



*Prosperity for every piece*

# **SUBMISSION FAR WEST PLAN MUST FACILITATE GROWTH IN WENTWORTH**

Presented by  
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# restofnsw inc.

**restofnsw inc.** has the exclusive aim of advocating for policies that bring prosperity to communities outside of the Sydney Basin.

We advocate for policies that will make regional NSW:

- a great place to live and visit;
- grow healthy food for domestic and international markets;
- develop our resources in harmony with agriculture and communities;
- achieve improved environmental outcomes without sacrificing communities or productivity; and
- a union of many diverse local economies.

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# THE DRAFT FAR WEST PLAN SHOULD FOCUS ON GROWING WENTWORTH REGION

## BACKGROUND

Why is the Sunraysia area developing in such a lopsided fashion? Wentworth Shire has 7,000 people while Mildura Shire has 60,000. Major residential and commercial developments such as shopping centres and the Marina are being built in Mildura while no major developments are happening in Wentworth. Victorian Sunraysia has seen the creation of a major almond industry with negligible plantings in NSW Sunraysia. The majority of Sunraysia's horticultural development is in Victoria with diverse and growing plantings of nuts and vegetables.

## WHY IS WENTWORTH DIFFERENT TO THE REST OF THE FAR WEST?

- Adjacent to Victorian regional city of Mildura
- approx. 1,000 km of riverfront to Murray and Darling rivers
- circa 3 million hectares of land with circa 300,000 ha close enough to the river to be suitable for irrigation, i.e. There is no shortage of prime agricultural land, only a shortage of affordable irrigation water
- Mildura was planned out for development by the Chaffey Brothers/Victorian Government over 100 years ago while the Western Lands Commission has controlled most NSW Sunraysia land
- NSW Planning and referral offices are located remote from Wentworth in Dubbo

## WHY SHOULD THE FAR WEST PLAN FOCUS ON GROWTH IN WENTWORTH?

- There are greater opportunities for sustainable non-mining development in Wentworth than anywhere else in the Far West
- Wentworth region has the largest deposits of mineral sands in Australia
- Growth in Wentworth can utilize Victorian infrastructure in Mildura eg. Airport with jet flights, arts centre, recreation and university – what other Far West area has access to these services?
- It will help make the Wentworth community more prosperous and retain young people in the community
- Growth is the stated reason the Regional Plans are being prepared
- Growth in Wentworth will bring money in investment and taxes from Victoria and South Australia into NSW
- Growth in Wentworth is consistent with the NSW State 2021 Plan, which states:  
“Objective 3.2 Increase the population in regional NSW by 470,000 by 2036”.  
Without population growth in Wentworth it is likely that the Far West region will make no contribution to achieving this objective.

From Dubbo or Sydney it is hard to fully appreciate that the economic opportunities in South West NSW are largely driven by markets in competition in Victoria and South Australia. Until NSW realizes this we will continue to leak jobs and investment to Victoria and South Australia.

# UNBLOCKING BARRIERS TO GROWTH

## LACK OF VISION IN DRAFT FAR WEST PLAN

The Far West desperately needs an Action Plan for growth rather than a glossy PR magazine full of motherhood statements and pretty pictures – unfortunately that is what the Draft Far West Plan is now. Sydney has had phenomenal growth and investment in part because of a solid vision, why can't the same be applied to the Far West?

On page 8 of the Draft Far West Plan the Vision statement reads like a tourism pamphlet and not an actual vision for the Far West. Statements such as:

*“Together with the region's many other environmental and cultural heritage features, they continue to enrich the lives of residents and attract domestic and international tourists.”*

could easily be copy and pasted onto a tourism pamphlet for almost any regional area in NSW.

**restofnsw** believe a vision should include something tangible such as a 30% increase in population or 3000 new jobs. There is no population or jobs target in the Draft Plan. The vision could be Mildura and Wentworth emerging as a twin city like Albury Wodonga. The Department of Planning have a vision for Sydney but not for the Far West.

By 2036 the best residents of the Far West can hope for is to “still enjoying the distinctive rural character of the communities” – whatever that means. A real vision is needed for the Far West with real actions to realize that vision.

## REMOVE ANTI-GROWTH MEASURES

**restofnsw** believes the Draft Plan fails to recognise a problem that is central to many of the issues in the Far West, that being the ideological approach of the Department of Planning and the Department of Primary Industries. The anti-river community agenda the Department of Planning remains unchanged while the Department of Primary Industries continue their jihad against rural residential subdivision.

The Draft Far West Plan continues to promote increased river setbacks notwithstanding that the Department promotes riverfront/harbourfront development in Sydney. It is hypocritical of the Department to allow development on the banks of Sydney Harbour but place burdensome river setbacks for any rural citizens that want the same thing i.e to live near the cooler climate a water front property offers.

The Department of Primary Industries lets the fertile farmland of Western Sydney be chopped up into housing blocks while opposing development in Wentworth where there is 2.6 million hectares of land and no pressures on agricultural land. **restofnsw** recognise the importance of agriculture to the Far West but see no reason why mapping to 'protect agricultural land' will impact agricultural development. We know it will halt growth in rural lifestyle lots that are otherwise in demand.

