

Statement of Environmental Effects

130 Pomona Road Wentworth

April 2025

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Introduction

This Statement of Environmental Effects (SEE) has been prepared to seek development approval for land at 130 Pomona Road Wentworth, legally described as Lot 12 DP756964. The proposed development includes the provision of a mooring within the Darling River where presumptive title exists, for a paddle boat to be tied off to an existing pontoon walkway.

This SEE addresses all relevant matters for consideration under section 4.15(1) of the Environmental Planning and Assessment Act 1979 (EP&A Act). This application is prepared in accordance and consistent with the contents of:

- ♦ State Environmental Planning Policy (Biodiversity and Conservation) 2021
- ♦ Wentworth Local Environmental Plan (LEP)
- ♦ Wentworth Shire Development Control Plan (DCP) 2011

The supporting documentation accompanying this SEE includes:

- ♦ Plans prepared by James Golsworthy Consulting
- ♦ AHIMS search
- ♦ Certificate of title and Deposited Plan of the land
- ♦ Letter acknowledging existence of Presumptive Title

Proposal

Development approval is sought for the establishment of a mooring. The proposal includes a single, private mooring to be tied off on an existing pontoon structure located at the river frontage to allow for a vessel to be secured on the Darling River at the land.

At the time of this application, the vessel is a paddle boat with a length of 18.2 metres named PS Mary Ann, Registration ADV134N and Licence Number 45272988, which is currently being stored on land at another property.

The landowner intends to establish the mooring for their private vessel to moor at the river's edge where presumptive title exists. It is considered that mooring the vessel at their property will ensure it remains safe and secure when not in use on the river. Access to the vessel is proposed via the existing pontoon walkway (9m x 1m) and platform (4960mm x 2260mm).

The proposal will not result in the removal of any vegetation.

Planning controls

Definition

The works are defined as a mooring for which the LEP provides the following definition:

Mooring means a detached or freestanding apparatus located on or in a waterway and that is capable of securing a vessel, but does not include a mooring pen.

Zoning

In accordance with the Wentworth LEP zoning maps the land is contained within zone W1 - Waterways



Figure 1 Zone map

W1 Natural Waterways

Objectives:

- ♦ To protect the ecological and scenic values of natural waterways.
- ♦ To prevent development that would have an adverse effect on the natural values of waterways in this zone.
- ♦ To provide for sustainable fishing industries and recreational fishing.

Development consent is required for a mooring under zone W1.

Relevant provisions of LEP

5.21 Flood planning

Objectives:

- ♦ 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 of 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.

An assessment of the relevant matters is outlined in the planning assessment below.



Figure 2 Flooding map

7.5 Wetlands

Objective:

To ensure that natural wetlands are preserved and protected from the impacts of development.

An assessment of the relevant matters is outlined in the planning assessment below.



Figure 3 Wetlands map

7.6 Development on river front areas

Objectives:

- ♦ *To support natural riverine processes, including the migration of the Murray River's channels.*
- ♦ *To protect and improve the bed and bank stability of the Murray River.*
- ♦ *To maintain and improve the water quality of the Murray River.*
- ♦ *To protect the amenity, scenic landscape values and cultural heritage of the Murray River and to protect public access to its riverine corridors.*
- ♦ *To conserve and protect the riverine corridors of the Murray River, including wildlife habitat.*

An assessment of the relevant matters is outlined in the planning assessment below.

7.7 Riparian land and Murray River and other watercourses

Objectives:

- ♦ *Water quality within the Murray River and watercourses.*
- ♦ *The stability of the bed and banks of the Murray River and other watercourses.*
- ♦ *Aquatic riparian habitats.*
- ♦ *Ecological processes within the Murray River and other watercourses and riparian areas.*

This clause applies to the proposal as a portion of the development is situated within 40m from the top of the bank of the watercourse.

An assessment of the relevant matters is outlined in the planning assessment below.



Figure 4 Riparian lands and watercourse map

State Environmental Planning Policy (SEPP) (Biodiversity and Conservation), 2021

As per chapter 5 River Murray lands of SEPP (Biodiversity and conservations), 2021 the provisions and requirements of this plan apply to the area covered by the Wentworth Shire Council and is applicable in the assessment of this proposal. The objectives of this plan under clause 5.2 of SEPP are:

- (a) *to ensure that appropriate consideration is given to development with the potential to adversely affect the riverine environment of the River Murray, and*
- (b) *to establish a consistent and co-ordinated approach to environmental planning and assessment along the River Murray, and*
- (c) *to conserve and promote the better management of the natural and cultural heritage values of the riverine environment of the River Murray.*

The plan outlines specific principles and planning controls that apply to this proposal and consultation which is required under the plan. Clause 5.11 does not specifically identify consultation for a water supply system. Clause 5.13 provides direction for the setback of development.

