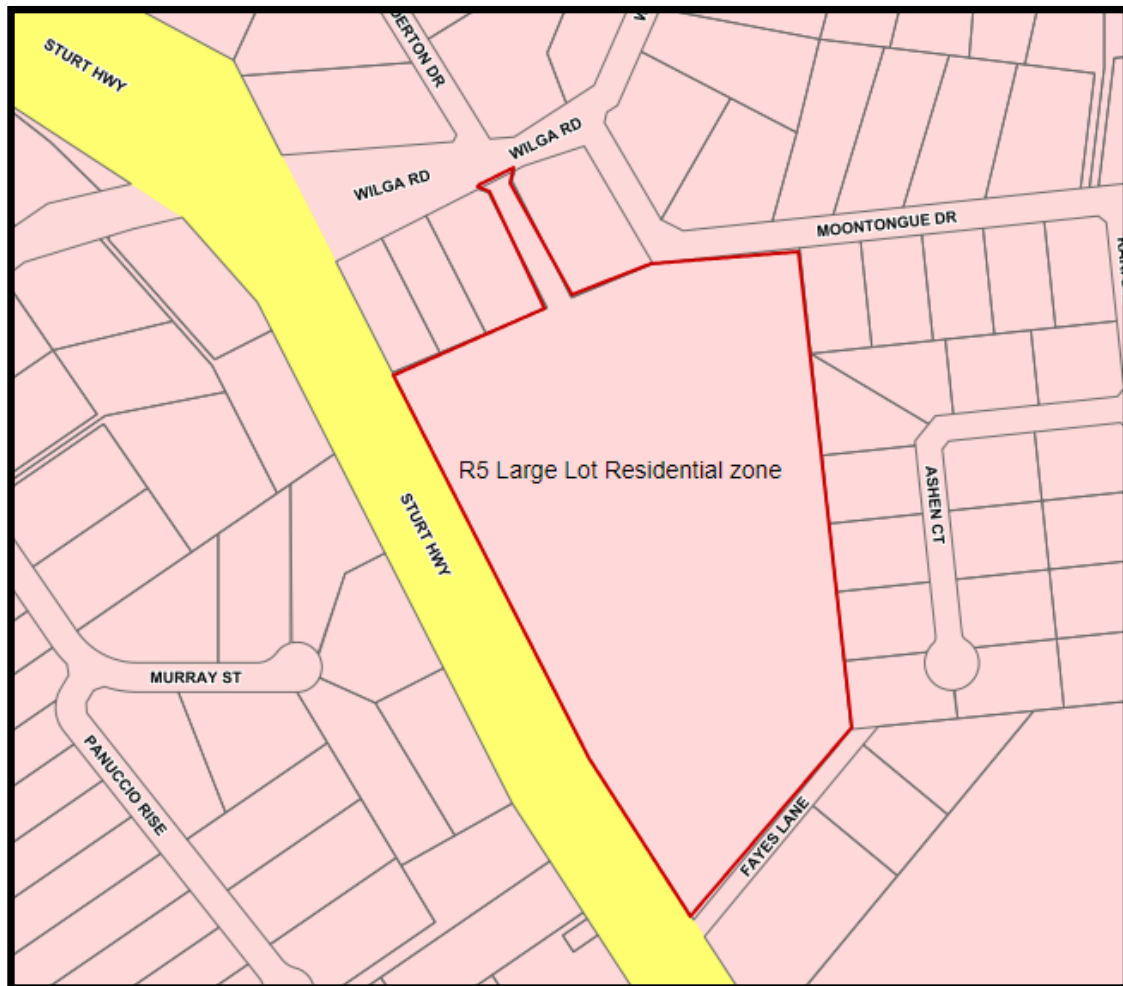


Figure 3 Zone Map (Source: WSC Intramaps)

The subject site has a current minimum lot size of 3,000m² applied.

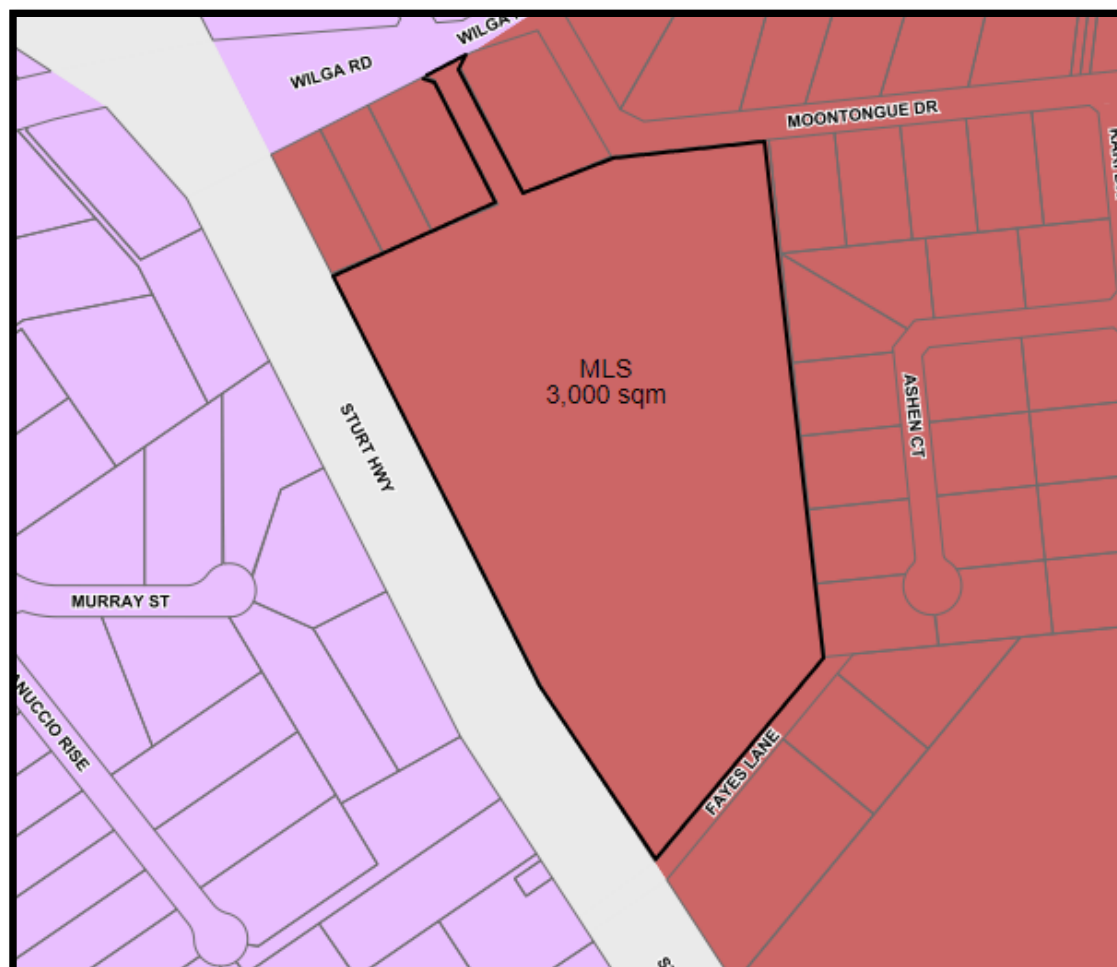


Figure 4 MLS Map (Source: WSC Intramaps)

The subject site is not located within the bushfire prone land mapping and is not subject to flooding.

2.3 Surrounding Development

The subject site is surrounded by land under the R5 Large Lot Residential zone. The majority of the surrounding land is developed and contains dwellings and associated buildings.

Land further to the south east has recently been subdivided in to 39 allotments.



Figure 5 Surrounding Land Use Map (Source: Nearmap)

3. Planning Proposal

3.1 Objectives or Intended Outcomes

The objective of this Planning Proposal is to amend the *Wentworth Local Environmental Plan 2011* by:

- applying the minimum lot size of 2,000 square metres to the subject site.

The intended outcomes of the Planning Proposal are to:

- take advantage of the ongoing increase in demand for land in the large lot residential zone, and
- provide a greater variety of lot sizes in the R5 Large Lot Residential zone, and
- increase the potential lot yield from approximately 20 to 24 lots.

The above intended outcomes will be achieved by amending the current minimum lot size of 3,000m² down to 2,000m².

A proposed subdivision concept plan is provided in Attachment 1.

3.2 Explanation of Provisions

To achieve the objectives and intended outcomes of the Planning Proposal, the proposal seeks to amend the following Minimum Lot Size map applicable to the subject site, being Lot 2 DP875018 at 18 Wilga Road, Gol Gol, from 3,000m² to 2,000m²:

Wentworth Local Environmental Plan 2011 – Lot Size Map - Sheet LSZ_004G



Figure 6 Existing & Proposed Minimum Lot Size Maps (Source: WSC Intramaps)

While the current minimum lot size is not considered to be inappropriate, it should be noted that the 3,000 sqm MLS was originally applied as the future servicing of the area could not include connection to Council's reticulated waste water system.