**It is essential that the anti-rural lifestyle and increased river setback aspects of the Draft Far West Plan be changed. People will move to Wentworth for rural lifestyle and to live on the river. To take away these growth opportunities from Wentworth is not fair and is based upon ideology rather than evidence.**

The Draft Far West Plan does also not adequately appreciate the diversity in the Far West and assumes the dominant problems of some remote communities are uniform across the entire Far West. The Plan needs to recognise we are part of the Mildura market and need to be allowed to grow with Mildura.

For example Wentworth is vastly different to the remote communities of the Far West:

- it does not face the same aboriginal non-employment rate as remote communities
- it has excellent airport, arts, shopping, health and education services provided by Victoria; eg. Mildura Airport, Mildura Arts Centre, Mildura Hospital, Mildura Central, Deakin University, Sunitafe and diverse private and public schools
- it has a diverse economy driven by Mildura services sector and the horticulture industry

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- it has growth opportunities in horticulture, tourism and housing
- it has a well funded Council making surpluses with almost \$30m of reserves
- linked with Victoria and the Murray rather than the Far West

Wentworth has more alignment with Mildura than does with Bourke, Wilcannia, Ivanhoe or Brewarrina. The Draft Far West Plan should grow Wentworth and provide other support to the communities without these growth opportunities.

## **LESS GOVERNANCE NOT MORE**

**restofnsw** has continually maintained that reforming Western Lands Act 1901, The Native Vegetation Act 2003 and regional planning would deliver almost immediate results for Far West communities at negligible cost. All the Government needs to do to improve regional outcomes is to start listening to local communities rather than creating additional bureaucracies.

The Far West Authority model in reality is less efficient than what we have currently. **restofnsw** proposes that the consultation committee look at logical opportunities for sub regions to cooperate with one another rather than the entire Far West trying to collectively achieve a number of diverse goals.

For example the far south-west region of Wentworth is far better suited to co-operate with Mildura across the river. Albury Wodonga Health provides an example of where cross border co-operation has improved outcomes.

**restofnsw** believes the Far West Authority central planning/economic development model will further delay economic development by undertaking more 'plans' and more 'meetings' when there are logical local solutions. For example Wentworth already has a lot of development potential by being in close proximity to Mildura. All that is needed is a NSW Government commitment to allow Wentworth to share in Mildura's growth. It makes sense for Wentworth to plan for its own economic development.

The development of a stand alone Far West Environmental Plan is not necessary as NSW already uses a Standard Instrument Plan. What is necessary is for the Department of Planning to fix weaknesses in their approach to regional planning.

# SPECIFIC SUGGESTIONS FOR DRAFT FAR WEST PLAN

## **SUGGESTION 1: CONSOLIDATE AND STREAMLINE PLANNING REFERRALS**

Development Applications and Planning Proposals in Wentworth Shire will be referred to up to four DPI offices for comment being DPI re agricultural land issues, NSW Office of Water, NSW Fisheries and Local Land Services.

DPI (in conjunction with Department of Planning) should consolidate and streamline these referrals (or delegate to Council) as:

- ❑ Wentworth LEP 2011 already requires Council to consider these issues
- ❑ The DPI offices generally oppose development that Wentworth needs
- ❑ The DPI offices are remote from Wentworth and inadequately consider local issues
- ❑ DPI state they don't have the resources to visit Wentworth to consider individual proposals but they object to these proposals nevertheless

The Draft Far West Regional Plan needs to be amended by removing all references to restricting development on agricultural land. Wentworth needs all the sustainable development it can get and there is no shortage of agricultural land. Abundant land is one of Wentworth's strengths as there is plenty of land for all activities including rural lifestyle land and prime agriculture.

## **SUGGESTION 2: STREAMLINE PLANNING PROPOSALS**

The Government had promised to give power to Councils to determine Planning Proposals of local significance but this is happening only in name. The reality is that every key decision is duplicated by the local Council then the Western Region Office Department of Planning and then often the Sydney Office of Department of Planning.

At present Planning Proposals are ping ponged back and forth between the Department of Planning and Councils up to six times. Small Council's are required to do mapping and drafting that they have little expertise in. The result of this is that in Wentworth Planning Proposals take between one and four years to be finalized.

Solutions could include:

- Giving Council's the power to make Planning Proposals as was originally intended; or
- Council authorizing the Planning Proposal initially and the Department handling all subsequent details and finalization.

A Planning Proposal is required for any change to an LEP, whether this be a very small matter or even fixing a mistake in the LEP. It is crazy that it takes a year to process a minor Planning Proposal or fix an error the Council and Department may have made in the first place, eg. A map error.

In addition fees for Planning Proposals should be proportional to the size of the development or waived when the Planning Proposal is fixing an LEP error.

## **SUGGESTION 3: ENGAGE WITH MAJOR HORTICULTURAL COMPANIES TO SECURE INVESTMENTS IN WENTWORTH REGION**

The Victorian Government has recently worked with Olam to establish a large almond processing plant (cost \$55 million) in near Mildura in addition to the 12,000 hectares of almond orchard in and around the Mildura/Swan Hill region. NSW Government has assisted other large-scale horticultural projects in the east of the State. DPI should see Wentworth Shire as an opportunity for large-scale efficient agriculture as we have the land and access to water. Large-scale horticulture investors are again looking for locations for major developments and NSW should try and secure them.