Murray Regional Environmental Plan No.2 – Riverine land

This plan applies to the area covered by the Wentworth Shire Council and is applicable in the assessment of this proposal. The objectives of this plan are:

- (a) *to ensure that appropriate consideration is given to development with the potential to adversely affect the riverine environment of the River Murray, and*
- (b) *to establish a consistent and co-ordinated approach to environmental planning and assessment along the River Murray, and*
- (c) *to conserve and promote the better management of the natural and cultural heritage values of the riverine environment of the River Murray.*

The plan outlines specific principles and planning controls that apply to this proposal and consultation which is required under the plan. Clause 12 does not specifically identify consultation for a water supply system. Clause 14 provides direction for the setback of development.

Wentworth Shire Development Control Plan 2011

Chapter 3 – General Development Controls

2.1 Murray River and Darling River

Objective:

To provide bed and bank stability. Protect water quality, maintain viability of riparian vegetation and to provide continuity and connectivity of the River.

2.2 Mooring

Mooring of private and/or commercial vessels along the foreshore to the Murray River and Darling River requires development consent from Council and an additional mooring licence from NSW Maritime.

The mooring development consent is issued per lot, effectively consent to run with the adjoining land.

2.3 Erosion Control – Murray River and Darling River

Erosion of banks along the river can have detrimental impacts on the whole of River ecosystems, river tidal flows and abiotic losses resulting in unusual occurrences of algal bloom on the River. Erosion of banks can also have consequential impacts on aquatic habitat on a long term basis.

4 Flood Affected Land

Where required earthworks mound fill placement for purposes of structure support shall be located and distributed in the floodplain in such a manner that the mounds do not collectively inhibit to a significant extent the flow of flood waters.

Aboriginal cultural heritage

Due Diligence

All Aboriginal cultural heritage is protected by the *NSW National Parks and Wildlife Act, 1974* (the Act). Responsibility rests with the proponent of development to demonstrate that due care and diligence have been taken to identify and avoid impacts on archaeological sites through construction works.

Division 1 of Part 6 - Aboriginal Objects and Aboriginal Places, of the Act provides defences to a prosecution for an offence. Item (2) of Section 87 includes whether the

defendant has exercised due diligence to determine whether the act or omission constituting the alleged offence would harm an Aboriginal object and reasonably determined that no Aboriginal object would be harmed.

The *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* (DECCW), provides an outline of due diligence measures to determine whether an Aboriginal Heritage Impact Permit (AHIP) is required. A search of the *Aboriginal Heritage Information Management System* (AHIMS) has been undertaken which confirms that there are no Aboriginal sites or places within a 50m radius of the subject land (see Figure 5 and the attached AHIMS report). Additionally, the subject land is not listed within the heritage conservation area (Refer to Wentworth Shire LEP Heritage Map HER_002D and AHIMS report).

The part of the riverbank that is subject to this application has a slight gradient only and is on land which is low-lying and subject to flooding. This makes it unlikely that cultural heritage objects will be located within the activity area.

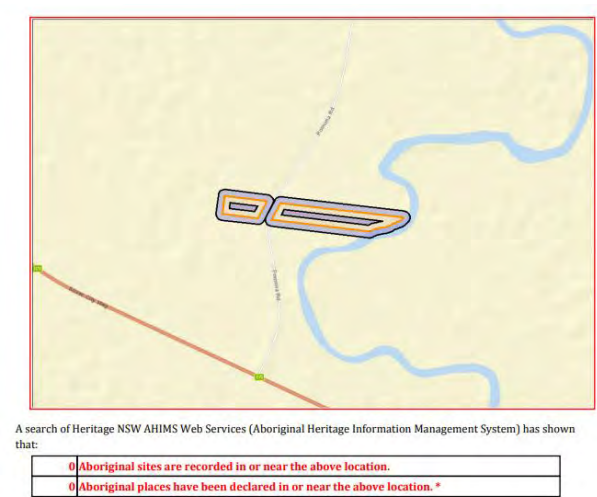


Figure 5 AHIMS search

Site and surrounding area

Subject site

The subject land extends into the zone RU1 and is approximately 6km north of the Wentworth town centre, and is just south of the Pomona settlement.

