

**DIRECTOR ENVIRONMENTAL SERVICES REPORT
SUBMITTED TO THE ORDINARY MEETING OF MURRAY SHIRE COUNCIL
HELD ON TUESDAY 3rd FEBRUARY 2015**

Mr Chairman and Councillors,

I wish to report as follows –

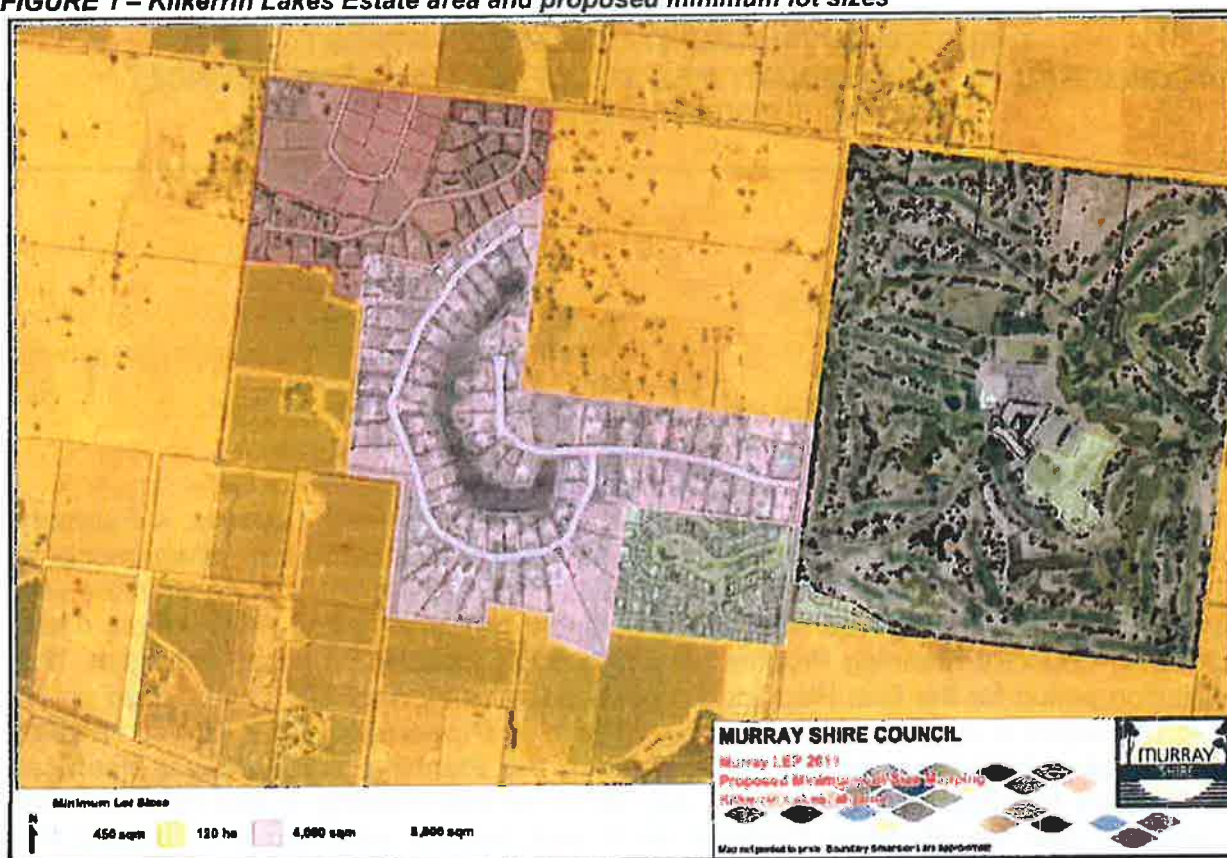
CLAUSE 1. MURRAY LEP 2011 PLANNING PROPOSAL
SUBMISSION REGARDING AMENDMENT 3 OF THE MURRAY LEP 2011