The NSW Government should be congratulated for its water policies, which have reduced the adverse impacts of Federal Murray Darling buybacks. However, Government water buybacks have distorted the water market and it continues to be the case that buybacks are increasing the cost of agricultural water. This is a barrier to new horticultural developments.

#### **SUGGESTION 4: MAKE BURONGA GOL GOL A PRIORITY GROWTH AREA FOR DEPARTMENT OF PLANNING**

The Department has rezoned land sufficient for thousands of residential lots and there are a number of major agricultural and commercial projects planned for Buronga Gol Gol. Notwithstanding this there is minimal mention of housing, population growth or a target for population growth in the Draft Far West Plan or the Regional Narrative.

The reality is the Department does not understand the Wentworth area and its relationship with Mildura and has no belief in its growth – even though it has rezoned land to provide for it. Victoria has been laughing at NSW for decades as it grows at NSW expense right down the Murray.

The Far West Regional Plan needs to be a Plan for Growth rather than decline. The lack of population targets is a stark difference between the Draft Far West Plan and other Regional Plans the Department has prepared.

Growth at Buronga Gol Gol has been delayed by ten years due to the Department of Planning not allowing rezonings to proceed until the Standard LEP Template was adopted by Council. Timing of the rezonings being approved did not fit well with economic conditions but there is now significant momentum in Buronga Gol Gol that will likely carry on for the next decade if supported.

Every one of the Department of Planning's Priority Growth Areas is in Sydney. Buronga Gol Gol would benefit from the support given to these preferred city areas and should be planned as a Twin City with Mildura.

#### **SUGGESTION 5: EMBRACE THE RIVERS – WENTWORTH REGIONS KEY STRENGTH**

Nothing differentiates Wentworth from other areas more than its extensive riverfrontages to the Murray, Darling and the Anabranch of circa 1,000 kilometres.

The Draft Far Western Plan seeks to sterilize the rivers and floodplain. This continues an ideological fact free battle the Department has waged against river communities for decades. The NSW Floodplain Management Policy specifically speaks against sterilization of the floodplain.

The Murray River Riparian Planning Controls document has not been properly exhibited or discussed with river communities and contains no evidence of current negative river impacts from the current 40 metre setback provisions.

The reality is that a very small portion of the rivers are in proximity to Wentworth's towns and the push for increased setbacks is based upon ideology rather than evidence.

#### **SUGGESTION 6: FREEHOLD LAND WITHIN 20KM OF WENTWORTH'S TOWNSHIPS**

- ❑ Ability to freehold pastoral leases for purpose of grazing is needed – currently illegal under Western Lands Act
- ❑ Wentworth is in the same market as Mildura and needs to compete on an equal playing field – Mildura has freehold title
- ❑ Wentworth Council has a policy of requesting the NSW Government freehold all land within 20km of our major townships

#### **SUGGESTION 7: RESPECT EXISTING PROPERTY RIGHTS**

The NSW Government has consistently undermined property rights in the Far West which makes investment in the Far West less attractive.

Examples of this include:

- Historic dwelling rights associated with existing subdivisions being grandfathered or abolished
- Concessional lots being abolished
- Additional permitted uses being grandfathered

The Murray River Riparian Planning Controls document states on page 40 that:

“The environmental consideration of the whole river system should be prioritized over individual property rights”.

This approach would never be tolerated in the city. It is clear policy that impacted parties are compensated but not when it comes to the Far West.

There are already many environmental restrictions on development on rural land. Duplicating these restrictions through the Planning System will make living on the land and sustainable farming less viable.

#### **SUGGESTION 8: USE PLANNING SYSTEM TO ENCOURAGE TOURISM DEVELOPMENT**

Policies that could be streamlined or improved to promote tourism include:

- DPI to cease objecting to tourism projects on the basis of reduction in agricultural land – land that will be used by tourism proposals in the Far West is minimal
- Councils supported to reduce or eliminate Planning Proposal and Development Application fees for tourism projects in the Far West
- Fast tracking planning processes for tourism projects in the Far West
- Department of Planning to support tourism projects that interact with the River Murray and look for ways tourists can have access to the river without negative environmental impacts – this includes dumping the ideologically driven river setbacks policy
- Department of Planning to support local Councils providing flexibility for tourism in their rural zones as they have done in Cessnock LGA. See example over of tourism being downgraded in the Wentworth LEP 2011.
- Amend Land Use Tables in LEP's to encourage tourism

Further information and detail supporting these suggestions follows below.



# ENCOURAGING TOURISM

Direction 5 of the Draft West Regional Plan is about promoting tourism opportunities which is great. The unfortunate reality is that NSW Government policies are the most significant barrier to tourism development in the Far West.

The Draft Plan mentions five potential projects which would all require significant Government subsidy when what needs to be prioritized is the streamlining Department of Planning, DPI and Council policies that restrict tourism developments. Of course Government funded projects won't hurt but unshackling private tourism businesses will cost nothing and is sustainable.