However, now that there is waste water infrastructure adjacent to the Sturt Highway and it is obtainable, the landowners have elected to reduce the minimum lot size to provide fully serviced lots large residential lots. A higher density of development also equates to a higher profit margin which funds the connection to and provision of waste water services.

3.3 Justification

Section A – Need for the Planning Proposal

3.3.1 Is the Planning Proposal a result of an endorsed local strategic planning statement, strategic study or report?

Local Strategic Planning Statement (LSPS)

Though not a direct result of a recommendation in the LSPS, the Planning Proposal is not inconsistent with the Primary Settlement Areas Strategies for Buronga and Gol Gol, or the Strategic vision, intent and priorities of the LSPS.

Further details are provided in Section 3.3.4.

Buronga Gol Gol Structure Plan (BGGSP)

Whilst not a direct result of a recommendation of the BGGSP, the Planning Proposal is also not inconsistent with the Plan and its recommendation to increase land supply in the R5 Large Lot Residential zone.

Page 45 of the BGGSP identified that there is limited availability of large lot residential zoned land, particularly as there are current landowners who do not intend to develop in the short to medium timeframe.

Additionally, the BGGSP also outlined how Buronga and Gol Gol were experiencing 'fast pace' development, and therefore, the land supply should be increased to forestall any potential shortage in the supply of large lot residential land.

It is understood that the landowner of the subject site, at the time the BGGSP was prepared, had no intention of developing the site for large lot residential purposes in the short to medium term. Hence, the BGGSP identifying the site for future development in 2028-2032. However, the ownership of the site has changed and therefore, circumstances change.

The Land Use Principles of the BGGSP also aim to:

iii. Promote a mixture of urban development that allows for flexibility to respond to changes in the community over time and cater for a diversity of land sizes and housing types

The Planning Proposal is consistent with this principle, in that it will provide a greater diversity of lot sizes in the popular R5 zone.

The BGGSP was endorsed by the Department of Planning & Environment 5 November 2021.

3.3.2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The Planning Proposal is the best means of achieving the objectives and intended outcomes for the proposed development, as the minimum lot size provisions in the Wentworth LEP 2011 determine the permissible lot size in the zone.

The current minimum lot size applied to the subject site in the Wentworth LEP 2011 sets the subdivision area for each allotment at a minimum of 3,000m².

This Planning Proposal seeks to reduce the minimum lot size to 2,000m².

Section B – Relationship to Strategic Planning Framework

3.3.3 Will the Planning Proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

Far West Regional Plan 2036 (FWRP)

Goal 3 of the FWRP aims to encourage strong and connected communities by building community resilience and capacity through focus and responding to environmental, industry, climate, economic and demographic changes in the region.

The Actions under *Direction 27: Provide greater housing choice* that relate to this Planning Proposal include:

27.1 Review planning controls in existing town centres to increase housing options in centres and locations close to services and jobs.

Response: The consequence of this Planning Proposal will be a reduction to the current minimum lot size to increase the variety of lot size options and increase the availability of current R5 zoned land stock, in a location that is adjacent to the township of Gol Gol and where there is access to a variety of services, including lifestyle, community, retail, health, education and employment in Gol Gol, Buronga and Mildura.

27.2 Align infrastructure planning with land release areas to support new developments with adequate infrastructure.

Response: Due to the new sewer infrastructure adjacent to the Sturt Highway, east of Gol Gol, the intensification of the proposed development of this site is supported by the accessibility to provide all services, which now also includes reticulated sewer.

The Actions under *Direction 29: Manage rural residential development*, that relate to this Planning Proposal include:

29.1 Provide opportunities for rural residential development only where it has been identified in a local strategy prepared by council and approved by the Department of Planning and Environment.

Response: The subject site is already zoned for R5 purposes. The subject site also falls within the Buronga and Gol Gol settlement boundary as identified in the *Wentworth Shire Council Local Strategic Planning Statement*.

29.3 Locate rural residential areas:

- ❖ *Close to existing urban settlements....*
- ❖ *To avoid and minimise the potential for land use conflicts...*
- ❖ *To avoid areas of high environmental, cultural and heritage significance, important agricultural land or areas affected by natural hazards.*

Response: The Planning Proposal is consistent with this action as it is adjacent to the urban settlement of Gol Gol; it will not create new or additional land use conflict as the surrounding land contains large lot residential development; the subject site does not contain high environmental, cultural and heritage significance, nor is it considered important agricultural land and is not identified as bushfire or flood prone land.

Draft Far West Regional Plan 2041 (DFWRP)

Part 2 of the DFWRP focuses on the region's people and communities.

Objective 6: Plan for housing supply, diversity, affordability and resilience aims to respond to anticipated future changes to demographic and household structures, the demand and housing for temporary workers.

The strategies, under Strategy 6.1, that relate to this Planning proposal, include:

- ❖ *creating flexible and feasible planning controls and development standards that support greater housing mix*

Response: The Planning Proposal will enable the provision of a greater variety of lot sizes available in the R5 zone, than what is currently available in the Wentworth LEP 2011.

- ❖ *aligning infrastructure and service provision to housing supply needs*

Response: The Planning Proposal leverages the ability to now access and utilise reticulated sewer infrastructure that is located adjacent to the Sturt Highway, in addition to all other required services that support the increase in development of the subject site.

3.3.4 Is the Planning Proposal consistent with a Council Local Strategic Planning Statement that has been endorsed by the Planning Secretary or Greater Sydney Commission, or another strategy or strategic plan?

Local Strategic Planning Statement (LSPS)

The purpose of the LSPS is to guide and inform new and existing development through a strategic framework that is focused at a local level. It also identifies and aims to negate potential issues through the development of planning priorities and broad actions.

Planning Priority 6 – Sustainable settlements

The Primary Settlement Areas Strategy for Buronga and Gol Gol, as identified in the LSPS, aims for all new urban development to be located within the identified settlement boundary. The subject site falls within the settlement boundary.

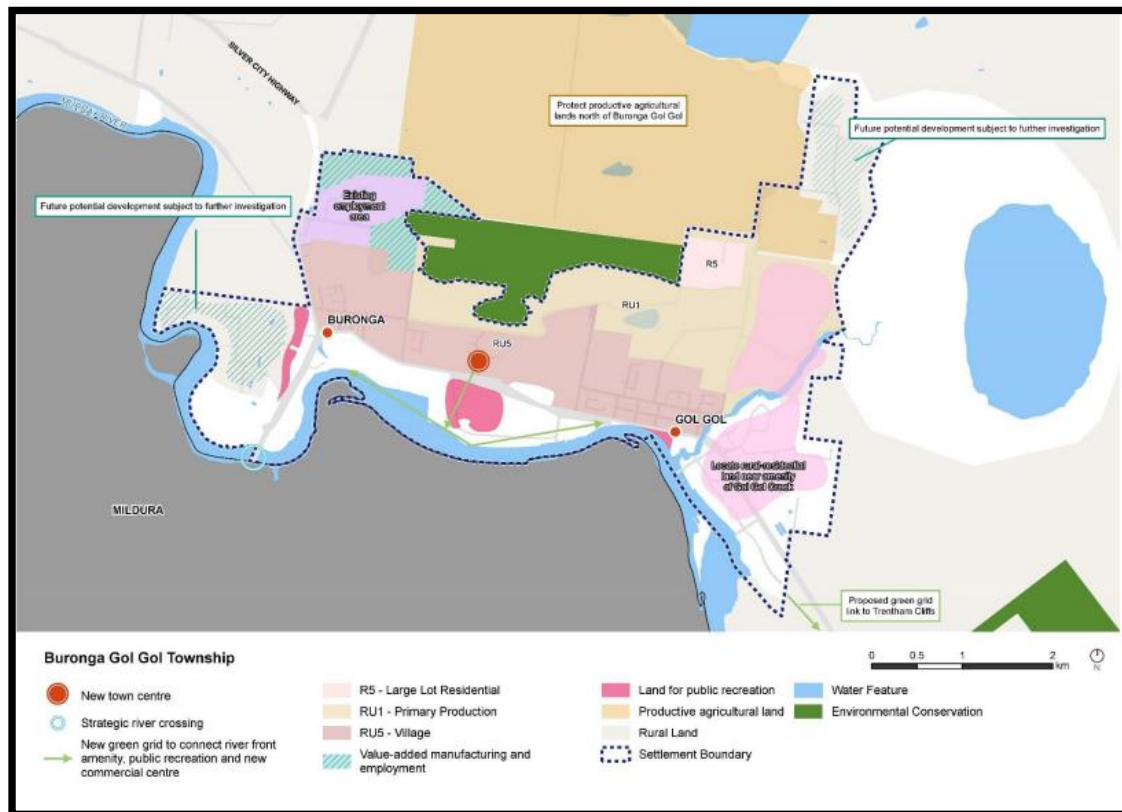


Figure 7 Buronga Gol Gol Settlement Boundary (Source: LSPS Map 5)

The Planning Proposal is also considered to be consistent with sections of the vision statement on Page 11 of the LSPS. The vision statements that relate to this Planning Proposal include:

Over the next 20 years Wentworth Shire will leverage the area's rural, industrial and residential strengths to generate economic and social growth activities.