At Council's ordinary meetings held Tuesday, 10 December 2013 and Tuesday, 4 February 2014, Council resolved to propose a 'Planning Proposal' to make a number of amendments to Murray Local Environmental Plan 2011 ("LEP") (Amendment 3 of the LEP). In accordance with the Gateway Determination received from the Department of Planning and Environment dated 20 March 2014, Council's Planning Proposal was revised and placed on public exhibition. The public exhibition period for the final Planning Proposal began on 2 April 2014 and closed on 30 April 2014. The report in respect of the advertised Planning Proposal together with summaries and copies of all submissions received in respect of the Planning Proposal was heard at Council's Ordinary Meeting held Tuesday, 1 July 2014. At this meeting, it was resolved that Council proceed with the Planning Proposal as it was publicly exhibited and forward the Planning Proposal to the Department of Planning and Environment with a request that the Plan be made. In accordance with this resolution, the Planning Proposal was forwarded to the Department of Environment and Planning for consideration on 22 July 2014.

It is noted that the Planning Proposal discussed at the Council meeting and subsequently forwarded to Department of Planning and Environment included a section proposing to increase the minimum lot of size of the Kilkerrin Lakes Estate area from 4,000m² to 8,000m². The Kilkerrin Lakes Estate area is serviced by a private water association with private infrastructure which is allegedly at capacity and unable to cater for additional lots without significant upgrade and cost burden on the residents of the Estate. As such, the aim of increasing the minimum lot size via the subject LEP amendment was to limit further subdivision and effectively negate the need for a costly upgrade of infrastructure. The section pertaining to this matter within the LEP Amendment was Section 2 of the "Lot Size Map" discussion, and is set out below for Council's reference.

Lot Size Map

Section 2: Minimum lot size increased from 4,000m² to 8,000m² to part of Moama as defined in Figure 1 below.

FIGURE 1 – Kilkerrin Lakes Estate area and proposed minimum lot sizes

Submissions

To the knowledge of staff, one submission was received regarding this proposed amendment item, which was in support of the proposed minimum lot size increase from 4,000m² to 8,000m².

A summary of the submission is outlined below in Table 1. A copy of the submission has been attached for your reference as part of Appendix A.

Submission No.	Summary	Comments
1	The submission maker is concerned with the need to upgrade existing private raw water infrastructure to accommodate any additional future lots within Kilkerrin Lakes Estate and therefore, supports the proposal as it limits future possibility to subdivide and allows the infrastructure to operate at current capacity without the need for upgrade.	See recommendation.

Staff recommended that Council proceed with this section of the 'Planning Proposal' as it was publicly exhibited and forward this section of the 'Planning Proposal' to the Department of Planning and Environment with a request that the Plan be made. The recommendation was adopted by Council.

It is noted that on 5 December 2014, staff were contacted by a resident within the Kilkerrin Lakes Estate enquiring as to the status of the LEP amendment and the outcome of their email submission objecting to the amendment. As at that time, staff were unaware of the resident's submission and requested that a copy of the subject submission be forwarded to staff for further investigation.

The subject submission was received by staff on 5 December 2014, a copy of which has been included for Council's reference as Appendix B. It is noted that the submission forwarded to staff by email depicts an email forwarded to Council's administration email on 28 April 2014, being two days before the close of the exhibition period.

The subject submission has been discussed at length with the submission maker; who notes that the original email was sent to the administration email account on 28 April 2014, with a follow up email sent on 24 July 2014 after a telephone conversation with an unknown employee at Murray Shire's Mathoura office regarding the submission status.

A thorough search of Council's administration email account, together with Council's electronic record management database revealed that an email was received from the submission maker on 11 November 2014, however this email depicts a date of 24 July 2014, or two days after the Planning Proposal was forwarded to the Department of Planning. A copy of the subject email submission is included as Appendix C for Council's reference. There is no record of an email dated 28 April 2014 in Council's record management database.

It is noted that all incoming emails to any Murray Shire Council email account must first enter Council's server. A full diagnostic of Council's server was run by Council's IT staff which searched all incoming emails to all Murray Shire email accounts from the submission maker's email address, and emails containing the submission maker's first and last name. This search revealed that no emails were received from the submission maker's email address regarding this matter on either 28 April 2014 or 24 July 2014, with a single email received by Council's administration email account on 11 November 2014, being Appendix C. There were a number of emails received on varying dates throughout 2014, however these emails pertained to the submission maker's private development and did not include the subject email submission.

