



Purpose: To request that the Independent Planning Commission review the Gateway determination, taking into account information provided by the Proponent and Independent Review by Ethos Urban, and provide advice regarding the merit of the review request.

Dept. ref. no	PP_2018_WENTW_001_00 (GR_2020_WENTW_001_00) NOTE: all information relating to this matter is filed under Proposal Documents in PP_2018_WENTW_001_00.	
LGA	Wentworth Shire Council	
LEP to be amended	Wentworth Local Environmental Plan 2011	
Address/location	Lot 1 DP 1182353, No. 6811 Sturt Highway, Mallee Known as 'Northbank'	
Proposal	The proposal involves the rezoning of approximately 693 hectares of land and removal of the minimum lot size to enable tourism and commercial uses, known as 'Northbank on the Murray'	
Review request made by	<input type="checkbox"/> Council	
	<input checked="" type="checkbox"/> A Proponent	
Reason for review	<input checked="" type="checkbox"/>	A determination has been made that the planning proposal should not proceed.
	<input type="checkbox"/>	A determination has been made that the planning proposal should be resubmitted to the Gateway.
	<input type="checkbox"/>	A determination has been made that has imposed requirements (other than consultation requirements) or makes variations to the proposal that the Proponent or Council thinks should be reconsidered.

Background information

<p>Details of the planning proposal</p>	<p>A chronology of process for this proposal is provided as Attachment Background.</p> <p>The planning proposal dated 17 November 2016 (Attachment Planning Proposal) seeks to rezone land at 6811 Sturt Highway, Mallee (Lot 1 DP 1182353) to enable development for tourism and commercial uses, by rezoning the land to SP3 Tourist, B3 Commercial Core and B4 Mixed use under the Wentworth LEP 2011.</p> <p>The subject site has a total area of 693ha and is currently primarily zoned RU1 Primary Production. A small area of the site is also zoned W1 Natural Waterways and E3 Environment Management.</p> <p>The proposal also includes the removal of the 10,000ha minimum lot size from the land zoned RU1 for the site. The B3 Commercial Core and B4 Mixed Use zones are proposed new zones in the Wentworth LEP 2011.</p>
<p>Reason for Gateway determination</p>	<p>A Gateway determination dated 28 May 2018 (Attachment Gateway Determination) determined that the proposal not proceed for the following reasons:</p> <ul style="list-style-type: none"> • inconsistency with the strategic framework for the future Far West in particular: <ul style="list-style-type: none"> (a) Far West Regional Plan 2036 – Directions 12, 14,15,17 and 21. (b) SEPP (Rural Lands) 2008; (c) SEPP 44 – Koala Habitat; (d) SEPP 50 – Canal Estate Development; (e) SEPP 55 – Remediation of Land; and (f) Murray Regional Environmental Plan No.2 – Riverine Land. • inadequate information is provided to determine consistency with Section 9.1 Directions 1.1 Business and Industrial Zones, 1.2 Rural Zones, 1.5 Rural Lands, 2.1 Environment Protection Zones, 2.3 Heritage Conservation, 3.1 Residential Zones, 3.4 Integrating Land Use and Transport, 4.3 Flood Prone Land, 4.4 Planning for Bushfire Protection and 5.10 Implementation of Regional Plans; • the potential for environmental, social and economic impacts are considered to be unacceptable; and • the required site investigations have not been completed nor has the required detail been provided to support the proposal. <p>The Department's Gateway determination report dated 26 April 2018 is provided at Attachment Gateway Determination Report.</p>

Council views

<p>Date Council advised of request</p>	<p>Council was advised of the Gateway determination review request on 15 July 2020.</p>
<p>Date of Council response</p>	<p>29 July 2020 (Attachment Review Report Council)</p>
<p>Council response</p>	<p>Council's submission noted that an independent review was undertaken by Aurecon Consulting dated 23 February 2017 (Attachment Review Report Aurecon). The proposal was reported to Council in May 2017 and Council resolved to support the proposal and seek a Gateway determination.</p>

	<p>Council is supportive of and aims to encourage well planned sustainable development which provides economic and social benefits to Wentworth and the region.</p> <p>Council advise it is preparing a Rural Land Use Strategy and Rural Residential Strategy to allow alternative uses on rural land. The Strategy aims to provide flexibility for uses that are sympathetic to rural land.</p>
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Details of justification

The Proponent sought a review of the Gateway determination on 28 April 2020.

The Department engaged Ethos Urban to work with the Proponent and to provide an Independent Planning Review of the proposal as to whether the planning proposal has strategic and site specific merit.

The Ethos Urban Review Report contains the additional information provided by the Proponent.

The Proponent has advised that the concept master plan and flood prone land on Murray River Floodplain will be withdrawn from the proposal.

Ethos Urban Review Report dated 10 July 2020 (**Attachment Ethos Report**) with relevant sections from Ethos Review referenced and summarised below:

Strategic Justification for the Development. (Ethos section 2.2 pages 3-5)

The Proponent identifies a number of Strategic plans that apply to Wentworth and the region that support tourism and economic growth. Ethos found that an economic study is required and the information provided by the Proponent is a review and summary of the strategies and does not provide quantitative information.