Council will investigate and review land use pressures to ensure the shire has a complimentary balance of residential and commercial development opportunities to encourage population growth.

Our towns and villages will capitalise on growth opportunities so that they continue to service our local communities. Our towns will offer a variety of housing choice to support a growing population and as our towns continue to support new growth, our economic base will diversify. Our townships will be vibrant active places to visit and live, providing a variety of basic economic and community services.

The Planning Proposal is also consistent with the *Strategic vision, intent and priorities* of the LSPS, as it:

- ❖ Leverages the popularity and demand for R5 zoned land to facilitate population growth by increasing the supply of land for large lot residential development, and
- ❖ Makes provision for an increase in the variety of lot sizes, with access to all urban services.

Wentworth Community Strategic Plan 2022-2032 (WCSP)

The WCSP aims to respond to a holistic vision of the shire community and acts as a guide and reference point for decision making by elected representatives, community members and council staff.

The community vision of the WCSP is 'Wentworth Shire will work together to create a thriving, attractive and welcoming community'.

The four key strategies of the WCSP include:

Economic – A vibrant, growing and thriving region

Social – A great place to live

Environmental – A community that works to enhance and protect its physical and natural environment

Civic Leadership – is supported by strong and ethical civic leadership with all activities conducted in an open, transparent and inclusive manner.

A common theme during consultation and exhibition of the WCSP, was that the local community desired to witness ongoing and increased population growth in the Wentworth shire. To facilitate an increase in population, land must be available to accommodate and support that growth.

It is considered that the Planning Proposal is consistent with the WCSP and the community's aspirations to see the population of the Wentworth shire increase, as it will provide additional available land in the popular R5 zone for short term development in Gol Gol.

3.3.5 Is the Planning Proposal consistent with any other applicable State and regional studies or strategies?

There are no other known state or regional strategies or studies applicable to this Planning Proposal.

3.3.6 Is the Planning Proposal consistent with applicable State Environmental Planning Policies (SEPPs)?

An assessment of consistency of the Planning Proposal with the State Environmental Planning Policies is provided in Attachment 2.

3.3.7. Is the Planning Proposal consistent with applicable Ministerial Directions (Section 9.1 Directions)?

An assessment of consistency of the Planning Proposal with the Section 9.1 Ministerial Directions is provided in Attachment 3.

Section C – Environmental, social and economic impact

3.3.8 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal? Other than horticultural crop and ornamental or introduced vegetation on the southern façade of the dwelling, the site is otherwise devoid of vegetation.

As the site has been under horticultural crops for many years, there is no likelihood of critical habitat, threatened species, ecological communities or their habitats being present on the subject site.

3.3.9 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

There are no other known potential environmental effects as a consequence of this Planning Proposal.

3.3.10 Has the Planning Proposal adequately addressed any social and economic effects?

In addition to the social and economic benefits addressed in Section B, in response to consistency with the LSPS and WCSP, there are multiple benefits for the overall communities of Gol Gol and Buronga from this Planning Proposal.

Firstly, it facilitates an increase in the number of lots that will be made available for new residential development, particularly, in the short term. This will enable and accommodate the expanding population in Gol Gol.

Where there is an increase in population, services that support the lifestyle and needs of the local community also need to expand. These services include education facilities, health services, retail, trade and commercial services.

The increase in services culminates in the increase in localised employment and economic activity and, ultimately, capacity of the community.

Growth in population also provides social advantages to both existing and new residents in local communities, through the necessity for expansion of community services and activities driven by both the community and local groups and organisations.

Section D – State and Commonwealth interests

3.3.11 Is there adequate public infrastructure for the planning proposal?

Development of the subject site will include connection to the existing and surrounding infrastructure to fully service the large lot residential development.

Subject to the requirements of the consent authority, services required to be provided will include:

- Water, sewer and stormwater
- Safe and adequate access in and out of subject site
- Road width(s)
- Shared pathways
- Street lighting
- Fire hydrants

The developers have met with relevant officers of the Wentworth Shire Council Roads & Engineering department. During that meeting it was confirmed that all of the above infrastructure and services can be provided to adequately support and service the proposed development of the subject site.

Under the current MLS, there could be approximately 20 lots (this includes 30% of the land being used for roads, services etc). With a MLS of 2,000 sqm there could be a maximum of 30 lots. However, the subdivision concept plan included as attachment 1 shows 24 lots. Due to the shape of the subject site, it is anticipated that there will not be the ability to subdivide the area down to 30 lots. An additional 4 lots will not have a negative impact on the Wilga Road/Sturt Highway intersection.

3.3.12 What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway Determination?

It is anticipated that any additional relevant agencies and applicable service providers will be consulted through the community consultation process, as conditioned by the Gateway Determination.

3.4 Mapping

The Planning Proposal seeks to amend the following maps in the Wentworth LEP 2011, as they apply to the subject site:

Lot Size Map – Sheet LSZ_004G

3.5 Community Consultation

In accordance with Section 3.33(2)(e) of the Environmental Planning & Assessment Act 1979, community consultation may need to be conducted.

Schedule 1, Part 1, Division 1, 4 of the EP&A Act prescribes community consultation timeframes are either determined by the Gateway Determination to be issued, or 28 days. This is also consistent with the timeframe set out in Table 4 of the Wentworth Shire Council Community Participation Plan.

For this Planning Proposal, the following consultation process may include:

- ❖ Written notification to adjoining landowners
- ❖ Public notice in the local newspaper and on Council's website
- ❖ Display of the Planning Proposal and supporting documentation made available in Council's administrative buildings
- ❖ Planning Proposal documentation made available for public viewing on Council's website.

During the consultation period, the following documents should be made available for public viewing:

1. Planning Proposal
2. Gateway Determination
3. All appendices and supporting documentation
4. Relevant Council reports and subsequent resolutions.

Consultation with any relevant state agencies will be determined by the Gateway Determination.

At the conclusion of the consultation period, Council will review and consider submissions received regarding the Planning Proposal, and will determine if the Planning Proposal is to be finalised.

3.6 Project Timeline

The *NSW Department of Planning, Industry and Environment Local Planning Guideline August 2023* sets a benchmark timeframe for completion of the Planning Proposal process.

For a 'Standard' Planning Proposal, the benchmark is a total of 320 days for all stages of the process to be completed. This timeframe does not include pre-lodgement of the Planning Proposal with Council for initial review.

There are many factors that can influence the timeframe process. However, the following table provides indicative timeframes for each stage:

Stage	Timeframe
Pre-lodgement	October 2023
Submission of Planning Proposal	November 2023
Gateway Determination	February 2023
Post Gateway	March 2023
Public Exhibition & Assessment	April 2023
Finalisation	June 2023

Attachment 1 – Subdivision Concept



Attachment 2 – State Environmental Planning Policy Assessment

State Environmental Planning Policy (SEPP)	Applicable (Y/N)	Consistent (Y/N)	Comments/Justification
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Y	Y	<p><u>Chapter 2 – Vegetation in non-rural areas</u> The aims of this SEPP are to <i>protect the biodiversity values of trees and other vegetation in non-rural areas and to preserve the amenity of non-rural areas through preservation of trees and other vegetation.</i></p> <p>The Planning Proposal is consistent with this SEPP as the subject site does not contain any vegetation, other than ornamental/introduced vegetation and horticultural crop.</p> <p><u>Chapter 3 – Koala habitat protection 2020</u> The aim of this SEPP is to <i>encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas...and reverse the current trend of koala population decline.</i></p> <p>The Planning Proposal is consistent with this SEPP as the subject site is devoid of all native vegetation, other ornamental/introduced vegetation and horticultural crop. Therefore, the site does not contain any koala habitat.</p> <p><u>Chapter 4 – Koala habitat protection 2021</u> The aim of this SEPP is to <i>encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range...</i></p> <p>The Planning Proposal is consistent with this SEPP as the subject site is devoid of all native vegetation, other than ornamental/introduced species and horticultural crop. Therefore, the site does not contain any natural habitat suitable for koalas.</p> <p><u>Chapter 5 – River Murray lands</u> The aims of this SEPP are to <i>conserve and enhance the riverine environment of the River Murray for the benefit of all users.</i></p>