The Department of Planning and Environment were contacted for advice regarding protocol in relation to this matter and have advised that:-

"... Council should firstly determine whether the submission was lodged during the exhibition period and whether this is valid to the amendment. If it was lodged and valid to the amendment then this submission should be considered by council, noting that it was inadvertently overlooked.

This could be done when council is considering whether to resolve to adopt the draft LEP as set out in the Parliamentary Counsel Final Opinion. Council could determine to vary the proposal under section 58 of the Act as a result of considering the submission. If a variation is being considered, as the matter is not delegated, this would require re-submission of the PP to the Department with a request for the variation to the draft LEP. If the outcomes of a variation are substantially different from that exhibited, then the Minister may direct Council to re-exhibit the proposal and go through the process of seeking a new opinion."

As the submission was not received until 11 November 2014, being approximately seven months after the close of submissions and approximately three months after the final Planning Proposal was submitted to the Department of Planning for adoption, staff recommend that the submission be deemed "invalid" and the Planning Proposal remain unchanged.

In the event that Council deem this submission to be valid, a summary of the submission is set out in the table below for Council's consideration.

Submission No.	Summary	Comments
2	The submission maker objects to the proposal to increase the minimum lot size and notes that there has been a long and costly process in implementing the change required to bring about the current lot size of 4,000m². The submission maker notes that the current lot size was implemented based on planning studies which deemed that the current lot size would be best planning outcome for this area. The proposed amendment to increase the lot size only benefits the private agendas of the private Water Association members rather than the community or the Kilkerrin Estate landowners as a whole.	See comments and recommendation.

Comments

Council requires that a raw water supply be provided to allotments within Kilkerrin Estate in accordance with Council Policy. The existing lots are supplied raw water by an independent water scheme managed by the Kilkerrin Lakes Water Association. The Association has detailed issues associated with providing water to these allotments including infrastructure constraints, meter readings and allocations.

It is considered that the current minimum lot size of 4,000m² is an appropriate size for the Estate considering the majority of lots in the Estate are approximately this size. However, since there are issues in servicing additional lots, it is recommended by the Planning Proposal that the minimum lot size be increased to 8,000m² to restrict lots being subdivided that are unable to be properly serviced with water, and therefore unable to comply with Council's requirements for servicing without a significant infrastructure upgrade throughout the entire area and an associated cost burden to the residents of the Estate.

An increase in the minimum lot size to 8,000m² as proposed by the current Planning Proposal will result in all but two lots being restricted from further subdivision. These two lots are large lots greater than 16,000m² with a large amount of unused land. The Water Association has indicated that they are likely to be able to service these lots.

Recommendation

It is recommended that the Planning Proposal remains unchanged, as submitted to the Department of Planning and Environment for adoption, in accordance with Council's original resolution of 1 July 2014.

KILKERRIN LAKES WATER ASSOCIATION INC.

(INC. In NSW No INC 9875535)

ABN 25593074048

Shire of Murray
PO Box 21,
MATHOURA NSW 2710

24th April 2014

YOUR REF: Murray LEP 2011
ATTENTION: Simon Arkinstall
Director of Environmental Services

Dear Sir,
RE: Planning Proposal to Amend Murray LEP 2011

We have received notification under Section 56(2)(d) of the Environmental Planning and Assessment Act 1979 that Murray Local Environmental Plan 2011 is proposed to be amended.

The amendment which affects Kilkerrin Lakes Estate is the proposal to increase the minimum lot size for subdivision from 4000sqm to 8000sqm.

Kilkerrin Lakes Water Association strongly supports this amendment.

The present situation is of great concern to the Association as many additional lots (16 or 17) could be created. The extra lots which can be created are on the South side of Kilkerrin Drive and the lots in this area pump from a submerged gravity pipe. This pipe is already fully utilized at times of high water demand and any additional lots would require that this pipe be upgraded to take the additional flow, something which was never intended with the original subdivision design and which to do at this time would be extremely costly.