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There could be a 20km area around existing towns where tourism was facilitated.

The Wentworth LEP 2011 Land Use table for the RU1 Zone is unnecessarily restrictive in terms of items that are PERMITTED WITH CONSENT. In particular we submit that Tourism, and in particular Tourism and Visitor Accommodation, Caravan Parks and Camping Grounds, should be PERMITTED WITH CONSENT in the RU1 Zone.

The NSW Government and Wentworth Council have regularly stated that Tourism is a huge priority for Wentworth Shire. However the Wentworth LEP 2011 has included only 1 acre of land zoned SP3 Tourism Zone. The LEP does not allow any tourism activities apart from limited Farm Tourism in rural areas – the limited operations allowed by Farm Tourism are tokenistic.

The bulk of the land in Wentworth Shire where viable Tourism businesses could be established is currently zoned RU1. Land already zoned Village will be likely seen as more lucrative being used for residential purposes and would be highly unlikely to be used for Camping Grounds or Caravan Parks. These activities are not appropriate for an Industrial zone so unless these activities are included in the RU1 Zone they are effectively not being allowed in the Shire. Inclusion of Tourism and Visitor Accommodation, Caravan Parks and Camping Grounds as PERMITTED WITH CONSENT in the RU1 Zone will be the simplest way of facilitating investment in Wentworth's tourism industry.

Massive illegal camping in riverfront areas currently takes place without proper roads, rubbish collection or sewer disposal. Wentworth district receives thousands of visitors at peak times.

We would submit that organised Caravan Parks and Camping Grounds will be better for:

- Encouraging investment into facilities in the area
- Superior environmental outcomes – New facilities will only be approved with appropriate septic or sewer treatment connections, proper access roads and rubbish facilities.
- Encouraging visitors to the area which will support existing businesses
- Potential diversification options for rural landholders

Importantly, we are proposing Caravan Parks and Camping Grounds be only PERMITTED WITH CONSENT so Council will still review each proposal on its merits.

We request that the Land Use Table for the RU1 Zone in the Draft LEP 2011 be amended by:

- Including Maps Caravan Parks and Camping Grounds as PERMITTED WITH CONSENT
- Deleting "Tourism and Visitor Accommodation" as PROHIBITED – we believe it should also be included as PERMITTED WITH CONSENT
- Deleting "Home Occupations (sex services)" as "PERMITTED WITH CONSENT" and include as PROHIBITED
- **RU1 ZONE LAND USE TABLE**
  1. Objectives should include "Encourage tourism development in Wentworth Shire"
  2. Prohibition on:  
Caravan Parks, Rural supplies, Service Stations, Boat repair facilities, Highway Service Centres, Transport Depots, Truck depots, Marinas, Markets, Schools (eg. Pomona School additions will be prohibited as in RU1 Zone) and Tourist and Visitor Accommodation

should be changed to Permitted with Consent.

NSW Department's were actively engaged in approving a marina at Mildura Victoria yet they discourage riverfront development in NSW.

# RURAL DWELLING RIVER SETBACKS

The Wentworth LEP 2011 changed rural dwelling river setbacks without any strategy or proper public inquiry. Now the Draft Far West Strategy proposes to do this again by hiding the Murray River Riparian Controls document from local communities. This has been placed on the Department of Planning website only three weeks from the end of the Submissions period and without any publicity. **restofnsw** submits that the existing river setbacks for non-urban zones should be retained for the following reasons:

## 1. Impact on property valuations of setback

The Weekend Australian of 26-27 March 2011 cites the impact of water views on the valuation of property. To quote "The research has shown that if you get a glimpse of a view – and it doesn't have to be an extensive view – then the increase in value can be quite significant". We submit this is definitely the case and that the increase in setback will reduce land values. With the increase in setback causing lower land values there will be a reduction in Council rate income. Given there is no benefit to the landholders from the change it is appropriate that Council or the NSW Government compensate landholders for the reduction in value in their properties - likely millions of dollars.

## 2. Differential Treatment of Rural Landholders

The setback provisions are biased against rural landholders with different rules for rural and village landholders without any argument being provided for differing impacts of a dwelling between a village and rural area. We submit there is no justification for increasing dwelling setbacks to 100m setback for rural land. We submit the setback should be retained at 40m for all land in the Shire. Why should rural families not be entitled to live near the river given the hot climate we live in?

## 3. There is no material problem with current setbacks

The Murray River Riparian Planning Controls document itself identifies that there is no material problem:

*Page (viii) "Generally, development pressures along the Murray River are low, with areas of intense development pressure in, and adjacent to, some towns"*

*Page 26 "Given the relatively small area urban frontage occupies along the river, the impact of providing riparian buffers in new developments will be negligible at a whole of river scale"*

So if all the towns are making "negligible" impact then the impact of letting a few rural landholders having access to views of the Murray will be even more negligible.

## 4. The Murray River Riparian Planning Controls document has not been properly exhibited in the Far West so its flaws can be pointed out

Local people have not had proper opportunity to read and comment on this document even though it will significantly impact them. For example on page 41 it recommends private boat ramps will no longer be permitted within town centres or on the outside bend of a river. This will impact river users but is not supported by evidence of adverse impacts of boat ramps and few people would be aware of this.

NSW Planning have had an agenda against communities using the river for decades and have obtained a report that advocates for this – no surprise. What is required is an independent consideration of all impacts on the river. For example in the whole report there is no negligible mention of the impacts of stock or illegal camping on the river.

## 5. People living on the river are the greatest advocates for its health

People live on the river because they love it, not because they want to damage it. The Draft Far West Plan does not recognize the positive environmental impacts of having landholders live on the land. Examples of positive effects of landholders residing on the land include acting as advocates for and

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co-ordinating environmental flows, better managing agricultural impacts, managing feral animals and fencing environmentally sensitive sites.

In particular riverine land needs people living on it to ensure it is looked after. The riverine areas in the Wentworth Shire are just too large to look after unless people live on them. Without permanent residents the riverine areas are a “free for all.” Whether by cutting fences, shooting padlocks or coming by boat, the only thing stopping people coming to riverine land is its permanent occupation. This statement is applicable to both private farmland and Government Reserves.

There is no better justification for people living permanently on the river than looking at the environmental impacts of riverine land where there are no permanent residents:

- Acidification of Bottle Bend lagoon (State Forest) due to no-one acting on signs of acidification – massive environmental destruction (see Murray Wetlands Working Group website – ABC TV) – compare private lobbying for environmental watering
- Illegal logging – has taken place on Council reserves
- Illegal fires – some causing the destruction of 500 year old red gums
- Illegal camping with raw human effluent disposed of without sewer on floodplain
- Destruction of native vegetation
- Shooting and motor bikes impacting habitat for native animals

While well intentioned, the push by the Department of Planning to stop people from living on rural land and near the river is counterproductive to the environment. Planning NSW is unintentionally encouraging a “free for all” on rural land. Literally tens of thousands of campers flock to any riverine land without permanent residents and there are no environmental controls on their activities.

The case against riverine dwellings has not been made in by the Draft Far West Plan.

Where people want to live in rural areas they should be encouraged, not discouraged.

This is not to say the environment should be disregarded, simply that the best way to look after the environment is to have people living on riverine land. The way to protect the riverine environment is to:

- Ensure compliance with the law re action near river
- Uniform 40 m setback and no sewer disposal in this area
- Encourage grazing removal in riverine zone
- Encourage permanent residents near the river
- Manage NSW Government land adjacent to the rivers

The success of environmental initiatives by the CMAs and Landcare Groups is based substantially on the work of rural residents. Without rural residents this activity ceases. The NSW Government has not the resources to manage existing reserves, let alone private land.

In addition there is no justification for treating the setback on rural lots and rural residential differently to village lots as the environmental impacts are equivalent. Indeed the density of development on rural lots in Wentworth Shire is, and is likely to remain, close to inconsequential. This change is based on image rather than substance.

# MANAGEMENT OF FLOODING ISSUES CONSISTENT WITH NSW FLOOD PLAIN POLICY

The Draft Far West Plan contains some simplistic references to limiting development on the floodplain. Most of Western Sydney is built on a floodplain and we don't see the Department limiting development there.

## NSW FLOODPLAIN DEVELOPMENT MANUAL INTENT

Construction of dwellings on flood plains and access to those dwellings is regulated by the NSW Floodplain Development Manual and Wentworth LEP. The Wentworth LEP provisions substantially restate the positions of the NSW Floodplain Development Manual. The intention of the NSW Floodplain Development Manual ("the Manual") is clearly shown by the extracts below:

**"The primary objective of the New South Wales Flood Prone Land Policy, as outlined below, recognises the following two important facts:**

- **flood prone land is a valuable resource that should not be sterilised by unnecessarily precluding its development; and**
- **if all development applications and proposals for rezoning of flood prone land are assessed according to rigid and prescriptive criteria, some appropriate proposals may be unreasonably disallowed or restricted, and equally, quite inappropriate proposals may be approved".** (1.1 NSW Floodplain Development Manual)

**"The great majority of the State's towns and cities are located on inland and coastal floodplains, because of our early reliance on maritime or riverine transport. These towns are subject to flooding and measures are needed to protect their future livelihood. Floodplains are also the commercial, social and environmental arteries of the State". (Appendix A2 NSW Floodplain Development Manual)**

Most of Western Sydney, the largest residential area in NSW, is built on floodplain. Most of NSW's coastal development is on floodplain. These are currently the areas of the fastest residential growth in NSW. Wentworth Shire has extensive flood plain areas also but the vast majority of these areas are defined as "flood fringe" or "flood storage". Wentworth does not have a significant local catchment and flood waters come from the upper Murray or upper Darling and their tributaries and takes months to reach Wentworth.

**"Floodplain risk management is an application of risk management principles. Effective floodplain risk management recognises that floodplains are a valuable natural resource and that their management requires a balance of the costs against the benefits of using the floodplain. Some communities may decide to accept a greater flood risk, because there are significant benefits from occupying the floodplain". (Appendix B6 NSW Floodplain Development Manual)**

This makes it clear that the intention of the NSW Floodplain Development Manual is predominantly to ensure that development conditions are appropriate for the floodplain rather than to stop development on the floodplain. Given the importance of the rivers to Wentworth Shire it is appropriate that every effort be made to promote development on the floodplain with the understanding that high development standards are required to ensure there are no safety or riverine impacts.

## IS FLOODPLAIN ACCESS POSSIBLE?

In order to determine where development can occur on the floodplain we need to consider that not all flood prone land is impacted by floods equally, as described below in the Manual.

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**“For the purpose of this manual there are three hydraulic categories of flood prone land:**

- **floodways;**
- **flood storage; and**
- **flood fringe.**

**Floodways are those areas where a significant volume of water flows during floods and are often aligned with obvious natural channels. They are areas that, even if only partially blocked, would cause a significant increase in flood levels and/or a significant redistribution of flood flow, which may in turn adversely affect other areas. They are often, but not necessarily, areas with deeper flow or areas where higher velocities occur. Flood storage areas are those parts of the floodplain**

**that are important for the temporary storage of floodwaters during the passage of a flood. If the capacity of a flood storage area is substantially reduced by, for example, the construction of levees or by landfill, flood levels in nearby areas may rise and the peak discharge downstream may be increased. Substantial reduction of the capacity of a flood storage area can also cause a significant redistribution of flood flows. Flood fringe is the remaining area of land affected by flooding, after floodway and flood storage areas have been defined. Development in flood fringe areas would not have any significant effect on the pattern of flood flows and/or flood levels”. (Appendix L3 Hydraulic Categories)**

It would be expected that very high standards of development control were required for development in a floodway, lesser requirements for flood storage land and modest constraints for flood fringe land.

In Wentworth Shire the very flat landscape means there is almost no location where floodplain access cannot be facilitated through modest and appropriate use of elevated roads, culverts and bridges. Council itself constructs flood free roads over many kilometres of flood plain. One example of access across floodway is the highway from the Buronga Roundabout to the Mildura Bridge, which is on very low ground. While an extreme example this shows that Floodplain access is predominantly an issue of cost.

So the key consideration for Council needs to be to set an appropriate standard for floodplain access that meets all requirements of the Manual, differentiates the standards for floodways, flood storage and flood fringe and makes it clear that the costs are to be met by the applicant.

Whether the costs of creating flood free access is commercially viable or not is an issue for the applicant rather than the Council. In most situations the high costs of providing access in a floodway will render development unviable. On the other hand the large areas of the Shire that would be classed as flood fringe should allow development in accordance with appropriate conditions.

An example of a Wentworth DA condition relating to floodplain access (DA Barnfield) is as follows:

***"The access road across the floodplain to be constructed to an elevation to match the 1 in 20***

***year flood height. Road width to be 6 metres formation width with 1 to 3 batters with an all weather surface. Road to be designed by a qualified person and approved by Council prior to construction. The fill material used for construction of the access road is to meet Council's certification. Culverts are to be installed to Councils and other Agency requirements to accommodate low flows to meet environmental & social downstream conditions. Culvert lengths are to accommodate retention of specified batter slopes. All costs to be borne by the proponent."***

The Barnfield condition meets all the requirements of the NSW Floodplain Access Manual and Wentworth LEP and puts the requirement on the proponent to meet all costs of compliance. This condition, if enforced, is sufficiently comprehensive to meet the highest standards of floodplain access. Indeed the NSW Floodplain Access Manual shows examples of access roads over floodways well under the 1 in 20 flood height level (with floodway signage). Consequently the Barnfield approach is of a higher standard.

## **SAFE CONSTRUCTION OF DWELLINGS ON THE FLOODPLAIN**

In terms of specific comments that relate to dwellings the Manual makes a number of comments quoted below:

**“FPLs (Flood Planning Level) for typical residential development would generally be based around the 1% AEP flood event plus an appropriate freeboard (typically 0.5m)” (1.1.2 NSW Floodplain Development Manual)**

Wentworth uses a higher standard of freeboard of 0.75m, which is mostly commonly achieved, by an earth mound. The height of the mound will vary according with topography and it is in the interests of the landowner to site the dwelling on flood free ground to avoid this cost.

Requirements for a flood study prior to consideration of a development application should be limited to any development on floodways and significant developments on flood storage land. Developments on flood fringe land do not present safety risks or obstruct floodwaters.

The Manual details the importance of Council's Flood Study rather than private Flood Studies for individual properties. In this respect Council's Flood Planning Maps are of primary importance to indicate areas requiring Flood Studies. Where Council already has a Flood Study for the land, a further requirement for a Flood Study imposes additional costs for no benefit.

**“Data collection should not be seen as an end in itself, but as input to enable preparation of properly informed studies, management plans and floodplain risk management decisions”. (2.3 NSW Floodplain Development Manual)**



# RURAL LANDS ISSUES

## 1. WENTWORTH IS A RURAL SHIRE WITH A RURAL HERITAGE

- Wentworth Shire comprises 2.6 million hectares of which much less than 1% is viable for development other than agriculture or conservation as it is too far from infrastructure. Wentworth has circa 300,000 acres of cleared land with sandy soil land suitable for horticulture and it will frankly never be planted because of a lack of affordable water.
- A key feature of the shire is rural living in irrigation settlements. Living on the land on lots of 5-50 acres is an integral part of the Shires Heritage and social fabric .
- The Draft Far West Plan should not treat rural landholders, the foundation of the Far West, as second class citizens!

## 2. DRAFT FAR WEST PLAN PROPOSES TO LIMIT RURAL LIFESTYLE SUBDIVISION

The Draft Far West Plan continues the DPI and Department of Planning jihad against rural lifestyle subdivisions. It is just a cut and past job from other Plans close to the coast and denser populations where this policy may have credence.

In the FAQ for the Draft Plan it states the Draft Plan will “grow the potential of agribusiness and manufacturing sectors by protecting agricultural land”. This motherhood statement is not supported by any evidence and should be deleted from the Draft Plan.

On page 16 the Draft Plan proposes mapping agricultural land to “protect agricultural land” – in truth this is being done with the intent of reducing growth opportunities. The main thing restricting agricultural output in Wentworth is the price and availability of irrigation water.

Unfortunately the Draft Plan does not consider that in 35 million hectares of the Far West the potential for rural lifestyle subdivision is inconsequential and will not impact the adequacy of productive agricultural land. All this does is reduce growth potential in rural communities that have sufficient land for both agriculture and rural lifestyle.

## 3. COMMUNITY OPPOSITION TO WENTWORTH LEP 2011 RESTRICTIONS ON RURAL LAND

- The Wentworth LEP removed dwelling rights associated with rural land without any strategic justification
- On 15 March 2011 a public meeting re rural lands issues associated with the Wentworth LEP resolved that setbacks shouldn't be changed and rural dwelling rights shouldn't be changed. The meeting was addressed by prominent Local Valuer Graeme Whyte of Heron Todd White and Peter Danson of Peter Danson Surveyors. Many of the Wentworth Councillors were present.

All the rural landholders present expressed great concern about the unfairness of the Draft LEP process and how they were being treated differently to others by dwelling entitlements being taken away. River setback was another area where landholders felt the process was very unfair and that the changes were not being justified.

The rural landholders present at the meeting unanimously passed the following Resolution:

1. **The Consultation period needs to be lengthened and Council needs to explain the Draft LEP contents to all effected landowners**
2. **Maps need to be re-done and discussed with effected landholders. Land use table for RU1 Rural needs to fixed, eg. prohibit Sex Services and Allow with Consent activities which are reasonable for a rural area**
3. **Existing rural dwelling entitlements must be retained or grandfathered**
4. **Council must urgently commit to a Rural Lands Study/Rural Residential Study to:**

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- consider appropriate lot sizes in the Shire
- consider the issue of setbacks of rural dwellings from rivers
- consider the issue of dwelling entitlements
- consider how to appropriately support the existing horticultural settlements in the Shire

We have also attached a number of the Wentworth LEP submissions which go to these issues.

# STRATEGIC SUPPORT A ONE WAY STREET

## DRAFT FAR WEST PLAN MUST HAVE A STRATEGIC BASIS AND BE BASED ON EVIDENCE

- The Department of Planning requires landholders to provide strategic justifications but made extensive changes in the Wentworth LEP 2011 without any strategic justification.
- There is no Strategic basis for changes to rural lands and setbacks detailed in the Draft Far West Plan – this is ideology rather than evidence based policy
- The Cowra Rural Lands Panel and Rural Lands SEPP retained existing rights to dwellings and suggested Rural Lands Studies as the appropriate way of considering Lot Sizes
- Numerous changes are proposed for Rural Lands without any strategy or study being conducted
- The Wentworth Rural Residential Study has never been finished – it started twelve (12) years ago
- **Why is Strategy so important when it comes to town planning except for when planning matters relating to Rural Lands are involved?**
- There is no justification for the Draft Far West Plan restricting rural lifestyle subdivision, stripping away existing dwelling rights or for increasing river setbacks.

The Wentworth LEP 2011 completely changed the provisions in relation to rural lot sizes. This has been conducted without any strategic basis. No Rural Lands Study has been performed.

The existing outdated 10 hectare and 10,000 ha minimum lot sizes have been nominally retained but the impact of these Lot sizes has been turned upside down by the structure of the LEP. While lot sizes in the 1993 LEP are based on useage (horticulture or pastoral) the Draft LEP 2011 lot sizes are not based upon use but by map. This has raised a number of major problems:

- The maps are arbitrary and have been prepared without any study or public process
- The maps do not include all existing irrigation land adjacent to land to be included in the 10ha lot size
- A dwelling will no longer be permissible if associated with a new horticultural development outside the 10 ha zone
- There is no logical basis for where the 10 ha lot size is applied versus a 10,000 ha lot size.
- The difference between 10 ha and 10,000 ha is 1,000 times. So on one side of a fence the Lot size provisions are 1,000 times harsher than the other side of the fence. With such harsh results the Maps require a great deal of consideration. The 10,000 ha lot size creates many problems as subdivision is not allowed below the minimum lot size, including for issues such as boundary adjustments.

The Wentworth LEP 2011 removed a number of existing dwelling rights on existing lots, in particular through the deletion of Clause 16(3) and 16(5) of the Wentworth LEP 1993.

No justification has been provided for these proposed changes. No one has pointed out any planning, environmental or societal problems that have been caused by these clauses.

Planning Circular PS 08 -002 in relation to the State Environmental Planning Policy (Rural Lands) 2008 states:

“This means any lot that has a dwelling entitlement under the LEP retains that dwelling entitlement. This gives effect to the Department’s policy position that it is reasonable to preserve such entitlements. When preparing its new LEP a council may decide to change or sunset its dwelling provisions. Where a council does decide to change or sunset their dwelling provisions it will need to be mindful of the equity implications of such an approach and ensure that proposed changes are broadly communicated in the community”.

The Wentworth LEP 2011 is not consistent with the Rural Lands SEPP. Given Wentworth is predominantly Rural Land this non-compliance is not a minor matter, it is a big deal. The economic impact of devaluation of properties will be significant and this will flow onto a lower rate base for Wentworth.

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# MAPPING DOES NOT WORK AT A FAR WEST SCALE OF CIRCA 35 MILLION HECTARES

The concept of mapping overlays for biodiversity, wetlands and prime agricultural land is not a bad one but at the scale of the Western Division of NSW it does not work. In Sydney where there is extensive data and ground truthing the system works OK but in the Western Division the data is not accurate.

The Western Division of NSW is approximately 35 million hectares in size and most of this land has not been studied at a property specific level. Satellite data can be indicative but it is not a proper basis for the property specific decisions required by the planning system. It will cost hundreds of millions of dollars to get the maps right when it would be far better to just conduct specific analysis of land subject to development proposals.

We submit as an example the Wentworth LEP 2011 Biodiversity and Wetland Maps which contain errors that make it clear there is a need for a thorough scientific review of these maps.

## WENTWORTH LEP 2011 BIODIVERSITY MAPS

Clauses 3.3 (2) (g) and 7.6 of the LEP puts restrictions on land of "high biodiversity significance". The first Clause is compulsory and is quite reasonable if the Biodiversity Maps are accurate.

The Biodiversity Maps are very inaccurate and include about half the land in the Shire, the majority of which has been grazed intensively for the last 150 years.

One example is our Grand Junction property where part of the wheat farming country which has not Biodiversity value is included in the Biodiversity Map.

Another example is land at Woorlong, Gol Gol, which is again cleared cropping land but has been included in the Biodiversity Map.

Another example is Avoca Station where virtually the whole property has been included on the Biodiversity Map notwithstanding that it has been farmed for 160 years and includes cleared cultivation areas.

Many other landholders have pointed out errors in the Maps to **restofnsw**.

We submit that Council must thoroughly revise all the Biodiversity Maps and consult individual landholders on the accuracy of these maps. All landholders should be mailed the maps that are relevant to their properties and asked to confirm the information therein is accurate.

## WENTWORTH LEP 2011 WETLANDS MAPS

Clause 7.7 of the LEP puts restrictions on land that is or located near a wetland. The Clause is quite reasonable if the Wetland Maps are accurate.

Unfortunately, the Wetland Maps are very inaccurate. The Flood Planning Area Maps are also inaccurate.

The best example of this is the Perry Sand Hills which has been included as a Wetland. Any local knows that sand hills are on relatively high ground.

A further example is Grand Junction where the Wetland maps are completely inaccurate. The Wetland map is closer to a floodplain map. For example the Wetland area includes a large amount of high ground on Boxers Island which is a sand hill. Sand hills could not be more different than wetlands.

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Another example is land at Woorlong, Gol Gol, where again the floodplain area at the South of the property is included as a Wetland. Many other landholders have pointed out errors in the Wetland Maps to **restofnsw**.

I would also submit that the scale of the provided Maps is not sufficient for landholders to be able accurately assess the Maps.

We submit that Council must thoroughly revise all the Wetland Maps and consult individual landholders on the accuracy of these maps. All landholders should be mailed the maps that are relevant to their properties and asked to confirm the information therein is accurate.

We submit that:

- The Biodiversity and Wetland Maps be removed and redrawn
  - The Biodiversity maps should be redrawn to initially include only existing National Parks and Private Conservation Reserves
  - Additional land be added to the Biodiversity area only with the backing of specific evidence of a Study which has been publicly tested and discussed with the relevant landholder
  - Prima facie, grazing land should be included, initially at the least
- Specific corrections should be undertaken to the Maps including:
  - Cropping and horticultural land to be excluded as land of Biodiversity value
  - Grazing land to only be included as land of Biodiversity value where there is specific evidence of this
  - Private Native Forestry land should not be included as land of Biodiversity value
  - Perry Sand Hills should not be a wetland
  - Grand Junction wheat land should not be Biodiversity Land
  - Woorlong former rubbish tip should not be Biodiversity land
  - Other landholders have numerous other examples





**ACCORDING TO THE WENTWORTH LEP 2011 THIS IS A WETLAND**



**ACCORDING TO THE WENTWORTH LEP 2011 THIS IS BIODIVERSITY LAND**