Ethos found that in the absence of any definitive information of the quantum of development and staging and an economic market potential assessment that establishes and justifies the appropriate scale of the development and mix of land uses, the information provided by the Proponent is not considered to be adequate to establish strategic or site specific merit for the planning proposal.

The Far West Regional Plan includes several Directions and Actions that support tourism in the Wentworth LGA and the Far West Region. The development, as proposed in the planning proposal and concept master plan is not specifically proposed in the current strategic plans for the locality including the Wentworth Local Strategic Planning Statement and the draft Buronga Gol Gol Structure Plan. The proposal requires a convincing economic justification to rezone a major section of land that is outside the regional and local strategic framework.

Contaminated land assessment (Ethos section 2.3 pages 5 and 6)

The historical use of the land for agriculture and extractive industry purpose results in the land being potentially contaminated and therefore section 9.1 Direction 2.6 – Remediation of Contaminated Lands applies and must be addressed.

The Proponent advises that should the IPC support the proposal there is a commitment to undertake a Phase 1 assessment by a suitably qualified person prior to public exhibition.

Flood hazard (Ethos section 2.4 pages 6 and 7)

Part of the land to which the planning proposal relates is flood affected. There is no substantive information for potential flood impacts. Section 9.1 Direction 4.3 Flood Prone Land applies.

The Proponent advises that the concept master plan has been withdrawn and development is no longer proposed on the Murray River Floodplain.

Ethos advises that should the proposal be approved a condition should be imposed to exclude the land below the 1 in 100 year flood level from the planning proposal.

Current Economic Value of the Land for Agriculture. (Ethos section 2.5 pages 7 and 8)

Section 9.1 Ministerial Directions 1.2 Rural Zones and 1.5 Rural Lands apply as rural land is being rezoned and intensified for use. The Proponent has provided general information in relation to the suitability and capability for the land to be used for agricultural purposes. The land is constrained by the lack of access to water for irrigation and there is adequate suitable land available in Wentworth Shire for intensive

agriculture and more productive agricultural uses.

Ethos acknowledges the information provided lacks any quantitative basis regarding the agricultural value of the land. Ethos recommends that should the IPC endorse the proposal for Gateway approval:

- Further information, prepared by a suitably qualified expert, demonstrating that the site is not of high agricultural value, should be submitted by the Proponent prior to public exhibition; and
- The planning proposal needs to include a provision to the effect that adequate buffer areas to adjoining horticulture will be included in the detailed design of the development to prevent land use conflict.

SEPP 50 Canal Estate Development (Ethos section 2.6 page 8)

The Proponent has advised that the Murray River floodplain area will be excluded from the proposal. This issue would no longer be relevant.

Biodiversity/ Koala Habitat. (Ethos section 2.7 pages 8 and 9)

Part of the land is identified as being affected by SEPP No.44 Koala Habitat. Under SEPP Koala Habitat Protection) 2019 part of the land is identified as Koala Development and other parts identified as site investigations areas for the preparation of a Koala Plan of Management. Biodiversity assessment was not provided with the planning proposal. Part of the site is largely cleared while the areas subject to Koala Development Application map under the Koala SEPP along the river, have not been cleared.

The Proponent advised that the Murray River floodplain area will be excluded from the proposal. This will diminish koala and biodiversity impact and can be deferred to the development application stage should the proposal proceed.

Utilities and Infrastructure (Ethos section 2.8 pages 9 and 10)

The planning proposal provided little detail with regard to the quantum of the overall development e.g. number of dwellings, commercial Gross Floor Area, the timeline for development or staging.

The Proponent advised that the proposal is to be delivered over a long time frame. In relation to the provision of services, the Proponent offers a Council report dated 24 June 2020 in relation to potential for future service upgrade to the Gol Gol and Trentham Cliffs area.

Ethos found the planning proposal does not include sufficient information for the IPC to be able to establish if there is adequate existing utility services capacity to service the development, nor is there adequate information to establish if there is planned future capacity to service the development. In the absence of any definitive information of the quantum of development and staging, the information provided by the Proponent is not considered to be adequate to establish site specific merit for the planning proposal.

Bushfire hazard (Ethos section 2.9 page 10)

The land is identified as being bushfire prone. The land has been extensively cleared and this issue could be addressed by a condition relating to bushfire risk assessment prior to public exhibition should the proposal proceed.

Cultural heritage (Ethos section 2.10 pages 10 and 11)

The Proponent provided an AHIMS Register that identifies two sites. One site is on the floodplain area which is being withdrawn from the proposal and the other near a boundary that can be avoided.

Ethos recommends that should the proposal proceed a condition could be placed on the determination to undertake a cultural heritage survey prior to exhibition.