The proposed amendment would restrict additional lots created to only two and these could both have direct pump suction to the lake through an existing easement at very little cost or inconvenience.

If you would like to discuss this further please contact the Association President ALISTAIR MORRISON on [REDACTED]

Yours faithfully,
K.L.W.A. Inc

Anne Brown (Secretary)



MURRAY SHIRE COUNCIL

Date Rec: ...10.5.14.....

Doc id: X Ref:

Retention Period:10.....

File: Landuse Planning MLEP P.P 14

Ref to: Planning For: ...10...

[REDACTED] [REDACTED]

Attachment List: ☒ Sent:

Llyan Goodsell

From: Carolyn Muir [REDACTED]
Sent: Friday, 5 December 2014 10:23 AM
To: Llyan Goodsell
Subject: Fwd: To whom it may concern

Sent from my iPad

Begin forwarded message:

From: Carolyn Muir [REDACTED]
Date: 28 April 2014 12:40:24 pm ACST
To: "admin@murray.nsw.gov.au" <admin@murray.nsw.gov.au>
Subject: To whom it may concern

To whom it may concern

I wish to place a submission against the proposal to change the rule for future subdivision of land in the killkerrin lakes area.

This has only just been approved for subdivision by local and state government in the last couple of years, it had taken 5 years, countless amounts of tax payers and rate payers money To preform environmental studies, feaseabilty studies, etc to decide that the best option for the land would be to allow it to be subdivided into 4000sqm blocks for housing, not unlike lots of blocks in this area.

Now a couple of ill informed people who call themselves the killkerrin lakes water board, who we believe have there own agendas and not one for the whole public which they claim to be speaking for, wish to have this changed to 8000sqm so as to stop a couple of blocks which would be suited to subdivide. Most blocks don't have enough land to sub divide and those that do, have vast improvements spread all over them . If it was not suited to be subdivided to 4000sqm then don't you think with all that money the experts would have made that decision before it got to this point.

They, the highly paid, highly educated, people who this is there job not a couple of retired people with no foresight into the future which they're not likely to be a part of anyway, that don't want any changes in there area.

I hope as with all our previous dealings that this will be put up for public display so as to allow the rest of the public an insight into what a handful are saying is the view of everyone.

Looking forward to a sensible outcome soon as this should be a no brainer
 Carolyn and Doug Muir

Sent from my

[Show Header](#)

Re: Good morning was interested to know if there is a outcome yet for this issue for which I put in this submission

From : [REDACTED]
To : admin@murray.nsw.gov.au
Sent : 11 November 2014 12:09:18

Sent from my iPad

> On 24 Jul 2014, at 6:40 am, Carolyn Muir [REDACTED] wrote:
 >
 > To whom it may concern
 > I wish to place a submission against the proposal to change the rule for future subdivision of land in the killkerrin lakes area.
 > This has only just been approved for subdivision by local and state government in the last couple of years, it had taken 5 years, countless amounts of tax payers and rate payers money To preform environmental studies, feaseabilty studies, etc to decide that the best option for the land would be to allow it to be subdivided into 4000sqm blocks for housing, not unlike lots of blocks in this area.
 > Now a couple of ill informed people who call themselves the killkerrin lakes water board, who we believe have there own agendas and not one for the whole public which they claim to be speaking for, wish to have this changed to 8000sqm so as to stop a couple of blocks which would be suited to subdivide. Most blocks don't have enough land to sub divide and those that do, have vast improvements spread all over them . If it was not suited to be subdivided to 4000sqm then don't you think with all that money the experts would have made that decision before it got to this point.
 > They, the highly paid, highly educated, people who this is there job not a couple of retired people with no foresight into the future which they're not likely to be a part of anyway, that don't want any changes in there area.
 > I hope as with all our previous dealings that this will be put up for public display so as to allow the rest of the public an insight into what a handful are saying is the view of everyone.
 >
 > Looking forward to a sensible outcome soon as this should be a no brainer
 > Carolyn and Doug Muir
 >
 >
 > Sent from my