			<p>The subject site is identified as being included in Map 35 of the Murray Regional Environmental Plan No. 2 – Riverine Land. It is considered that the Planning Proposal is consistent with this SEPP as the subject site is well setback from the Murray River and therefore, it is unlikely there will be any impact on or near the Murray River.</p> <p><u>Chapter 6 – Water catchments</u> Not applicable.</p> <p><u>Chapter 13 Strategic conservation planning</u> No applicable.</p>
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Y	Y	<p>The aims of this policy are to encourage sustainable residential development and to ensure consistency in the implementation of the BASIX scheme across the state of New South Wales.</p> <p>The Planning Proposal does not detract from the aims of this policy.</p>
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	Y	Y	<p>The aims of this policy are to streamline the assessment process for development that complies with specified development standards.</p> <p>The Planning Proposal does not detract from the aims of this policy.</p>
State Environmental Planning Policy (Housing) 2021	Y	Y	<p>The principles of this policy include enabling the provision of diverse housing that meets the needs of the community, whilst ensuring that amenity and services are adequately provided to support the development.</p> <p>The Planning Proposal does not detract from the aims and principles of this policy.</p>
State Environmental Planning Policy (Industry and Employment) 2021	Y	Y	<p><u>Chapter 2 Western Sydney employment area</u> Not applicable.</p> <p><u>Chapter 3 Advertising and signage</u> The aims of this SEPP are to ensure that signage is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish.</p>

			The Planning Proposal does not detract from the aims of this policy.
State Environmental Planning Policy No 65 Design Quality of Residential Apartment Development	N		
State Environmental Planning Policy (Planning Systems) 2021	N		The proposed development as a consequence of this Planning Proposal is not state or regionally significant, the site is not aboriginal land and will not require concurrence.
State Environmental Planning Policy (Precincts – Central River City) 2021	N		
State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021	N		
State Environmental Planning Policy (Regional) 2021	N		
State Environmental Planning Policy (Western Parkland City) 2021	N		
State Environmental Planning Policy (Primary Production) 2021	N		This SEPP is not applicable as the subject site is not zoned rural, classified or mapped as rural or state significant agricultural land.
State Environmental Planning Policy (Resilience and Hazards) 2021	N		<p><u>Chapter 2 Coastal management</u> Not applicable.</p> <p><u>Chapter 3 Hazardous & offensive development</u> The aims of this SEPP are to:</p> <p>a) to amend the definitions of hazardous and offensive industries where used in environmental planning instruments, and</p> <p>b) to render ineffective a provision of any environmental planning instrument that prohibits development for the purpose of a storage facility on the ground that the facility is hazardous or offensive if it is not a hazardous or offensive storage establishment as defined in this Chapter, and</p> <p>c) to require development consent for hazardous or offensive development</p>

			<p><i>proposed to be carried out in the Western Division, and</i></p> <p><i>d) to ensure that in determining whether a development is a hazardous or offensive industry, any measures proposed to be employed to reduce the impact of the development are taken into account, and</i></p> <p><i>e) to ensure that in considering any application to carry out potentially hazardous or offensive development, the consent authority has sufficient information to assess whether the development is hazardous or offensive and to impose conditions to reduce or minimise any adverse impact, and</i></p> <p><i>f) to require the advertising of applications to carry out any such development.</i></p> <p>This SEPP does not apply as the Planning Proposal does not relate to land in a coastal environment, hazardous or offensive development and the subject site is currently zoned R5 Large Lot Residential and this will not be amended.</p> <p>Therefore, the Planning Proposal will not detract from the aims of this policy.</p> <p><u>Chapter 4 Remediation of land</u> Not applicable.</p>
State Environmental Planning Policy (Resources and Energy) 2021	N		
State Environmental Planning Policy (Transport and Infrastructure) 2021	Y	Y	<p><u>Chapter 2 Infrastructure</u></p> <p>The aim of this SEPP is to ensure there is an effective delivery of infrastructure to support the development.</p> <p>Consultation with Council has already commenced. Council has verbally advised that the development of the site can and will need to be fully serviced.</p> <p>It is considered that current access arrangements off Wilga Road will be adequate to support the subsequent development.</p>
State Environmental Planning Policy	N		This policy commences on 1 October 2023.

(Sustainable Buildings) 2022			
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Attachment 3 – Section 9.1 Ministerial Directions Assessment

Section 9.1 Direction	Applicable (Y/N)	Consistent (Y/N)	Comments/Justification
1. Planning Systems			
1.1 Implementation of Regional Plans	Y	Y	The Planning Proposal is consistent with the goals, directions and actions of the <i>Far West Regional Plan 2036</i> and the <i>draft Far West Regional Plan 2041</i> . Specific details are provided in Section 3.3.3 of the Planning Proposal.
1.2 Development of Aboriginal Land Council land	N		
1.3 Approval and Referral Requirements	Y	Y	The Planning Proposal does not propose any referral or concurrence requirements, nor does it nominate any development as 'designated development'.
1.4 Site Specific Provisions	N		
1.5 Parramatta Road Corridor Urban Transformation Strategy	N		
1.6 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	N		
1.7 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	N		
1.8 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	N		
1.9 Implementation of Glenfield to Macarthur Urban Renewal Corridor	N		
1.10 Implementation of the western Sydney Aerotropolis Plan	N		
1.11 Implementation of Bayside West Precincts 2036 Plan	N		

1.12 Implementation of Planning Principles for the Cooks Cove Precinct	N		
1.13 Implementation of St Leonards and Crows Nest 2036 Plan	N		
1.14 Implementation of Greater Macarthur 2040	N		
1.15 Implementation of the Pyrmont Peninsula Place Strategy	N		
1.16 North West Rail Link Corridor Strategy	N		
1.17 Implementation of the Bays West Place Strategy	N		
1.18 Implementation of the Macquarie Park Innovation Precinct	N		
1.19 Implementation of the Westmead Place Strategy	N		
1.20 Implementation of the Camellia-Rosehill Place Strategy	N		
1.21 Implementation of South West Growth Area Structure Plan	N		
1.22 Implementation of the Cherrybrook Station Place Strategy	N		
2. Design and Place			
2.1			
3. Biodiversity and Conservation			
3.1 Conservation Zones	Y	Y	The Planning Proposal is consistent with this Direction as it does not involve land identified as environmentally sensitive and does not seek to reduce environmental protect standards.
3.2 Heritage Conservation	Y	Y	There are no known or registered heritage items, relics, objects or sites applicable to the subject site or the immediate surrounds.
3.3 Sydney Drinking Water Catchments	N		
3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	N		

3.5 Recreation Vehicle Areas	Y	Y	The Planning Proposal does not enable the land to be developed for the purposes of a recreation vehicle area, as defined by the <i>Recreation Vehicles Act 1983</i> .
3.6 Strategic Conservation Planning	N		The subject site is not identified as avoided land or a strategic conservation area.
3.7 Public Bushland	N		
3.8 Willandra Lakes Region	N		The subject site is not located within the Willandra Lakes World Heritage Property.
3.9 Sydney Harbour Foreshores and Waterways Area	N		
3.10 Water Catchment Protection	N		
4. Resilience and Hazards			
4.1 Flooding	N		The subject site is not identified as being flood prone.
4.2 Coastal Management	N		
4.3 Planning for Bushfire Protection	N		The subject site is not identified as being bushfire prone land on the NSW Rural Fire Service map.
4.4 Remediation of Contaminated Land	N		The subject site is currently zoned R5 Large Lot Residential and the Planning Proposal does not seek to rezone the site or to alter the future use of the site.
4.5 Acid Sulfate Soils	N		
4.6 Mine Subsidence and Unstable Land	N		
5. Transport and Infrastructure			
5.1 Integrating Land Use and Transport	Y	Y	The development of the subject site will include safe and adequate access to and from the site for vehicles, cyclists and pedestrians, including connectivity to surrounding development.
5.2 Reserving Land for Public Purposes	Y	Y	The Planning Proposal does not propose to remove or propose any land to be dedicated for public purposes.
5.3 Development Near Regulated Airports and Defence Airfields	N		The subject site is not located near an airport or defence airfield.
5.4 Shooting Ranges	N		The subject site is not located near a shooting range.
6. Housing			
6.1 Residential Zones	Y	Y	<i>The objectives of this direction are to:</i> <i>(a) encourage a variety and choice of housing types to provide for existing and future housing needs,</i> <i>(b) make efficient use of existing infrastructure and services and ensure</i>

			<p>that new housing has appropriate access to infrastructure and services, and (c) minimise the impact of residential development on the environment and resource lands.</p> <p>The Planning Proposal is consistent with direction in that it will increase the variety of lot sizes in the zone; it will make more efficient use of the existing and new infrastructure and services available; enables the provision of additional lots within an established large lot residential area; and will be designed appropriately to ensure the most efficient and desirable amenity for residents.</p>
6.2 Caravan Parks and Manufactured Home Estates	N		The Planning Proposal does not alter the permissibility or prohibition of caravan parks and manufactured homes estates.
7. Industry and Employment			
7.1 Employment Zones	N		
7.2 Reduction in Non-Hosted Short-term Rental Accommodation period	N		
7.3 Commercial and Retail Development along the Pacific Highway North Coast	N		
8. Resources and Energy			
8.1 Mining, Petroleum Production and Extractive Industries	N		The Planning Proposal does not impact mining, petroleum or extractives industries.
9. Primary Production			
9.1 Rural Zones	N		The Planning Proposal is not seeking to rezone from or to a rural zone.
9.2 Rural Lands	N		The subject site is not in a rural or conservation zone.
9.3 Oyster Aquaculture	N		
9.4 Farmland of State and Regional Significance on the NSW Far North Coast	N		

SECTION 3.36 PLANNING REPORT

Planning proposal:

PP-2023-2192 (L1/101)

Planning proposal summary:

Amend the following in the Wentworth Local Environmental Plan 2011:

- Reduce the Minimum Lot Size (MLS) from 3,000sqm to 2,000sqm of Lot 2 DP 875018 (Lot Size Map - Sheet LSZ_004G)

Post exhibition amendments to the planning proposal:

- No amendments made to the planning proposal after post exhibition

Date of Gateway determination:

26 February 2024.

1 GATEWAY DETERMINATION

The Gateway Determination was issued 26 February 2024.

Refer to **Attachment 1** Gateway Determination Cover Letter.

Refer to **Attachment 2** Gateway Determination.

The timeframe for completing the LEP is to be by 3 December 2024.

A summary of compliance with the conditions of the Gateway Determination are provided, as follows:

1. Public exhibition was conducted in accordance with the conditions of the Gateway Determination. Further details are provided in Section 2 of this report.
2. A public hearing was not required or deemed necessary.

All conditions of the Gateway Determination have been satisfied.

2 CONSULTATION

In accordance with Schedule 1 Clause 4 Community participation requirements of the *Environmental Planning and Assessment Act 1979*, the planning proposal as per condition 1 of the gateway was placed on public exhibition to the public 1 March 2024 to 20 March 2024.

Public notice was provided in the Sunraysia Daily and posts on social media.

The planning proposal and accompanying exhibition material were made available for viewing by the public on Council's website and at Council's Customer Service Counter in Wentworth and Midway Centre in Buronga.

As conditioned by the Gateway Determination, Council exhibited the following information:

- Planning Proposal,
- Gateway Determination,
- Gateway Determination Cover Letter.

Five (5) submissions were received from the public. These were provided to the applicant to address. The summary of the submission and response to the submissions is located within the submission table.

No changes were made to the planning proposal as a result of the submissions.

Refer to **Attachment 3** Submission table.

3 VIEWS OF PUBLIC AUTHORITIES

The Gateway Determination conditions did not require any consultation with public authorities.

4 PLANNING PROPOSAL AMENDMENTS POST EXHIBITION/CONSULTATION

No changes were made to the planning proposal exhibited in response to the exhibition and consultation.

5 CONSISTENCY WITH S.9.1 DIRECTIONS & OTHER STRATEGIC DOCUMENTS

Part 3 and Attachment 1 & 2 of the planning proposal provides a response to applicable strategic planning documents, State Environmental Planning Policies and Section 9.1 Directions.

The planning proposal is consistent with Section 9.1 Directions and other relevant strategic planning documents.

6 PARLIAMENTARY COUNSEL OPINION

As Council are the nominated Local Plan-Making Authority (LPMA), Opinion from Parliamentary Counsel will be conducted by Council.

7 OTHER RELEVANT MATTERS

Nil.

8 MAPPING

The planning proposal seeks to amend the LEP minimum lot size map.

Council will request the NSW Department of Planning, Housing and Infrastructure to draft the mapping before finalisation of the LEP Amendment by Council as the LPMA.

9 RECOMMENDATION

It is recommended that the LEP amendment is made.

ATTACHMENT 1



Department of Planning, Housing and Infrastructure

Mr Ken Ross
General Manager
Wentworth Shire Council
PO Box 81
WENTWORTH NSW 2648

Our ref: PP-2023-2192
IRF24/64

Dear Mr Ross

Planning proposal PP-2023-2192 to amend Wentworth Local Environmental Plan 2011

I am writing in response to the planning proposal you have forwarded to the Minister under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* in respect of the planning proposal to reduce the minimum lot size from 3000m² to 2000m² at Lot 2 DP875018, 18 Wilga Road, Gol Gol.

As delegate of the Minister for Planning and Public Spaces, I have determined that the planning proposal should proceed subject to the conditions in the enclosed gateway determination.

Considering the nature of the planning proposal I have determined that Council may exercise local plan-making authority functions in relation to the planning proposal.

The proposed local environmental plan (LEP) is to be finalised on or before 3 December 2024. Council should aim to commence the exhibition of the planning proposal as soon as possible. Should Council seek to make a proposed LEP, the request to draft the LEP should be made directly to Parliamentary Counsel's Office well in advance of the date the LEP is projected to be made. A copy of the request should be forwarded to the Department of Planning and Environment.


Parliamentary Counsel's Office is not responsible for the drafting of map-only amendments to LEPs. Requests for legal drafting for map-only amendments must instead be sent to mapinstrument.drafting@dpie.nsw.gov.au. The Department's Western Region Team should be copied into the request using westernregion@planning.nsw.gov.au. The request must include the drafting instruction template, planning proposal and Gateway determination.

The NSW Government has committed to reduce the time taken to complete LEPs. To meet these commitments, the Minister may appoint an alternate planning proposal authority if Council does not meet the timeframes outlined in the gateway determination.

The Department's categorisation of planning proposals in its *Local Environmental Plan Making Guideline* (August 2023) is supported by category specific timeframes for satisfaction of conditions and authority and Government agency referrals, consultation, and responses. Compliance with milestones will be monitored by the Department to ensure planning proposals are progressing as required.

Should you have any enquiries about this matter, I have arranged for Rebecca Martin to assist you. Ms Martin can be contacted on 58526810.

Yours sincerely



Garry Hopkins
Director, Western Region
Local and Regional Planning

Encl: Gateway determination

26 February 2024

ATTACHMENT 2



Department of Planning, Housing and Infrastructure

Gateway Determination

Planning proposal (Department Ref: PP-2023-2192): Reduction of the minimum lot size from 3000m² to 2000m² at Lot 2 DP875018, 18 Wilga Road, Gol Gol.

I, the Director, Western Region at the Department of Planning, Housing and Infrastructure, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Wentworth Local Environmental Plan 2011 to reduce the minimum lot size from 3000m² to 2000m² at Lot 2 DP 875018, 18 Wilga Road, Gol Gol, should proceed subject to the following:

The Council as planning proposal authority is authorised to exercise the functions of the local plan-making authority under section 3.36(2) of the Act subject to the following:

- (a) the planning proposal authority has satisfied all the conditions of the gateway determination;
- (b) the planning proposal is consistent with applicable directions of the Minister under section 9.1 of the Act or the Secretary has agreed that any inconsistencies are justified; and
- (c) there are no outstanding written objections from public authorities.

The LEP should be completed on or before 3 December 2024.

Gateway Conditions

1. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
 - (a) the planning proposal is categorised as standard as described in the *Local Environmental Plan Making Guideline* (Department of Planning and Environment, August 2023) and must be made publicly available for a minimum of 20 working days; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guideline* (Department of Planning and Environment, August 2023).

No consultation is required with public authorities or government agencies under section 3.34(2)(d) of the Act

2. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

Dated 26 February 2024



**Garry Hopkins
Director Western Region
Local and Regional Planning
Department of Planning, Housing and
Infrastructure**

**Delegate of the Minister for Planning and
Public Spaces**

ATTACHMENT 3

Summary of Submissions and Outcomes

Submission number	Submission	Comment/Response
Submission 1	Dust	<p>Applicant response: This issue can and will be managed through a condition of consent for the subdivision, that will require dust suppression measures be undertaken during the construction phase of the development.</p>
	Water drainage	<p>Officer response: Dust from the subdivision is an impact addressed during the development application process.</p>
		<p>Applicant response: The proponents have conducted early consultation with WSC's Planning and Roads & Engineering Departments and determined that stormwater drainage will be directed to Council's existing stormwater system.</p>
		<p>Officer response: Drainage for any future development will be managed at the development application and post-consent stage. This will include collaboration between council and developer's engineers.</p>
	Water supply	<p>Applicant response: A condition of consent for the subdivision will require connection to both raw and water supplies. Council is upgrading the infrastructure to ensure that an adequate supply of water is available to cater for existing customers, future growth of the township and the proposed development, including the additional allotments.</p>
		<p>Officer response: Adequate water supply will be required for all new allotment. As part of the design, the developer may need to upgrade any systems as required.</p>

	One entry/exit	<p>Applicant response: One entry/exit is considered consistent with approvals for previous court bowl type developments within the surrounding area and in Gol Gol.</p> <p>Officer response: The design for the subdivision will be determined during the assessment of any future subdivision development application. Note that the plan provided is concept only, and approval of the PP does not mean endorsement of the concept plan.</p>
	Sewerage	<p>Applicant response: The issue raised in this submission does not relate to the Planning Proposal, but to the ability of existing dwellings having access to connect to the new reticulated system within the Sturt Highway road reserve.</p> <p>Officer response: Sewerage connection will be a requirement for new subdivisions on the land. The extension of the sewerage to adjoining properties is not a matter for consideration at this stage.</p>
	Roadworks	<p>Applicant response: An increase in a maximum of 10 lots is not considered excessive or detrimental to current traffic movements and access arrangements.</p> <p>Officer response: The capacity of the roadworks to cater to the subdivision will be considered at the subdivision assessment stage. Should any upgrade works be required, these will be discussed with the developer</p>

<p>Submission 2</p>	<p>Proposal not consistent with BGGSP</p>	<p>Applicant response: While the BGGSP suggested that the minimum lot sizes for the R5 zone be retained at 5,000 and 3,000 square metres, it also highlights the growing trend and demand for smaller lot sizes in both the R5 and RU5 zones, as stated in the submission.</p> <p>The submission also suggests that lots of 2,000 square metres could be located within the RU5 Village zone. This is inconsistent with the BGGSP, which states that <i>lot sizes in recent subdivisions in the RU5 Village zone have been averaging around 850 m2</i>. Generally, in urban areas lot sizes are smaller rather than larger.</p> <p>The Planning Proposal responds to the BGGSP by stating:</p> <p><i>Page 45 of the BGGSP identified that there is limited availability of large lot residential zoned land, particularly as there are current landowners who do not intend to develop in the short to medium timeframe. Additionally, the BGGSP also outlined how Buronga and Gol Gol were experiencing 'fast pace' development, and therefore, the land supply should be increased to forestall any potential shortage in the supply of large lot residential land.</i></p> <p>The BGGSP estimated that the annual growth rate for the Buronga and Gol Gol area would be approximately 2.8%. Based on the results of the ABS Census statistics 2021, the annual growth rate experienced between 2016 and 2021 was 3.5%. Therefore, it is imperative to provide additional land for development to ensure the</p>
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		<p>supply of developable land can satisfy the increase in demand.</p> <p>The <i>Draft Far West Regional Plan 2041</i> highlights that there is necessity for <i>creating flexible and feasible planning controls and development standards that support greater housing mix</i>. The Planning Proposal enacts upon that strategy through the provision of a greater variety of lot sizes to cater for the growing demand for diversity in lifestyle choices.</p> <p>Officer response: Refer to applicant response above</p> <p>Applicant response: An increase in a maximum of 10 lots is not considered excessive or detrimental to the current traffic movements and access arrangements.</p> <p>Officer response: The development application for subdivision will examine the potential traffic generated by the development and determine whether its adequate for the area.</p> <p>Applicant response: The notification process is conditioned by the <i>Environmental Planning & Assessment Act 1979</i>, the Gateway Determination issued by NSW Department of Planning, Housing & Infrastructure and Council's Community Participation Plan.</p> <p>The Proponents are not aware of, or responsible for any issues relating to the exhibition of the Planning Proposal on Council's website.</p>
	Impact on traffic movement	
Submission 3	Notification not extensive or long enough	

	<p>Officer response: An issue was identified with the planning proposal notification on Councils website and was rectified by Council the same day of being made aware of it. Aside from the short time the planning proposal was down from the website due to technical issues, it was available for the required amount of time as per the gateway determination.</p>
Proposed development does not fit with established character of the area	<p>Applicant response: While the proposed allotments will be slightly smaller than the developed surrounding land, the lots will still be large enough to aesthetically blend in with the surrounding rural residential character of the area.</p> <p>The subdivision concept design is also very similar to that of the development of Yorke Drive to the south of the subject site.</p> <p>Officer response: The proposed 2000sqm lot size will not be out of character with the 3000sqm allotment in the surrounding area. The proposed subdivision plan is consent in nature and will be assessed for adequacy once lodged for a development application</p> <p>Applicant response: The proposed increase in lot yield has not triggered the requirement for a Traffic Impact Study. Nor has it triggered the requirement for consultation with TfNSW.</p> <p>Officer response: The expected lot yield increase from reducing the lot area to 2000sqm is not anticipated to be significant enough to require traffic report at the planning proposal stage. Should any traffic matters be identified during the development application stage of</p>
There are no traffic management reports	

		the subdivision, traffic impact details may be asked for if required.
	Zoning change will be detrimental to property values	<p>Applicant response: The Planning Proposal does not seek to amend the zone but the minimum lot size applied to the subject site. There is no evidence of the outcome of the Planning Proposal being detrimental to the value of the surrounding properties.</p> <p>Officer response: The planning proposal will not change any uses currently permitted or prohibited on the land.</p>
	Sets a precedence for other subdivisions to smaller lots	<p>Applicant response: Where a minimum lot size is applied, the only way to reduce the lot sizes is through an amendment to an LEP. This ensures that the proposal has justification to proceed. It does not set a precedence for random reductions in lot sizes in subdivision developments.</p> <p>Officer response: Refer to response from applicant above</p>
	R5 land should not be less than 3000 sqm to ensure adequate land for semi-rural life setting	<p>Applicant response: The proposal to reduce the minimum lot size from 3,000 square metres to 2,000 square metres satisfies the intent and objectives of the R5 Large Lot Residential zone.</p> <p>It will also provide an increase in the variety of lot sizes in the zone to satisfy the different demand for lifestyle choices.</p> <p>Officer response: Refer to applicant response above</p>

	Likely to object to subdivision DA as houses face front of the street in Moontongue Drive, some lots will have backyards facing Moontongue Drive	<p>Applicant response: The Planning Proposal includes a subdivision concept plan. The final subdivision plan will be prepared when a development application for subdivision is lodged with Council.</p> <p>The final subdivision plan lodged will be dependent upon the requirements of Council for infrastructure to service the new development.</p> <p>A review of the subdivision plan will be undertaken to address concerns relating to the orientation of frontages of lots to existing roads, prior to lodging the plan for development consent.</p> <p>Officer response: In addition to the applicant response above, all development applications for subdivision will be notified to adjoining land holders for an opportunity to respond to the proposed subdivision plan.</p>
Submission 4	Exhibition was interrupted by removal of the PP from Council website	<p>Applicant response: The notification process is conditioned by the <i>Environmental Planning & Assessment Act 1979</i>, the Gateway Determination issued by NSW Department of Planning, Housing & Infrastructure and Council's Community Participation Plan.</p> <p>The Proponents are not aware of, or responsible for any issues relating to the exhibition of the Planning Proposal on Council's website.</p> <p>Officer response: An issue was identified with the planning proposal notification on Councils website and was rectified by Council the same day of being made</p>

		<p>aware of it. Aside from the short time the planning proposal was down from the website due to technical issues, it was available for the required amount of time as per the gateway determination.</p> <p>Applicant response: It is considered that the reduction to the minimum lot size of the subject site will not boldly or visually appear to be inconsistent with the surrounding development. The subdivision concept plan is designed to reflect consistently with the surrounding subdivision pattern, particularly that of the new development to the south of the subject site.</p> <p>Officer response: In addition to applicant response above, density and subdivision design will be assessed at the development application stage.</p>
	Proposed density is inconsistent with established development	<p>Applicant response: The Planning Proposal does not describe the proposal as being solely based on increasing profit for the Proponents or developers.</p> <p><i>The intended outcomes of the Planning Proposal are to:</i></p> <ul style="list-style-type: none"> - take advantage of the ongoing increase in demand for land in the large lot residential zone, and (To provide a small number of additional large residential lots, in an attempt to maintain the supply to satisfy the demand) - provide a greater variety of lot sizes in the R5 Large Lot Residential zone, and (To provide a variety of lot sizes is to satisfy different needs and requirements of the growing population of Gol Gol)
	Economic prosperity of the developer should not be a concern for WSC	

		<p>- increase the potential lot yield from approximately 20 to 24 lots. (The number of lots as proposed in the subdivision concept plan).</p> <p>Officer response: A planning proposal assessment takes several factors into account include compliance with planning legislation. A developer profits is not a matter used to support a planning proposal.</p>
	Impact on traffic movement	<p>Applicant response: An increase in a maximum of 10 lots is not considered excessive or detrimental to the current traffic movements and access arrangements.</p> <p>Officer response: The development application for subdivision will examine the potential traffic generated by the development and determine whether adequate for the area.</p>
	Provision of open space	<p>Applicant response: Lots larger than the average urban residential allotment size provide space for the residents of those properties for their own private open space and associated onsite leisure activities. As such, the majority of subdivisions within the surrounding area have not had to include public open space within the design of their development.</p> <p>It is considered that there is ample public open space and the provision of community meeting places in and around the Gol Gol area.</p> <p>Officer response: The availability and requirement of public open space is assessed as part of every residential subdivision development application. That is to ensure</p>

		adequate open space is available for new and existing residents.
	Open space has been removed in the surrounding areas	Applicant response: This comment is not relevant to the Planning Proposal. Officer response: Noted. No further assessment required as part of the planning proposal.
Submission 5: Identical to submission 3, as such no further assessment conducted.		