The area of the mooring is located within the Darling River, zone W1 where presumptive title exists. The rectangular lot has an area of 18ha (13 ha split by the Pomona Road with a further 5ha to the west) with an all weather road access from Pomona Road.

The lot is bordered on the east by the Darling River, and north of similar sized allotments containing dwellings, outbuildings and farm related infrastructure. The land has an evident slope upon the land towards the river end, reflecting the natural lay of the land with an evident high bank. The site of the proposed mooring offers a slight gradient only from the rivers edge.

The location of the proposed mooring is proposed to tie off to the existing platform (see figure 8).

The subject land includes two sheds and foundations for a dwelling which is under construction, and considered a rural lifestyle property.



Figure 6 Aerial image of the site



Figure 7 Slope looking towards river from high bank



Figure 8 Existing platform and walkway



Figure 9 Location of proposed mooring, looking south

Locality

The locality is predominantly a low lying area within a rural setting of low density horticultural and irrigated land, which is located south of Pomona settlement and north of Wentworth township. The Darling River borders to the east with rural dwellings and small scale farming operations to the north and west of the subject land. The land is serviced by Pomona Road to the west.

The locality enjoys a natural landscape, with established eucalypts and shrubbery. No vegetation is required to be removed as a result of the proposed mooring. The land was affected by the recent 2022 flood events which can be seen through aerial imagery (figure 12-14).

The land is moderately vegetated with a mixture of native and species, and cleared areas that have been disturbed over many years and areas still recovering from the recent flood events.

Horticultural and irrigated land production is located nearby and river related activities undertaken on and abutting the Darling River.



Figure 10 Aerial image of the locality



Figure 11 Land subject to 2022 floods



Figure 12 Subject land looking north of mooring site



Figure 13 Looking south of mooring site



Figure 14 River view from existing pontoon

Planning assessment

Policy context

In relation to the assessment of the Murray Regional Environmental Plan No 2 – Riverine Land this plan identifies that Council consent is required for bank and/or bed works and Marina (small) each of which must be advertised.

In considering the specific principles of this plan the applicable item is access which states that moorings in the main channel (Murray River) should be for the purpose of short stay occupation only. The proposal is not contained within the main channel and are proposed to be only be short stay in any case therefore the proposal will not impact upon this policy stance.

In this instance the proposal is considered acceptable and does not impact upon the intent of the zone as the subject land is freehold. The proposal is in fact supported by the zone through its objective. The objective of the proposal is to congregate like uses on a site identified for such adjoining the river and supported through the proximity of the development to the owner's land and dwelling.

The *State Environmental Planning Policy (Biodiversity and Conservation)*, 2021 (SEPP) provides the following definition:

River Murray means the Murray River, the waters and the beds and banks of its tributaries and associated water bodies (including related anabranches, creeks, lagoons, billabongs and wetlands), as shown on the map.

As the Darling River is a tributary of the Murray River, the SEPP applies to this application.

Section 5.9 of Chapter 5 of the SEPP outlines specific principles that must be considered when determining a development application. The following includes responses to the principles considered relevant to this application:

Access

In relation to the access principles, the proposed mooring will not result in alienation or obstruction of the Darling

River. The length of the vessel is 18.2 metres which is not unusual for the area. The land immediately adjoining the river is privately owned and occupied with public access to this specific area of the river by boat only. The location of the mooring allows for the vessel to be positioned to avoid interference upon river use.

The principles require that moorings in the main channel of the River Murray should be for the purposes of short stay occupation. As the Darling River is not the main channel of the River Murray, it is considered that longer occupation is appropriate.

Bank disturbance

Impact upon the bank is to be considered minimal, as the mooring will be attached to the existing platform and walkway. The location and scale of the mooring is considered to be of an adequate size and distance to avoid any impacts upon the natural lay of the land.

Flooding

The mooring is unlikely to have a significant impact upon the flow of floodwater due to the minor nature of the works. Management of the vessel during variation of river levels will also be undertaken through the alteration of the lengths to the tether which will ensure minimal movement of the vessel when moored.

As demonstrated during the 2022 flood event, significant time is provided giving warning, to allow for residents to prepare their land and infrastructure in the instance of flood events.

Landscape

No vegetation will be impacted by the proposed mooring. The proposed mooring is to be located alongside the existing walkway and platform, and tethered to two existing cleats made from 1" solid steel. The method of installation is considered to be low-impact and unlikely to cause harm to the existing landscape. The site enjoys existing vehicle and pedestrian access upon private land, which will continue to be utilised. The small-scale of the mooring is unlikely to visually impact upon the landscape.