	<p>Traffic Impact Assessment (Ethos section 2.11 page 11) No traffic impact assessment was submitted with the proposal. The Proponent has advised that a traffic study will be provided with the development application. The Proponent provided newspaper articles about future road upgrades.</p> <p>Ethos found the planning proposal does not include sufficient information for the IPC to be able to establish if the traffic generated by the development is able to be accommodated on the surrounding road network. In the absence of any definitive information of the quantum of development and staging, nor a traffic assessment report, the information provided by the Proponent is not considered to be adequate to establish site specific merit for the planning proposal.</p>
<p>Material provided in support of the application/proposal</p>	<p>The Proponent submitted the following information in support of its request for a review of the Gateway determination:</p> <ul style="list-style-type: none"> • Gateway determination review application form dated 28 April 2020 (Attachment Review Application); • Ethos Urban Independent Planning Review Report dated 10 July 2020 (Attachment Ethos Report). This Report includes the additional justification information provided by the Proponent.

Assessment summary

After assessing the information provided by the Proponent and Ethos Urban the Department's position is that the Gateway determination should remain unchanged. The planning proposal in the form it is presented and with the proposed changes should not proceed on the following grounds and supporting information:

- the level of detail required in a planning proposal of this nature should be proportionate to the complexity of the proposed amendment. The Proponent has not provided adequate detailed information to demonstrate this.
- the Council Independent Review by Aurecon dated 23 February 2017 (**Attachment Review Report Aurecon**).
- the Department's Independent Review by Northern Region in the Gateway Determination Report dated 26 April 2020 (**Attachment Gateway Determination Report**).
- the review by the NSW Chief Planner in a letter dated 3 December 2019 (**Attachment Chief Planner**); and
- the reasons outlined in Ethos Urban Independent Planning Review dated 10 July 2020 (**Attachment Ethos Report**).

It is acknowledged that the Proponent has provided some additional information, proposed some changes to reduce the impact and assessment requirements and put forward to undertake further work post-Gateway determination. It is agreed that some matters such as bushfire assessment, cultural heritage and contamination assessment as identified by the Proponent and Ethos Report could be considered post-Gateway determination and prior to finalisation of the LEP amendment.

The Department maintains the view that for the type and scale of development proposed the level of information provided is not adequate to demonstrate strategic and site merit. For example, it is proposed to create a site area of 135ha for commercially zoned land and 145ha for mixed use zoned land without an economic assessment or definitive information about the use of these areas. To put this in context, the neighbouring regional centre of Mildura, 5 kilometres away, has 16.6ha of occupied retail floorspace (source: page 7 Mildura Retail Strategy Review 2018 prepared by Essential Economics Pty Ltd in conjunction with Tract dated December 2018).

Furthermore, the background information (**Attachment Background**) of the process and informal reviews undertaken by the Department in consultation with the Proponent clearly demonstrates that the Proponent has had adequate opportunity to provide the information to demonstrate strategic and site merit.

In summary the Department supports the findings of Ethos Urban Review Report (page 12) in that there is a:

"..1 a lack of any definitive information of the quantum of development, timing and staging, and an economic market potential assessment that establishes and justifies the appropriate scale of the development and mix of land uses. The impact of the proposed development for tourist, residential, retail and commercial uses on the locality (Buronga Gol Gol) and wider sub-region is not quantified and therefore not adequately justified. The additional information provided by the Proponent is not considered to be adequate to establish strategic or site specific merit for the planning proposal.

2. The planning proposal does not include sufficient information to establish if the traffic generated by the development is able to be accommodated on the surrounding road network both now and into the future. In the absence of any definitive information of the quantum of development and staging, nor a traffic assessment report, the information provided by the Proponent is not considered to be adequate to establish site specific merit for the planning proposal.

	<p><i>3. The planning proposal does not include sufficient information to be able to establish if there is adequate existing utility services capacity to service the development, nor is there adequate information to establish if there is planned future capacity to service the development. In the absence of any definitive information of the quantum of development and staging, the information provided by the Proponent is not considered to be adequate to establish site specific merit for the planning proposal...”</i></p> <p>Additional Information</p> <p>A chronology of the proposal process is provided at Attachment Background.</p>

Attachments

- Background - chronology of proposal
- Planning Proposal
- Gateway Determination – determination and letter dated 28 May 2018
- Gateway Determination Report - dated 26 April 2018
- Review Report Council - letter dated 29 July 2020
- Review Report Aurecon - Review dated 23 February 2017
- Ethos Report - Ethos Urban Review dated 10 July 2020
- Review Application
- Chief Planner - letter dated 3 December 2020.

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IPC RECOMMENDATION

Reason for review: A determination has been made that the planning proposal should not proceed.

Recommendation:	<input type="checkbox"/>	The planning proposal should not proceed past Gateway.
	<input type="checkbox"/>	<input type="checkbox"/> no amendments are suggested to original determination. <input type="checkbox"/> amendments are suggested to the original determination.
	<input type="checkbox"/>	The planning proposal should proceed past Gateway in accordance with the original Determination.

Any additional comments: