

ATTACHMENT 1- Council Resolutions

FOR: Councillors Anderson, Bilkey, Burke, Campbell, Mackenzie, Murphy, Pocklington and Weyrich

AGAINST: Nil

**CLAUSE 2. DEVELOPMENT APPLICATION (203/13)
TWO LOT STRATA SUBDIVISION (PLUS ASSOCIATED COMMON PROPERTY)
ZONE:- E3 – ENVIRONMENTAL MANAGEMENT
LOT 21, DP 791272
8 TARRAGON ROAD, MATHOURA
OWNER:- MR RD AND MRS L MASON
APPLICANT:- ROSS MASON**

This Clause was discussed later in the meeting when a deputation to Council was made by Michael Toll (on behalf of the applicant).

**CLAUSE 3. MURRAY LOCAL ENVIRONMENTAL PLAN (LEP) 2011 –
PLANNING PROPOSAL TO MAKE MINOR AMENDMENTS**

Old Moama Heritage Conservation Area

MOTION (Crs Campbell/Mackenzie) that a heritage conservation area be proposed over part of 'Old Moama', as defined by the area between and including Lot 4, Section 18, DP 758686 (former River Captain's Cottage) and Lot 3, DP 577291 (residence).

FOR: Councillors Burke, Campbell and Mackenzie

AGAINST: Councillors Anderson, Bilkey, Murphy, Pocklington and Weyrich

The motion was LOST.

- 43 RESOLVED (Crs Murphy/Bilkey)** that a heritage conservation area be proposed over part of 'Old Moama', as defined by the area between and including Lot 4, Section 18, DP 758686 (former River Captain's Cottage) and Lot 3, DP 577291 (residence) on the northern side of Chanter Street; and land on the southern side of Chanter Street, between Lot 7307, DP 1134365 (Crown Land) and Lot 1, Section 1, DP 758686 (portal entry (former Maiden's Inn Hotel)) and Crown Road.

FOR: Councillors Anderson, Bilkey, Burke, Murphy, Pocklington and Weyrich

AGAINST: Councillors Campbell and Mackenzie

Item of Environmental Heritage 18 – 72 Chanter Street, Moama

- 44** **RESOLVED (Crs Bilkey/Burke)** that the property description for Item of Environmental Heritage 18 – 72 Chanter Street, Moama, be amended to remove reference to 'former gaol and police station'.

FOR: Councillors Anderson, Bilkey, Burke, Campbell, Mackenzie, Murphy, Pocklington and Weyrich

AGAINST: Nil

Schedule 2 Exempt Development – Advertisements and Advertising Structures

- 45** **RESOLVED (Crs Campbell/Bilkey):**
1. Exempt provisions for advertisements and advertising structures be removed from Murray Local Environmental Plan (LEP) 2011.
 2. Exempt provisions for 'business identification signage' be inserted into Schedule 2.

FOR: Councillors Anderson, Bilkey, Burke, Campbell, Mackenzie, Murphy, Pocklington and Weyrich

AGAINST: Nil

Lots 110, 113, 115, 119, 172, 173, 174, DP 751152

- 46** **RESOLVED (Crs Bilkey/Campbell)** that any proposed amendment to the Murray Local Environmental Plan (LEP) 2011, if such results from the further investigation and negotiations conducted with the landowner/consultant in respect to the erection of dwelling/house on the subject property be incorporated into the subject 'planning proposal'

DEPUTATION

At this stage of the meeting, being 4:00pm, Phillip Crowe made a deputation to Council regarding the Director of Environmental Services Report, Clause 11 – Murray Local Environmental Plan 2011 – Planning Proposal to Make Minor Amendments.

**DIRECTOR OF ENVIRONMENTAL SERVICES REPORT
CONTINUED****CLAUSE 11. MURRAY LOCAL ENVIRONMENTAL PLAN 2011 –
PLANNING PROPOSAL TO MAKE MINOR AMENDMENTS****1. Land Zoning Map*****(a) Zoning of Deep Creek Marina***

391 **RESOLVED** (Crs Murphy/Pocklington) that Deep Creek Marina (waterway) be rezoned from RU1 Primary Production to W2 Recreational Waterways, and be incorporated in a 'planning proposal' to be submitted to the Department of Planning and Infrastructure with a request for gateway determination to amend the Murray LEP 2011.

FOR: Councillors Anderson, Bilkey, Burke, Campbell,
Mackenzie, Moon, Murphy, Pocklington and Weyrich

AGAINST: Nil

(b) Lot 44, DP 756303, Picnic Point Road, Mathoura

392 **RESOLVED** (Crs Pocklington/Murphy) that Lot 44, DP 756303 be rezoned from part E1 National Parks and Nature Reserves, part RU1 Primary Production to E3 Environmental Management, and be incorporated in a 'planning proposal' to be submitted to the Department of Planning and Infrastructure with a request for gateway determination to amend the Murray LEP 2011.

FOR: Councillors Anderson, Bilkey, Burke, Campbell,
Mackenzie, Moon, Murphy, Pocklington and Weyrich

AGAINST: Nil

2. Lot Size Map**(a) Removal of Minimum Lot Sizes in Part of Residential Areas of Moama Township**

- 393** **RESOLVED (Crs Pocklington/Anderson)** that a minimum lot size not be applied to part of Moama residential areas, as defined in Figure 6 of the report, and be incorporated in a 'planning proposal' to be submitted to the Department of Planning and Infrastructure with a request for gateway determination to amend the Murray LEP 2011.

FOR: Councillors Anderson, Bilkey, Burke, Campbell,
 Mackenzie, Moon, Murphy, Pocklington and Weyrich

AGAINST: Nil

(b) Minimum Lot Size in Kilkerrin Lakes Estate, Moama

Councillor GP Burke declared an interest in this matter, as his private property abuts Kilkerrin Lakes Estate, tabled a written notice to the General Manager and left the meeting.

- 394** **RESOLVED (Crs Pocklington/Anderson)** that the minimum lot size be increased from 4000m² to 8000m² to part of Moama, as defined in Figure 8 of the report, and be incorporated in a 'planning proposal' to be submitted to the Department of Planning and Infrastructure with a request for gateway determination to amend the Murray LEP 2011.

FOR: Councillors Anderson, Bilkey, Campbell, Mackenzie,
 Moon, Murphy, Pocklington and Weyrich

AGAINST: Nil

3. Land Use Tables**(a) 'Boat Building and Repair' Facility in RU1 Primary Production Zone**

- 395** **RESOLVED (Crs Campbell/Murphy)** that a 'boat building and repair' facility be a permissible land use within the RU1 Primary Production zone, and be incorporated in a 'planning proposal' to be submitted to the Department of Planning and Infrastructure with a request for gateway determination to amend the Murray LEP 2011.

FOR: Councillors Anderson, Bilkey, Burke, Campbell,
Mackenzie, Moon, Murphy, Pocklington and Weyrich

AGAINST: Nil

(b) Secondary Dwellings in Certain Zones

396 RESOLVED (Crs Campbell/Anderson) that:

1. 'Secondary dwellings' be made a permissible land use within the R5 Large Lot Residential, RU1 Primary Production and E3 Environmental Management zones.
2. Clause 5.4(9)(b) be revised from 50% to 20% of the total floor area of the principal dwelling,
and be incorporated in a 'planning proposal' to be submitted to the Department of Planning and Infrastructure with a request for gateway determination to amend the Murray LEP 2011.

FOR: Councillors Anderson, Bilkey, Burke, Campbell,
Mackenzie, Moon, Murphy, Pocklington and Weyrich

AGAINST: Nil

(c) 'Biosolids Treatment Facility' in R1 General Residential Zone

397 RESOLVED (Crs Campbell/Anderson) that 'biosolids treatment facility' be prohibited within the R1 General Residential zone, and be incorporated in a 'planning proposal' to be submitted to the Department of Planning and Infrastructure with a request for gateway determination to amend the Murray LEP 2011.

FOR: Councillors Anderson, Bilkey, Burke, Campbell,
Mackenzie, Moon, Murphy, Pocklington and Weyrich

AGAINST: Nil

(d) Residential Accommodation in R2 Low Density Residential Zone

398 RESOLVED (Crs Campbell/Anderson) that:

1. Attached dwellings be prohibited within the R2 Low Density Residential zone.

2. Boarding Houses be prohibited within the R2 Low Density Residential zone.
3. Dual Occupancies, including Dual Occupancy (attached) and Dual Occupancy (detached), be prohibited within the R2 Low Density Residential zone,
and be incorporated in a 'planning proposal' to be submitted to the Department of Planning and Infrastructure with a request for gateway determination to amend the Murray LEP 2011.

FOR: Councillors Anderson, Bilkey, Burke, Campbell,
Mackenzie, Moon, Murphy, Pocklington and Weyrich

AGAINST: Nil

399

RESOLVED (Crs Campbell/Moon) that Seniors Housing be prohibited within the R2 Low Density Residential zone, and be incorporated in a 'planning proposal' to be submitted to the Department of Planning and Infrastructure with a request for gateway determination to amend the Murray LEP 2011.

FOR: Councillors Anderson, Bilkey, Burke, Campbell,
Mackenzie, Moon, Murphy, Pocklington and Weyrich

AGAINST: Nil

(e) Residential Accommodation in R5 Large Lot Residential Zone

400

RESOLVED (Crs Moon/Anderson) that:

1. Dual Occupancy, including Dual Occupancy (attached) and Dual Occupancy (detached), be prohibited within the R5 Large Lot Residential zone.
2. Seniors Housing be prohibited within the R5 Large Lot Residential zone,
and be incorporated in a 'planning proposal' to be submitted to the Department of Planning and Infrastructure with a request for gateway determination to amend the Murray LEP 2011.

FOR: Councillors Anderson, Bilkey, Burke, Campbell,
Mackenzie, Moon, Murphy, Pocklington and Weyrich

AGAINST: Nil

(f) Zones Where 'Vehicle Sales and Hire Premises' are Permissible

401

RESOLVED (Crs Pocklington/Murphy) that 'Vehicle Sales and Hire Premises' be made a permissible land use within the B6 Enterprise Corridor and IN1 General Industrial zones, and be incorporated in a 'planning proposal' to be submitted to the Department of Planning and Infrastructure with a request for gateway determination to amend the Murray LEP 2011.

FOR: Councillors Anderson, Bilkey, Burke, Campbell,
Mackenzie, Moon, Murphy, Pocklington and Weyrich

AGAINST: Nil

(g) Advertising Structure in Recreation Zones

402

RESOLVED (Crs Anderson/Campbell) that advertising structures be made permissible in RE1 Public Recreation and RE2 Private Recreation zones, and be incorporated in a 'planning proposal' to be submitted to the Department of Planning and Infrastructure with a request for gateway determination to amend the Murray LEP 2011.

FOR: Councillors Anderson, Bilkey, Burke, Campbell,
Mackenzie, Moon, Murphy, Pocklington and Weyrich

AGAINST: Nil

(h) Permitted Land Uses in SP3 Tourist Zone

403

RESOLVED (Crs Bilkey/Anderson) that the following land uses be made permissible in the SP3 Tourist zone:

1. Building identification sign
2. Business identification sign
3. Environmental protection works
4. Jetty
5. Marina
6. Water recreation structure

and be incorporated in a 'planning proposal' to be submitted to the Department of Planning and Infrastructure with a request for gateway determination to amend the Murray LEP 2011.

FOR: Councillors Anderson, Bilkey, Burke, Campbell,
Mackenzie, Moon, Murphy, Pocklington and Weyrich

AGAINST: Nil

4. Heritage Conservation

(a) 'Old Moama' Heritage Conservation Area

- 404** **RESOLVED (Crs Moon/Mackenzie)** that the 'Old Moama' Heritage Conservation area issue be deferred and be the subject of a site visit by the Council in 2014.

FOR: Councillors Anderson, Mackenzie, Moon, Murphy,
Pocklington and Weyrich

AGAINST: Councillors Bilkey, Burke and Campbell

At this stage of the meeting, being 4:40pm, the meeting adjourned for a short break.

The meeting resumed at 4:47pm.

(b) Item of Environmental Heritage 163 – Mathoura Station

- 405** **RESOLVED (Crs Pocklington/Murphy)** that the property description and heritage map for Item of Environmental Heritage 163 - Mathoura Station be amended to refer to Lot 2 DP 756272, and be incorporated in a 'planning proposal' to be submitted to the Department of Planning and Infrastructure with a request for gateway determination to amend the Murray LEP 2011.

FOR: Councillors Anderson, Bilkey, Burke, Campbell,
Mackenzie, Moon, Murphy, Pocklington and Weyrich

AGAINST: Nil

(c) Item of Environmental Heritage 14 – 8 Simms Street, Moama

- 406** **RESOLVED (Crs Moon/Anderson)** that property description and heritage map for Item of Environmental Heritage 14 - 8 Simms Street, Moama, be amended to refer to Lot 1 DP 514180, and be incorporated

in a 'planning proposal' to be submitted to the Department of Planning and Infrastructure with a request for gateway determination to amend the Murray LEP 2011.

FOR: Councillors Anderson, Bilkey, Burke, Campbell,
Mackenzie, Moon, Murphy, Pocklington and Weyrich

AGAINST: Nil

(d) Item of Environmental Heritage 143 – 27 Conargo Street, Mathoura

407

RESOLVED (Crs Murphy/Campbell) that the property description and heritage map for Item of Environmental Heritage 143 - 27 Conargo Street, Mathoura, be amended to refer to Lot 3 Section 65 DP 758656, and be incorporated in a 'planning proposal' to be submitted to the Department of Planning and Infrastructure with a request for gateway determination to amend the Murray LEP 2011.

FOR: Councillors Anderson, Bilkey, Burke, Campbell,
Mackenzie, Moon, Murphy, Pocklington and Weyrich

AGAINST: Nil

(e) Item of Environmental Heritage 124 – 9 Simms Street, Moama

408

RESOLVED (Crs Moon/Campbell) that 124 - Timber Federation Regency style dwelling at 9 Simms St, Moama, be removed from Council's 'Items of Environmental Heritage' listed under Schedule 5 Murray LEP 2011, and be incorporated in a 'planning proposal' to be submitted to the Department of Planning and Infrastructure with a request for gateway determination to amend the Murray LEP 2011.

FOR: Councillors Anderson, Bilkey, Burke, Campbell,
Mackenzie, Moon, Murphy, Pocklington and Weyrich

AGAINST: Nil

(f) Proposed Item of Environmental Heritage – McLaurin Cemetery, Millewa Road

409

RESOLVED (Crs Murphy/Campbell) that the 'McLaurin Cemetery', Millewa Road, be added as an Item of Environmental Heritage, and be incorporated in a 'planning proposal' to be submitted to the Department

of Planning and Infrastructure with a request for gateway determination to amend the Murray LEP 2011.

FOR: Councillors Anderson, Bilkey, Burke, Campbell,
Mackenzie, Moon, Murphy, Pocklington and Weyrich

AGAINST: Nil

(g) *Proposed Item of Environmental Heritage – 'Perricoota Woolshed', Lot 1, DP 521210, Perricoota Road, Moama*

410 **RESOLVED (Crs Campbell/Anderson)** that the 'Perricoota Woolshed', Lot 1, DP 521210, Perricoota Road, Moama, be added as an Item of Environmental Heritage, and be incorporated in a 'planning proposal' to be submitted to the Department of Planning and Infrastructure with a request for gateway determination to amend the Murray LEP 2011.

FOR: Councillors Anderson, Bilkey, Burke, Campbell,
Mackenzie, Moon, Murphy, Pocklington and Weyrich

AGAINST: Nil

5. Additional Local Providers

(a) *River Front Areas Clause*

411 **RESOLVED (Crs Weyrich/Bilkey)** that:

1. The 'Edward River' be inserted into Clauses 7.4, 7.5, 7.6 and the riverfront land definition.
2. Recreation Facility (Outdoor) be removed from permissible uses within 'river front areas'.
3. The area to which the 'river front area' applies to in RU1 Primary Production, RU3 Forestry and E3 Environmental Management zones be amended from 100m to 60m, and be incorporated in a 'planning proposal' to be submitted to the Department of Planning and Infrastructure with a request for gateway determination to amend the Murray LEP 2011.

FOR: Councillors Anderson, Bilkey, Burke, Campbell,
Mackenzie, Moon, Murphy, Pocklington and Weyrich

AGAINST: Nil

(b) *Planright Request – Building Setback from River, Chanter Street, Moama*

412

RESOLVED (Crs Campbell/Moon) that the area to which the 'river front area' applies to in RU1 Primary Production, RU3 Forestry and E3 Environmental Management zones be amended from 100m to 60m, and be incorporated in a 'planning proposal' to be submitted to the Department of Planning and Infrastructure with a request for gateway determination to amend the Murray LEP 2011.

FOR: Councillors Anderson, Bilkey, Burke, Campbell, Mackenzie, Moon, Murphy, Pocklington and Weyrich

AGAINST: Nil

(c) *Moama Lions Community Village Committee Request*

Councillor TE Weyrich declared an interest in this matter, as he owns a business in close proximity of the subject land, tabled a written notice to the General Manager and left the meeting.

At this stage of the meeting, being 5:04 pm, in the absence of the Mayor, Councillor TE Weyrich, the Deputy Mayor, Councillor JW Pocklington, assumed the Chair.

413

RESOLVED (Crs Moon/Bilkey) that no change be made to the Murray LEP 2011 for the rezoning of Lot 1, DP 249655, being land between Echuca Street, Martin Street, Blair Street and a private Industrial lot, Moama.

A division was called for:

FOR: Councillors Anderson, Bilkey, Moon, Murphy and Pocklington

AGAINST: Councillors Burke, Campbell and Mackenzie

At this stage of the meeting, being 5:08pm, the Mayor, Councillor TE Weyrich, re-assumed the Chair.

(d) *Planright Request – Lot 1, DP 1181714, Berry Street, Moama*

414

RESOLVED (Crs Anderson/Pocklington) that no change be made to the Murray LEP 2011 for Lot 1, DP 1181714, Berry Street, Moama.

FOR: Councillors Anderson, Bilkey, Burke, Campbell,
Mackenzie, Moon, Murphy, Pocklington and Weyrich

AGAINST: Nil

(e) *Planright Request – Lot 11, DP 285511, Perricoota Road, Moama*

Information noted.

(f) *Planright Request – Lot 214, DP 751159, Gulval Road, Moama*

Information noted.

ADOPTION

415

RESOLVED (Crs Pocklington/Burke) that subject to the foregoing resolutions, the Director of Environmental Services Report be adopted.

QUESTIONS AND STATEMENTS WITHOUT NOTICE

Cr WR Anderson:

- Advised that the Christmas Decorations need a lift.
General Manager advised
- Referred to Carols by Candlelight and requested that Council give support in future years.
Mayor advised
- Wished Councillors and Senior Staff all the very best for Christmas.

Cr CR Bilkey:

- Advised that recently a fire had erupted on the Reserve behind his property and that he was happy with the support and response from the Emergency Services who attended.

Cr GP Burke:

- Referred to Lawry Park in Moama and a proposed meeting to be held in 2014 in regards to the matter and asked that he be notified by Council when this meeting would take place.
- Advised that the Homeless Committee would like to meet with Council.

ATTACHMENT 2- Council Reports

CLAUSE 11. MURRAY LEP 2011- PLANNING PROPOSAL TO MAKE MINOR AMENDMENTS**Introduction**

The Murray Local Environmental Plan 2011 ("LEP") was made on 16 December 2011. Since the implementation of the LEP, Council staff have identified a number of minor issues/errors which need to be rectified.

Clause 73 of the *Environmental Planning and Assessment Act 1979* requires Councils to keep their local environmental plans under regular and periodic review. Therefore, it is proposed that a 'planning proposal' be prepared that proposes to make a number of amendments to the Murray LEP 2011 to rectify the identified issues/errors.

The process for preparing and amending an LEP is stipulated in the *Environmental Planning and Assessment Act 1979* and covered within the 'A guide to preparing local environmental plans' (copy attached as Appendix O).

The plan making process normally involves the following key components:-

- The preparation of a planning proposal.
- The issuing of a Gateway determination.
- Community and other consultation on the planning proposal (as required).
- Finalising the planning proposal.
- Drafting of the LEP (legal instrument).
- Making the plan.
- Notifying the LEP on the NSW Government Legislation website.

The purpose of this report is to determine which issues are to be addressed in a 'planning proposal'.

A planning proposal is a document that explains the intended effect of the proposed LEP and provides the justification for making it. The Department's 'A guide to preparing planning proposals' (copy attached as Appendix P) provides detailed advice on the preparation of a planning proposal.

Section 55 (2) of the Act outlines that a planning proposal must include the following components:

- Part 1 – A statement of the objectives and intended outcomes of the proposed instrument.
- Part 2 – An explanation of the provisions that are to be included in the proposed instrument.
- Part 3 – The justification for those objectives, outcomes and the process for their implementation.
- Part 4 – Maps, where relevant, to identify the intent of the planning proposal and the area to which it applies.
- Part 5 – Details of the community consultation that is to be undertaken on the planning proposal.

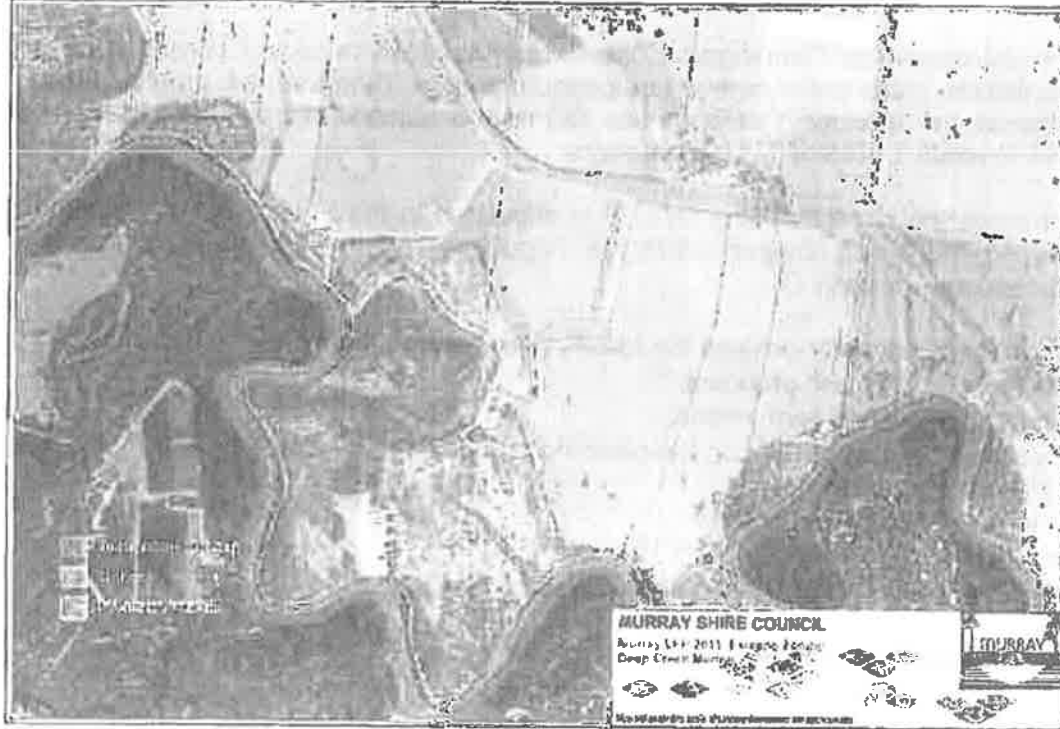
A summary of the issues/errors identified and proposed to be included within the 'planning proposal' for amending the LEP is provided below. A recommendation is provided to Council as to the change required to the LEP and to rectify these issues. A draft Planning Proposal is also attached as Appendix Q that addresses the recommendations contained in this report.

THIS IS PAGE NO. 89 OF THE DIRECTOR OF ENVIRONMENTAL SERVICES REPORT TO THE ORDINARY MEETING OF MURRAY SHIRE COUNCIL HELD IN THE MULTI-FUNCTION ROOM AT THE MATHOURA VISITOR & BUSINESS CENTRE, MATHOURA, ON TUESDAY 10TH DECEMBER 2013.

ZONING OF DEEP CREEK MARINA

Deep Creek is an anabranch situated off the Murray River. It is used as houseboat marina. Under Murray LEP 2011, the zoning of Deep Creek Marina is RU1 Primary Production (refer to Figure 1).

FIGURE 1: Existing Zoning, Deep Creek Marina



The objectives of the RU1 Primary Production zone are;

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*

The use of Deep Creek is not consistent with these objectives. It is considered that it should be zoned W2 recreational Waterways. The use is consistent with the objectives which are;

- *To protect the ecological, scenic and recreation values of recreational waterways.*
- *To allow for water-based recreation and related uses.*
- *To provide for sustainable fishing industries and recreational fishing.*

It is proposed that lots contained within the marina be zoned W2 Recreational Waterways as per Figure 2. The proposed zone boundary follows the boundary of an existing lot as otherwise it would be difficult to map the location of the waterway.

THIS IS PAGE NO. 100 OF THE DIRECTOR OF ENVIRONMENTAL SERVICES REPORT TO THE ORDINARY MEETING OF MURRAY SHIRE COUNCIL HELD IN THE MULTI-FUNCTION ROOM AT THE MATHOURA VISITOR & BUSINESS CENTRE, MATHOURA, ON TUESDAY 10TH DECEMBER 2013.

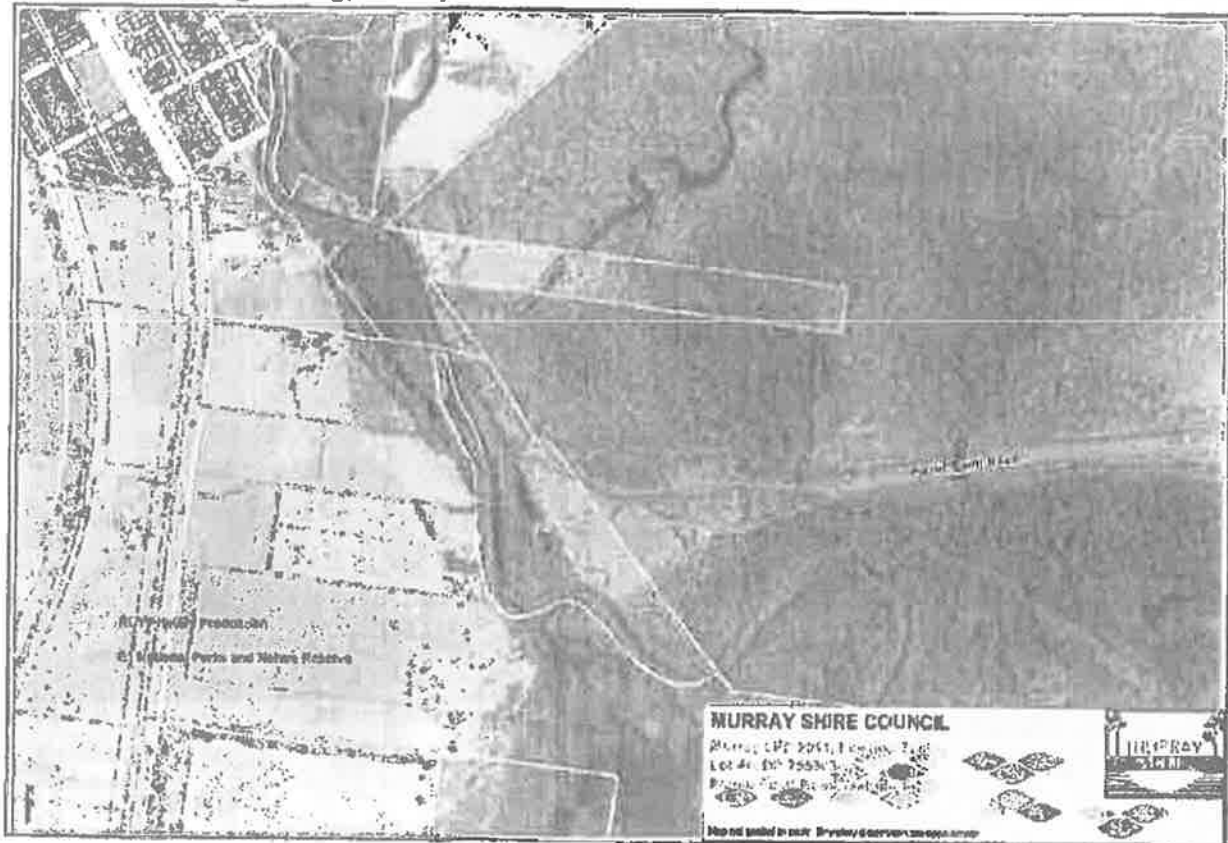
FIGURE 2: Proposed Zoning (W2 Recreational Waterway), Deep Creek Marina**Recommendation**

It is recommended that Deep Creek Marina (waterway) be rezoned from RU1 Primary Production to W2 Recreational Waterways.

LOT 44 DP 756303, PICNIC POINT ROAD, MATHOURA

Lot 44 DP 756303 is a private property located on Picnic Point Road, Mathoura. The property adjoins the Gulpa Creek and the Murray Valley National Park. The lot was mistakenly mapped as being partly zoned E1 National Parks and Nature Reserves. The other part of the property was mapped as being zoned RU1 Primary Production (refer to Figure 3 below).

FIGURE 3: Existing Zoning, Lot 44, DP 756303



This is an obvious error since the property is clearly not part of the National Park. It is considered that the most appropriate zoning for the property is E3 Environmental Management (refer to Figure 4). The objectives of this zone are to;

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.

This reflects the existing use of the property and the important environmental features on and adjoining the property. Similar nearby properties along Picnic Point Road have been zoned E3 Environmental Management.

FIGURE 4: Proposed Zoning (E3 Environmental Management), Lot 44, DP 756303



Recommendation

It is recommended that Lot 44 DP 756303 be rezoned from part E1 National Parks and Nature Reserves, part RU1 Primary Production to E3 Environmental Management.

REMOVAL OF MINIMUM LOT SIZES IN PART OF RESIDENTIAL AREAS OF MOAMA TOWNSHIP

The objectives of this the minimum lot size clause are as follows:-

- (a) *to ensure that new subdivisions reflect lot sizes that are able to provide for adequate servicing of the land and respond to any topographic, physical or environmental constraints,*
- (b) *to ensure that lot sizes are of a sufficient size and shape to accommodate development,*
- (c) *to prevent the fragmentation of rural lands.*

Currently there is a mixture of lot sizes applied to land in Moama (see Figure 5 below) with residential land in the urban area having a minimum lot size of at least 450m².

FIGURE 5: Existing Minimum Lot Sizes, Moama



Council staff have identified a part of Moama (refer to Figure 6) where there is no need for a minimum lot size.

This area is part of the R1 General Residential area within the Moama Township. This area has a range of residential development including many higher density residential developments such as townhouse and unit developments. The area is well serviced and not affected by constraints such as flooding. The area is close to services required by residents such as commercial businesses, open space, education and community facilities. Therefore, this is an area where higher density development is encouraged.

Design of good development is guided by controls within Council's Development Control Plan which stipulates requirements in respect to private open space, parking, and landscaping. The plan also requires issues such as neighbourhood character, streetscape, privacy and overshadowing to be addressed.

Therefore, should developments be able to satisfy these requirements; there is no need to apply a minimum lot size. The current minimum lot size is an unnecessary restriction on development in this area. Removing the minimum lot size will facilitate higher density development in the area where it is strategically supported. Land within adjoining commercial and industrial areas already has no minimum lot size applied.

It is considered that newer residential areas such as Highlands and Maldens Park Estates retain a minimum lot size to retain and/or provide for the desired neighbourhood character in these areas.

THIS IS PAGE NO. 104 OF THE DIRECTOR OF ENVIRONMENTAL SERVICES REPORT TO THE ORDINARY MEETING OF MURRAY SHIRE COUNCIL HELD IN THE MULTI-FUNCTION ROOM AT THE MATHOURA VISITOR & BUSINESS CENTRE, MATHOURA, ON TUESDAY 10TH DECEMBER 2013.

FIGURE 6: Proposed Minimum Lot Sizes, Moama

**Recommendation**

It is recommended that a minimum lot size not be applied to part of Moama residential areas as defined in Figure 6.

'BOAT BUILDING AND REPAIR' FACILITIES IN RU1 PRIMARY PRODUCTION ZONE

It is considered that 'boat building and repair' facilities should be permissible in RU1 Primary Production zone.

'Boat building and repair' facilities means:

any facility (including a building or other structure) used primarily for the construction, maintenance or repair of boats, whether or not including the storage, sale or hire of boats, but does not include a marina or boat shed.

These facilities are currently permissible in zones such as IN1 General Industrial, B6 Business Enterprise and E3 Environmental Management but are prohibited within the RU1 Primary Production zone. However, much of the rural land which is located adjoining and nearby the rivers within Murray Shire is zoned RU1 Primary Production. It is reasonable that such boat building and repair facilities be located on appropriate sites within proximity to these rivers considering the relationship between the industry and the river. This is not possible under the current instrument.

Recommendation

It is recommended that 'Boat building and repair' facility be a permissible land use within the RU1 Primary Production zone.

THIS IS PAGE NO. 105 OF THE DIRECTOR OF ENVIRONMENTAL SERVICES REPORT TO THE ORDINARY MEETING OF MURRAY SHIRE COUNCIL HELD IN THE MULTI-FUNCTION ROOM AT THE MATHOURA VISITOR & BUSINESS CENTRE, MATHOURA, ON TUESDAY 10TH DECEMBER 2013.

KILKERRIN LAKES WATER ASSOCIATION REQUEST

The Kilkerrin Lakes Water Association Inc. has written (copy attached as Appendix R) to Council requesting that the Murray LEP 2011 be amended to restrict further subdivision of lots in Kilkerrin Lakes Estate. The existing lot sizes are shown below in Figure 7 with the minimum lot size in Kilkerrin Lakes Estate being 4000m².

FIGURE 7: Existing Minimum Lot Sizes, Kilkerrin Lakes Estate, Moama



The association estimates that the existing LEP controls would permit approximately 17 additional lots. Council requires that a raw water supply be provided to allotments within Kilkerrin Estate as the filtered water system can only cater for internal use. The existing lots are supplied by an independent raw water scheme managed by the Kilkerrin Lakes Water Association. The Association have detailed issues associated with providing water to these allotments including infrastructure constraints, meter readings and allocations. They therefore have requested that Council not permit further subdivision through an amendment to the minimum lot size.

It is considered that the current minimum lot size of 4000m² 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 more lots it is recommended the minimum lot size be increased to 8000m² as per Figure 8 to restrict lots being subdivided that can't be properly serviced with water.

THIS IS PAGE NO. 106 OF THE DIRECTOR OF ENVIRONMENTAL SERVICES REPORT TO THE ORDINARY MEETING OF MURRAY SHIRE COUNCIL HELD IN THE MULTI-FUNCTION ROOM AT THE MATHOURA VISITOR & BUSINESS CENTRE, MATHOURA, ON TUESDAY 10TH DECEMBER 2013.

FIGURE 8: Proposed Minimum Lot Sizes, Killkerrin Lakes Estate, Moama



An increase in the minimum lot size to 8000m² will result in all lots, except two being restricted from further subdivision. These two lots are large lots greater than 1,600m² with a large amount of unused land. The Water Association have indicated that they are likely to be able to service these lots.

Recommendation

It is recommended that the minimum lot size be increased from 4000m² to 8000m² to part of Moama as defined in Figure 8.

SECONDARY DWELLINGS IN CERTAIN ZONES

Under Murray LEP 2011 there is a land use referred to as 'secondary dwellings' which is a type of residential accommodation. Secondary dwelling is defined as;

a self-contained dwelling that:

- (a) *is established in conjunction with another dwelling (the principal dwelling), and*
- (b) *is on the same lot of land as the principal dwelling, and*
- (c) *is located within, or is attached to, or is separate from, the principal dwelling.*

Note. See clause 5.4 for controls relating to the total floor area of secondary dwellings.

Secondary dwellings are a type of residential accommodation—see the definition of that term in this Dictionary.

Secondary dwellings are essentially 'granny flats' or the like. They are currently prohibited in the R5 Large Lot Residential, RU1 Primary Production and E3 Environmental Management zones. It is considered that a secondary dwelling would be appropriate in certain circumstances as permitted by the LEP.

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Clause 5.4 'Controls relating to miscellaneous uses' provides for restrictions in respect to the size of 'secondary dwellings'. These controls are;

If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:

- (a) 60 square metres,*
- (b) 50% of the total floor area of the principal dwelling.*

Upon review of these controls, it is considered that sub clause (b) is too high and may result in large secondary dwellings especially where there is a large existing dwelling. This would be inconsistent with the intent of the land use. It is suggested that this be revised to 20% of the total floor area of the principal dwelling.

Recommendation

It is recommended that:-

1. 'Secondary dwellings' be made a permissible land use within the R5 Large Lot Residential, RU1 Primary Production and E3 Environmental Management zones.
2. Clause 5.4(9)(b) be revised from 50% to 20% of the total floor area of the principal dwelling.

'BIOSOLIDS TREATMENT FACILITIES' IN R1 GENERAL RESIDENTIAL

A 'biosolids treatment facility' means:

"a building or place used as a facility for the treatment of biosolids from a sewage treatment plant or from a water recycling facility."

These facilities are currently permissible in the R1 General Residential zone. The objectives of the R1 zone are to;

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To avoid potential land use conflict and protect the amenity of residents.*
- *To provide for tourist and visitor accommodation in appropriate locations.*

It is considered that a 'biosolids treatment facility' is inconsistent with the objectives of the R1 General Residential zone and incompatible with residential development. Such a facility would likely create land use and amenity conflicts between the facility and residential development.

Recommendation

It is recommended that 'Biosolids treatment facility' be prohibited within the R1 General Residential zone.

RESIDENTIAL ACCOMMODATION IN R2 LOW DENSITY RESIDENTIAL ZONE

The R2 Low Density Residential zone applies to low density residential areas within Moama including Estates such as Perricoota Run, Winbl Estate and part of Lakeview Estate.

The objectives of the R2 Low Density Residential zone are to;

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To avoid potential land use conflict and protect the amenity of residents.

In this zone a number of residential accommodation uses are permissible which are not considered consistent with the objectives for this zone. These include;

attached dwelling means a building containing 3 or more dwellings, where:

- (a) each dwelling is attached to another dwelling by a common wall, and
- (b) each of the dwellings is on its own lot of land, and
- (c) none of the dwellings is located above any part of another dwelling.

boarding house means a building that:

- (a) is wholly or partly let in lodgings, and
- (b) provides lodgers with a principal place of residence for 3 months or more, and
- (c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
- (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers, but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.

dual occupancy means a dual occupancy (attached) or a dual occupancy (detached).

dual occupancy (attached) means 2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.

dual occupancy (detached) means 2 detached dwellings on one lot of land, but does not include a secondary dwelling.

seniors housing means a building or place that is:

- (a) a residential care facility, or
- (b) a hostel within the meaning of clause 12 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, or
- (c) a group of self-contained dwellings, or
- (d) a combination of any of the buildings or places referred to in paragraphs (a)–(c), and that is, or is intended to be, used permanently for:
- (e) seniors or people who have a disability, or
- (f) people who live in the same household with seniors or people who have a disability, or
- (g) staff employed to assist in the administration of the building or place or in the provision of services to persons living in the building or place, but does not include a hospital.

Such residential development is of a higher density and would not be consistent with the character of the area. Seniors housing is not considered appropriate for low density areas where such housing is located further from the services and amenities of an urban area and may create land use conflict. It is noted that provisions under the SEPP (Housing for Seniors or for People with a Disability) 2004 provides some flexibility in this regard.

Recommendation

It is recommended that:-

- Attached dwellings be prohibited within the R2 Low Density Residential zone
- Boarding Houses be prohibited within the R2 Low Density Residential zone
- Dual Occupancies including Dual Occupancy (attached) and Dual Occupancy (detached) be prohibited within the R2 Low Density Residential zone.
- Seniors Housing be prohibited within the R2 Low Density Residential zone.

RESIDENTIAL ACCOMMODATION IN R5 LARGE LOT RESIDENTIAL ZONE

The R5 Large Lot Residential zone applies to rural residential areas within Moama and Mathoura including Estates such as Kilkerrin Lakes, Layfield Downs and part of Rivergums Estate.

The objectives of the R5 Large Lot Residential zone are to;

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

In this zone a number of residential accommodation uses are permissible which are not considered consistent with the objectives for this zone. These include;

dual occupancy means a dual occupancy (attached) or a dual occupancy (detached).

dual occupancy (attached) means 2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.

dual occupancy (detached) means 2 detached dwellings on one lot of land, but does not include a secondary dwelling.

seniors housing means a building or place that is:

- (a) a residential care facility, or***
- (b) a hostel within the meaning of clause 12 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, or***
- (c) a group of self-contained dwellings, or***
- (d) a combination of any of the buildings or places referred to in paragraphs (a)–(c), and that is, or is intended to be, used permanently for:***
- (e) seniors or people who have a disability, or***
- (f) people who live in the same household with seniors or people who have a disability, or***

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(g) staff employed to assist in the administration of the building or place or in the provision of services to persons living in the building or place, but does not include a hospital.

Such residential development is of a higher density and would not be consistent with the character of the area. Seniors housing is not considered appropriate for rural residential areas where such housing is located further from the services and amenities of an urban area and may create land use conflict. It is noted that provisions under the SEPP (Housing for Seniors or for People with a Disability) 2004 provides some flexibility in this regard.

Recommendation

It is recommended that:-

- Dual Occupancy Including Dual Occupancy (attached) and Dual Occupancy (detached) be prohibited within the R5 Large Lot Residential zone.
- Seniors Housing be prohibited within the R5 Large Lot Residential zone.

ZONES WHERE 'VEHICLE SALES AND HIRE PREMISES' ARE PERMISSIBLE

'Vehicle Sales and Hire Premises' means:

"a building or place used for the display, sale or hire of motor vehicles, caravans, boats, trailers, agricultural machinery and the like, whether or not accessories are sold or displayed there."

These facilities are currently permissible only in the B2 Local and RU5 Village zones. It is considered that they would also be appropriate within the B6 Enterprise Corridor and IN1 General Industrial zones.

The objectives of the B6 Enterprise Corridor zone are;

- *To promote businesses along main roads and to encourage a mix of compatible uses.*
- *To provide a range of employment uses (including business, office, retail and light industrial uses).*
- *To maintain the economic strength of centres by limiting retailing activity.*
- *To provide for employment-generating activities within the Moama Business Park on the Cobb Highway, north of Moama.*

The objectives of the IN1 General Industrial zone are;

- *To provide a wide range of industrial and warehouse land uses.*
- *To encourage employment opportunities.*
- *To minimise any adverse effect of industry on other land uses.*
- *To support and protect industrial land for industrial uses.*
- *To define and consolidate the existing industrial area in and near Moama.*

It is considered that 'Vehicle Sales and Hire Premises' would be consistent with these objectives and appropriate for the years where these zones have been applied namely the Moama Business Park and the Moama Industrial Estate.

Recommendation

It is recommended that 'Vehicle Sales and Hire Premises' be made a permissible land use within the B6 Enterprise Corridor and IN1 General Industrial zones.

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ADVERTISING STRUCTURE IN RECREATION ZONES

Advertising structures are currently prohibited in RE1 Public Recreation and RE2 Private Recreation.

Advertising structure means;

a structure used or to be used principally for the display of an advertisement.

It does not include building identification sign or a business identification sign. It is considered that in certain circumstances such advertising structures may be appropriate within recreation zones. For example an advertising structure may be installed with development consent to display advertisements of a sponsor of a sporting club.

Recommendation

It is recommended that advertising structures be made permissible in RE1 Public Recreation and RE2 Private Recreation zones.

PERMITTED LAND USES IN SP3 TOURIST ZONE

The SP3 Tourist Zone has been applied to existing tourist facilities located outside urban areas. Examples include; Deep Creek, Molra Station and Perricoota Vines Resort. The objective of the zone is;

- *To provide for a variety of tourist-oriented development and related uses.*

There are a number of land uses which are currently prohibited in this zone but which it is considered should be permitted subject to consent as they are consistent with the objective of the zone. These are;

building identification sign means a sign that identifies or names a building and that may include the name of a building, the street name and number of a building, and a logo or other symbol but does not include general advertising of products, goods or services.

business identification sign means a sign:

(a) that indicates:

(i) the name of the person or business, and

(ii) the nature of the business carried on by the person at the premises or place at which the sign is displayed, and

(b) that may include the address of the premises or place and a logo or other symbol that identifies the business,

but that does not contain any advertising relating to a person who does not carry on business at the premises or place.

environmental protection works means works associated with the rehabilitation of land towards its natural state or any work to protect land from environmental degradation, and includes bush regeneration works, wetland protection works, erosion protection works, dune restoration works and the like, but does not include coastal protection works.

jetty means a horizontal decked walkway providing access from the shore to the waterway and is generally constructed on a piered or piled foundation.

marina means a permanent boat storage facility (whether located wholly on land, wholly on a waterway or partly on land and partly on a waterway), and includes any of the following associated facilities:

- (a) any facility for the construction, repair, maintenance, storage, sale or hire of boats,*
- (b) any facility for providing fuelling, sewage pump-out or other services for boats,*
- (c) any facility for launching or landing boats, such as slipways or holsts,*
- (d) any car parking or commercial, tourist or recreational or club facility that is ancillary to the boat storage facility,*
- (e) any berthing or mooring facilities.*

water recreation structure means a structure used primarily for recreational purposes that has a direct structural connection between the shore and the waterway, and may include a pier, wharf, jetty or boat launching ramp.

Recommendation

It is recommended that the following land uses be made permissible in the SP3 Tourist zone:-

- 1. Building identification sign
- 2. Business identification sign
- 3. Environmental protection works
- 4. Jetty
- 5. Marina
- 6. Water recreation structure

'OLD MOAMA' HERITAGE CONSERVATION AREA

Council considered a request from the 'Friends of Old Moama' to create a 'Heritage Conservation Area' over part of 'Old Moama' at its Ordinary meeting held 21 May 2013.

Please find attached agenda report and resolution as Appendix S. Council resolved to;

"create a 'conservation area' within the 'Old Moama' heritage precinct as part of the review of the Murray Local Environmental Plan (LEP) 2011"

Below is the area proposed to be incorporated in the conservation area.

FIGURE 9: Proposed Heritage Conservation Area, Chanter St, Moama

The area is important in respect to Moama's history as it is the site of the original Township. The subject area contains five sites which are listed as items of environmental heritage under Murray LEP 2011.

These sites are:-

Former river captain's cottage	54 Chanter Street	Lot 4, Section 18, DP 758686
Former Moama Telegraph Station	60 Chanter Street	Lot 8, Section 18, DP 758686
Residence (former gaol and police station)	72 Chanter Street	Lot 3, DP 577291
Portal entry (former Maiden's Inn Hotel)	100 Chanter Street	Lot 1, Section 1, DP 758686
Maiden's Punt	Chanter Street	Lot 7021, DP 1123285

The heritage items have a shared significance associated with the early Moama Township and it is important that any new development in the area does not affect the significance of the area. The conservation area will ensure heritage is considered for all development within the area and assist in identifying the area as a heritage precinct.