9.18 PROJECT & WORKS UPDATE - JULY 2024

File Number: RPT/24/344

Responsible Officer: Geoff Gunn - Director Roads and Engineering
Responsible Division: Roads and Engineering
Reporting Officer: Jamie-Lee Kelly - Administration Officer

Objective: 3.0 Wentworth Shire is a community that works to enhance and protect its physical and natural environment
Strategy: 3.2 Ensure that community assets and public infrastructure are well maintained

Summary

This report provides a summary of the projects and major works undertaken by the Roads and Engineering Department which have been completed during the months of June 2024 and the planned activities for July 2024.

Recommendation

That Council receives and notes the major works undertaken in June 2024 and the scheduled works for the following month.

Detailed Report

Refer below for updates of the works completed in June 2024, and the planned activities for July 2024.

Project and Works Update for June 2024

Roads	<p><u>Maintenance Grading</u></p> <ul style="list-style-type: none">• Works scheduled were completed on the Arumpo, Springwood, Nulla and Pine Camp Roads. <p><u>Arumpo Road</u></p> <ul style="list-style-type: none">• Design ongoing.• Base earthworks are continuing onsite with the use of two landplanes shaping the new road formation. Currently approximately 9km has been completed and will continue heading north east towards Mungo National Park.• Contractor commenced crushing and pugging of material onsite 11 June, will continue until approx. 120,000 tonnes are completed.• New culverts and end are onsite ready for contractor to commence installation approx. late July. <p><u>Low Darling Road Re sheeting</u></p> <ul style="list-style-type: none">• Contractors have completed re shaping of the existing subbase, and placement of 150mm layer of locally sourced gravel for an extent of 5.7km. <p><u>TfNSW Maintenance</u></p> <ul style="list-style-type: none">• Line marking was completed on the Silver City and Sturt Highways following the heavy patching and reseal program.• Contractor completed the cleaning of 27 x culverts on both the Silver City and Sturt Highways.
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Roads	<p><u>TfNSW Fletchers Lake Road Drainage</u></p> <ul style="list-style-type: none"> • Water ponding was identified as a major issue at this location. • The project consisted of new kerbing and drainage infrastructure to discharge stormwater run-off into nearby Western Murray Irrigation open swale drain.
Projects	<p><u>Wentworth HPAA Speed Reduction</u></p> <ul style="list-style-type: none"> • Approved and funded by TfNSW works to enforce the speed change included new signage in several locations, and speed zone road markings on the Silver City Highway. <p><u>Grid Maintenance</u></p> <ul style="list-style-type: none"> • As part of our ongoing inspections and maintenance, 5 x grids were removed and replaced on the Popio, Roo Roo, High Darling and Anabrachn Mail Road. <p><u>Buronga Landfill Intersection Upgrade</u></p> <ul style="list-style-type: none"> • Major works at the intersection of the landfill were completed, which included an overtaking lane for north bound traffic, drainage works and asphalt surfacing to cater for the increase in heavy vehicle usage during and after the Landfill expansion. <p><u>District Bulk Metering</u></p> <ul style="list-style-type: none"> • Flow meter pit design under review. <p><u>3G to 4G Upgrade for Water and Wastewater Infrastructure</u></p> <ul style="list-style-type: none"> • Upgrade at Pooncarie complete. • All sites needing to convert from 3G to 4G are now complete. <p><u>Junction Island Footpath</u></p> <ul style="list-style-type: none"> • Crusher dust footpath complete. • Additional restoration works including mulching and repairs to end viewing platform complete. • Signage reinstated. • Open to the public on 28 June. <p><u>Wentworth and Pooncarie Camp Kitchens</u></p> <ul style="list-style-type: none"> • Wentworth Camp Kitchen: <ul style="list-style-type: none"> ○ Anderson Group appointed as building surveyor. ○ Plan to be progressed with Users for completion following the 2024 Wentworth Show and Cup Day Races. • Pooncarie Camp Kitchen: <ul style="list-style-type: none"> ○ Anderson Group appointed as building surveyor. ○ Feedback compiled on comment to the concept design and shared back with Community User Groups. ○ Construction proposed to Commence directly following the Pooncarie Races. <p><u>Pink Lake</u></p> <ul style="list-style-type: none"> • Review of Environmental Factors in progress. • Land tenure issues progressing. <p><u>Willow Bend Caravan Park</u></p> <ul style="list-style-type: none"> • Asset Services contract complete on 28 June. • Western end: <ul style="list-style-type: none"> ○ Amenities block connected to services.

<p>Projects</p>	<ul style="list-style-type: none"> ○ Power bollards installed. • Eastern end: <ul style="list-style-type: none"> ○ Amenities block connected to services. ○ Power bollards installed. ○ Sewer pump station ready for commissioning. • Levee crest reinstated and permanent fence on levee installed. • WSC completed retaining wall and various walkways. <p><u>Amenities Blocks</u></p> <ul style="list-style-type: none"> • Caravan Park Amenities completed. • Pooncarie and Buronga Amenities ready for delivery. <p><u>Rose Street Stormwater – Stage 1</u></p> <ul style="list-style-type: none"> • Tenders closed with six tenders received. • Evaluation underway. <p><u>Buronga Riverfront Toilet Block Services</u></p> <ul style="list-style-type: none"> • Tenders closed with seven tenders received. • Evaluation underway. <p><u>Pooncarie Toilet Block</u></p> <ul style="list-style-type: none"> • Quotes being sought for installation of Amenities block. • Power, water and sewer service locating completed. <p><u>James King Park Retaining Wall and Footpath</u></p> <ul style="list-style-type: none"> • Beach excavated to reduce gradient. • Piling completed by contractor. • Fabrication of stairs underway. • Timber sleepers milled and to be delivered in early July. • Footpath foundations complete. <p><u>Wentworth Rowing Club Building</u></p> <ul style="list-style-type: none"> • No additional works proposed until flood recovery funds approved. <p><u>Dareton to Namatjira Sharedway</u></p> <ul style="list-style-type: none"> • Negotiations with Solar lighting preferred tenderer continuing. • On-site meeting with Tenderer and Essential Energy occurred to resolve proximity issues to powerlines. <p><u>Buronga Shared Path</u></p> <ul style="list-style-type: none"> • Additional work required due to erosion complete. <p><u>Dareton 2 Sewer Pump Station</u></p> <ul style="list-style-type: none"> • Tenders closed with five tenders received. • Evaluation underway.
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Projects and Works scheduled for July 2024

<p>Roads</p>	<p><u>Arumpo Road 24.5km</u></p> <ul style="list-style-type: none"> • Design testing and minor amendments ongoing. • RFQ for installation of culverts has been received and contract awarded. It is anticipated culverts will commence being installed late July after earthworks are complete. • Pushing up of material in the 3rd of 4 pits.
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<p>Roads</p>	<ul style="list-style-type: none"> • Contractor to continue crushing and pugging of material onsite. • Base earthworks are continuing onsite with the use of two landplanes shaping the new road formation. Currently approximately 6km has been completed and will continue heading north east towards Mungo National Park. <p><u>Maintenance Grading</u></p> <ul style="list-style-type: none"> • Works scheduled to be completed on the Renmark, Rufus River and Tooperoopna Roads. <p><u>Local Road Maintenance</u></p> <ul style="list-style-type: none"> • Given the large volume of projects over the previous months, we propose to utilize the available labour force to complete a large number of outstanding defects including guideposts, pothole repairs and tree trimming across our network.
<p>Projects</p>	<p><u>District Bulk Metering</u></p> <ul style="list-style-type: none"> • Trial installation site for flow meter / flow meter pit to occur. <p><u>3G to 4G Upgrade for Water and Wastewater Infrastructure</u></p> <ul style="list-style-type: none"> • Audit report for all WSC switchboards required to conclude main engagement for this project scope. <p><u>Pink Lake</u></p> <ul style="list-style-type: none"> • Tender document to be finalised. • Review of Environmental Factors to be completed. • Land tenure issues progressing. <p><u>Willow Bend Caravan Park</u></p> <ul style="list-style-type: none"> • Remaining eastern areas to be loamed. • Additional eastern areas to have roll-out turf. • Washers/Dryer/Clothes lines to be installed. • Fencing of Managers / Permanent residence areas to occur. • Previous cabins to be returned to caravan park. <p><u>Amenities Blocks</u></p> <ul style="list-style-type: none"> • Pooncarie and Buronga Toilet Blocks to be delivered. <p><u>Rose Street Stormwater – Stage 1</u></p> <ul style="list-style-type: none"> • Contract to be awarded. <p><u>Buronga Riverfront Toilet Block Services</u></p> <ul style="list-style-type: none"> • Contract to be awarded. • Building foundation to be installed. <p><u>Pooncarie Toilet Block</u></p> <ul style="list-style-type: none"> • Building foundations to be installed. • Procurement documentation for reln drain to be issued to contractors. <p><u>Dareton to Namatjira Sharedway</u></p> <ul style="list-style-type: none"> • Solar lighting design to be resolved and fabrication underway. • Essential Energy approval to install works in proximity of powerlines required. <p><u>James King Park Retaining Wall and Footpath</u></p> <ul style="list-style-type: none"> • Timber sleepers to be installed.