River related uses

The proposed mooring has a direct relationship with the Darling River. No public access will be impacted at this

section of the river due to the adjacent land being in private ownership.

Wentworth Shire LEP

The proposed developments are considered acceptable and do not impact upon the intent of the zone. The land is freehold and the existence of presumptive title has been confirmed by the NSW Department of Planning and Environment – Crown lands. The proposal is supported by the zone through its objective, to provide a range of land uses, services and facilities associated with a rural village and to promote development in existing towns and villages in a manner that is compatible with their urban function.

Part 7 of the Wentworth Shire LEP provides additional local provisions with responses to relevant clauses provided below:

7.5 Wetlands

The minor nature of the proposed mooring is unlikely to impact upon native flora or fauna, or surface and groundwater characteristics.

7.6 Development on river front areas

While the clause appears to be specific to impacts upon the Murray River, it was considered relevant to note that the proposed mooring will not visually impact or cause environmental harm upon the Darling River due to the small-scale of the works.

7.7 Riparian land and Murray River and other watercourses – general principles

It is considered that the establishment of the mooring is an appropriate response to the general principles for the following reasons:

- ♦ The only works are limited to manual tethering to the existing platform and steel cleafs.
- ♦ The appearance of the vessel moored to the existing platform is not considered obtrusive, as it is a natural sight for paddleboats to be moored when not in use.
- ♦ No pollution will result from the proposal and the vessel being moored will be required to meet the necessary regulations of the NSW Waterways.
- ♦ Flora and fauna impacts have been considered through the siting of the proposal and the methods

used to moor the vessel (manual tethering to the existing platform).

- ♦ The development and works will not cause soil erosion as the mooring will be for the use of storing a vessel in the waterway only.
- ♦ No loss of scenic amenities or loss of important vegetation systems will occur as a result of the development, nor will there be any impact upon the water quality as no facilities for repairs or fuelling are offered at this location.

The location of the mooring is considered to be appropriate as view lines both upstream and downstream are not obscured ensuring boats can continue to manoeuvre safely. Mooring sites and boating facilities are not uncommon within the Darling River given that house boating is a significant attraction for Wentworth and surrounds.

Wentworth DCP

The DCP provides specific controls relating to development on the Darling River and to the mooring of private vessels on the Darling River. Responses to the considerations of development on the Darling River are as follows:

- ♦ No native vegetation will be impacted by the proposed mooring. As detailed above the tethering of the vessel to the existing platform will have no negative impacts
- ♦ The minor development will not cause impacts to abiotic factors.
- ♦ No invasive species are to be introduced to the riparian corridor.
- ♦ As private land abuts the river frontage, there is to be no impact to adjoining buffer corridor or effect upon regional connectivity of the area.
- ♦ The small-scale of works are unlikely to result in the potential for erosion of the river bank.
- ♦ No earthworks are proposed to secure the vessel to the existing platform.

Overall, the proposed mooring is considered consistent with policy and worthy of support due to its location and the location of the existing dwelling on the land.

Conclusion

It is considered that the proposed responds appropriately to the opportunities and constraints of the site. The proposed development is considered to be generally consistent with the relevant controls and provisions.

The proposal is considered appropriate for the site for the following reasons:

- ♦ The proposal is generally consistent with the Wentworth LEP and DCP.
- ♦ The proposal is consistent with State Environmental Planning Policy (Biodiversity and Conservation) 2021.
- ♦ The land holds presumptive title.
- ♦ There will be no loss of vegetation.
- ♦ The mooring responds to the site characteristics and opportunities and has considered potential impacts upon the locality and the Darling River.
- ♦ The small-scale mooring to be tethered to an existing platform and walkway is unlikely to cause material detriment to neighbouring properties or the public realm.

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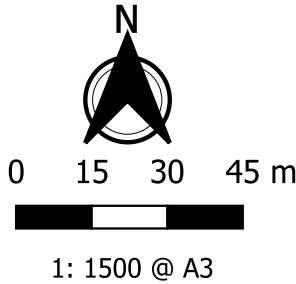
Mooring Plan

Client: Graham & Leonie Dunkley
130 Pomona Road, Wentworth NSW 2648

Job number: 25-007

Legend

- Distance to Cadastre
- 2m Contours
- Project Area
- Cadastre
- Vessel
- Pontoon and Pump
- Shed



Date: 28/04/2025 Version: 2 Drawn by: SD
Cadastre and Contours © NSW Spatial Services, 2025
Spatial grid datum and projection: GDA2020 / MGA zone 54
Imagery: NearMaps

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