	<ul style="list-style-type: none"> • Stairs to be installed. • Retaining wall to be backfilled. • New beach sand to be placed. • Footpath retaining wall to be constructed. • Asphalt to be placed to complete Footpath.
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Attachments

1. High Darling Road & Anabran Road Grids [↓](#)
2. Buronga Landfill & Arumpo Road [↓](#)
3. Fletchers Lake Road Drainage Works [↓](#)
4. James King Park [↓](#)
5. Junction Island [↓](#)
6. Willow Bend Caravan Park 1 [↓](#)
7. Willow Bend Caravan Park 2 [↓](#)

27/06/2024 12:56



03/07/2024 15:25



25/06/2024 10:11



04/07/2024 9:22













10 NOTICES OF MOTIONS / QUESTIONS WITH NOTICE

Nil

11 CONFIDENTIAL BUSINESS – ADJOURNMENT INTO CLOSED SESSION

Despite the right of members of the public to attend meetings of a council, the council may choose to close to the public, parts of the meeting that involve the discussion or receipt of certain matters as prescribed under section 10A(2) of the Local Government Act.

With the exception of matters concerning particular individuals (other than councillors) (10A(2)(a)), matters involving the personal hardship of a resident or ratepayer (10A(2)(b)) or matters that would disclose a trade secret (10A(2)(d)(iii)), council must be satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.

The Act requires council to close the meeting for only so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security being protected. (section 10B(1)(a))

Section 10A(4) of the Act provides that a council may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

Section 10B(4) of the Act stipulates that for the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that:-

- (a) a person may misinterpret or misunderstand the discussion, or
- (b) the discussion of the matter may -
 - (i) cause embarrassment to the council or committee concerned, or to councillors or to employees of the council, or
 - (ii) cause a loss of confidence in the council or committee.

Recommendation

That Council adjourns into Closed Session, the recording of the meeting be suspended, and members of the press and public be excluded from the Closed Session, and that access to the correspondence and reports relating to the items considered during the course of the Closed Session be withheld unless declassified by separate resolution.

This action is taken in accordance with Section 10A(2) of the Local Government Act, 1993 as the items listed come within the following provisions:

12.1 Plant Replacement - Approval for Tenders for Replacement Plant 531 Eleven Cubic Meter Tipping Truck & Plant 771 Twelve Meter Dog Tipping Trailer - VR2324/531&771. (RPT/24/337)

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. On balance, the public interest in preserving the confidentiality of information about the tender outweighs the public interest in maintaining openness and transparency in council decision-making because disclosure of this information would reveal pricing and confidential information submitted via the tender process which if disclosed would prevent council from achieving its 'value for money' objectives.

12.2 Dareton Sewer Pump Station No.2 Upgrade - PT2324/21. (RPT/24/339)

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for

business relating to (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. On balance, the public interest in preserving the confidentiality of information about the tender outweighs the public interest in maintaining openness and transparency in council decision-making because disclosure of this information would reveal pricing and confidential information submitted via the tender process which if disclosed would prevent council from achieving its 'value for money' objectives.

12.3 Rose Street Stormwater - PT2324/10. (RPT/24/338)

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. On balance, the public interest in preserving the confidentiality of information about the tender outweighs the public interest in maintaining openness and transparency in council decision-making because disclosure of this information would reveal pricing and confidential information submitted via the tender process which if disclosed would prevent council from achieving its 'value for money' objectives.

12.4 Buronga Riverfront Toilet Block Civil and Electrical Works - PT2324/20. (RPT/24/340)

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. On balance, the public interest in preserving the confidentiality of information about the tender outweighs the public interest in maintaining openness and transparency in council decision-making because disclosure of this information would reveal pricing and confidential information submitted via the tender process which if disclosed would prevent council from achieving its 'value for money' objectives.

12.5 Disposal of Council Chambers and Library to Murray House. (RPT/24/396)

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to (d) (i) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it. On balance, the public interest in preserving the confidentiality of information about the item outweighs the public interest in maintaining openness and transparency in council decision-making.

12.6 Fibre Optic Symphonic Orchestra (FOSO) Funding. (RPT/24/345)

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to (d) (i) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it. On balance, the public interest in preserving the confidentiality of information about the item outweighs the public interest in maintaining openness and transparency in council decision-making.

12 OPEN COUNCIL - REPORT FROM CLOSED COUNCIL

12.1 PLANT REPLACEMENT - APPROVAL FOR TENDERS FOR REPLACEMENT PLANT 531 ELEVEN CUBIC METER TIPPING TRUCK & PLANT 771 TWELVE METER DOG TIPPING TRAILER - VR2324/531&771

File Number: RPT/24/337

Responsible Officer: Jarrod Roberts - Manager Works
Responsible Division: Roads and Engineering
Reporting Officer: Samantha Wall - Projects Administration

Objective: 3.0 Wentworth Shire is a community that works to enhance and protect its physical and natural environment

Strategy: 3.4 Use and manage our resources wisely

REASON FOR CONFIDENTIALITY

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. On balance, the public interest in preserving the confidentiality of information about the tender outweighs the public interest in maintaining openness and transparency in council decision-making because disclosure of this information would reveal pricing and confidential information submitted via the tender process which if disclosed would prevent council from achieving its 'value for money' objectives.

12.2 DARETON SEWER PUMP STATION NO.2 UPGRADE - PT2324/21

File Number: RPT/24/339

Responsible Officer: Jarrod Roberts - Manager Works

Responsible Division: Roads and Engineering

Reporting Officer: Scott Barnes - Manager Engineering Services

Objective: 3.0 Wentworth Shire is a community that works to enhance and protect its physical and natural environment

Strategy: 3.2 Ensure that community assets and public infrastructure are well maintained

REASON FOR CONFIDENTIALITY

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. On balance, the public interest in preserving the confidentiality of information about the tender outweighs the public interest in maintaining openness and transparency in council decision-making because disclosure of this information would reveal pricing and confidential information submitted via the tender process which if disclosed would prevent council from achieving its 'value for money' objectives.

12.3 ROSE STREET STORMWATER - PT2324/10

File Number: RPT/24/338

Responsible Officer: Jarrod Roberts - Manager Works

Responsible Division: Roads and Engineering

Reporting Officer: Scott Barnes - Manager Engineering Services

Objective: 3.0 Wentworth Shire is a community that works to enhance and protect its physical and natural environment

Strategy: 3.2 Ensure that community assets and public infrastructure are well maintained

REASON FOR CONFIDENTIALITY

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. On balance, the public interest in preserving the confidentiality of information about the tender outweighs the public interest in maintaining openness and transparency in council decision-making because disclosure of this information would reveal pricing and confidential information submitted via the tender process which if disclosed would prevent council from achieving its 'value for money' objectives.

12.4 BURONGA RIVERFRONT TOILET BLOCK CIVIL AND ELECTRICAL WORKS - PT2324/20

File Number: RPT/24/340

Responsible Officer: Jarrod Roberts - Manager Works

Responsible Division: Roads and Engineering

Reporting Officer: Scott Barnes - Manager Engineering Services

Objective: 3.0 Wentworth Shire is a community that works to enhance and protect its physical and natural environment

Strategy: 3.2 Ensure that community assets and public infrastructure are well maintained

REASON FOR CONFIDENTIALITY

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. On balance, the public interest in preserving the confidentiality of information about the tender outweighs the public interest in maintaining openness and transparency in council decision-making because disclosure of this information would reveal pricing and confidential information submitted via the tender process which if disclosed would prevent council from achieving its 'value for money' objectives.

12.5 DISPOSAL OF COUNCIL CHAMBERS AND LIBRARY TO MURRAY HOUSE

File Number: RPT/24/396

Responsible Officer: Ken Ross - General Manager

Responsible Division: Office of the General Manager

Reporting Officer: Gayle Marsden - Executive Assistant

Objective: 2.0 Wentworth Shire is a great place to live

Strategy: 2.2 Work together to solve a range of social and health issues
that impact community wellbeing and vulnerable people

REASON FOR CONFIDENTIALITY

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to (d) (i) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it. On balance, the public interest in preserving the confidentiality of information about the item outweighs the public interest in maintaining openness and transparency in council decision-making.

12.6 FIBRE OPTIC SYMPHONIC ORCHESTRA (FOSO) FUNDING

File Number: RPT/24/345

Responsible Officer: Simon Rule - Director Finance and Policy

Responsible Division: Finance and Policy

Reporting Officer: Simon Rule - Director Finance and Policy

Objective: 1.0 Wentworth Shire is a vibrant, growing and thriving Region

Strategy: 1.2 Promote the Wentworth Region as a desirable visitor and tourism destination

REASON FOR CONFIDENTIALITY

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to (d) (i) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it. On balance, the public interest in preserving the confidentiality of information about the item outweighs the public interest in maintaining openness and transparency in council decision-making.

13 CONCLUSION OF THE MEETING

NEXT MEETING

14 August 2024