Council notified affected property owners of the proposal. Land owners were interested to know how the proposal would affect them. The NSW Aboriginal Land Council indicated their objection to being included in the area with concerns that it may impact upon what the Local Aboriginal Land Council may do on the land which is to be gifted to them.

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Another owner of four parcels in the area will make a deputation to Council to discuss the proposal and its impact on their property.

The 'planning proposal' process will require further consultation with affected property owners.

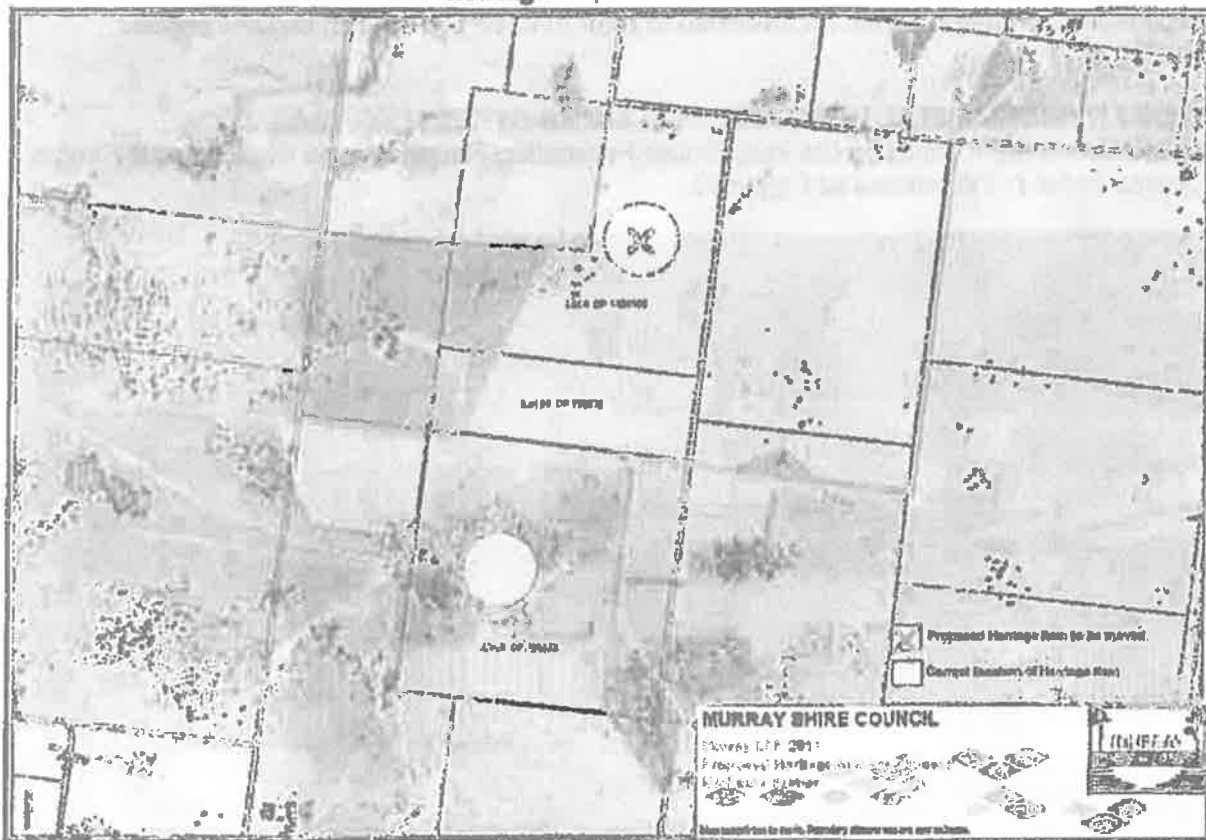
Recommendation

It is recommended that a heritage conservation area be proposed over part of 'Old Moama' as defined in Figure 9.

ITEM OF ENVIRONMENTAL HERITAGE 163- MATHOURA STATION

The property description for heritage item has been incorrectly identified under Schedule 5- Environmental Heritage as being located on Lot 4 DP 1100188. The correct lot is Lot 2 DP 756272. The corresponding heritage map also needs to be revised to correctly identify the affected lot (refer to Figure 10).

FIGURE 10: Item of Environmental Heritage 163, Mathoura Station



Recommendation

It is recommended that the property description and heritage map for Item of Environmental Heritage 163- Mathoura Station be amended to refer to Lot 2 DP 756272.

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ITEM OF ENVIRONMENTAL HERITAGE I4- 8 SIMMS STREET, MOAMA

The property description for heritage item has been incorrectly identified under Schedule 5- Environmental Heritage as being located on Lot 3 Section 29 DP 758686. The correct lot is Lot 1 DP 514180. The corresponding heritage map is accurate.

Recommendation

It is recommended that the property description and heritage map for Item of Environmental Heritage I4- 8 Simms Street be amended to refer to Lot 1 DP 514180.

ITEM OF ENVIRONMENTAL HERITAGE I43- 27 CONARGO STREET, MOAMA

The property description for heritage item has been incorrectly identified under Schedule 5- Environmental Heritage as being located on Lot 3 Section 65 DP 758686. The correct lot is Lot 3 Section 65 DP 758656. The corresponding heritage map is accurate.

Recommendation

It is recommended that the property description and heritage map for Item of Environmental Heritage I43- 27 Conargo Street be amended to refer to Lot 3 DP Section 65 DP 758656.

ITEM OF ENVIRONMENTAL HERITAGE I24- 9 SIMMS STREET, MOAMA

Item of Environmental Heritage I24 is a Timber Federation Regency style dwelling at 9 Simms St, Moama (refer to the below and Figure 9).



Unfortunately a recent fire severely damaged the building. The fire has affected the heritage significance of the property.

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A 'fire reinstatement inspection report' (copy attached as Appendix T) recommended that from an economic perspective repairs could not be undertaken, and therefore the building should be demolished. It is considered that it would be unreasonable to require the property to be restored. Therefore, it is recommended that the property be removed from Council's 'Items of Environmental Heritage' under Murray LEP 2011.

FIGURE 11: Item of Environmental Heritage I24 to be removed, 9 Simms St, Moama



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Recommendation

It is recommended that 124- Timber Federation Regency style dwelling at 9 Simms Street, Moama be removed from Council's 'Items of Environmental Heritage' listed under Schedule 5 Murray LEP 2011.

PROPOSED ITEM OF ENVIRONMENTAL HERITAGE- MCLAURIN CEMETERY, MILLEWA ROAD

Murray Shires Heritage Committee has reviewed Council's Items of Environmental Heritage listed under Schedule 5 of Murray LEP and has recommended Council consider listing the McLaurin Cemetery as an item.

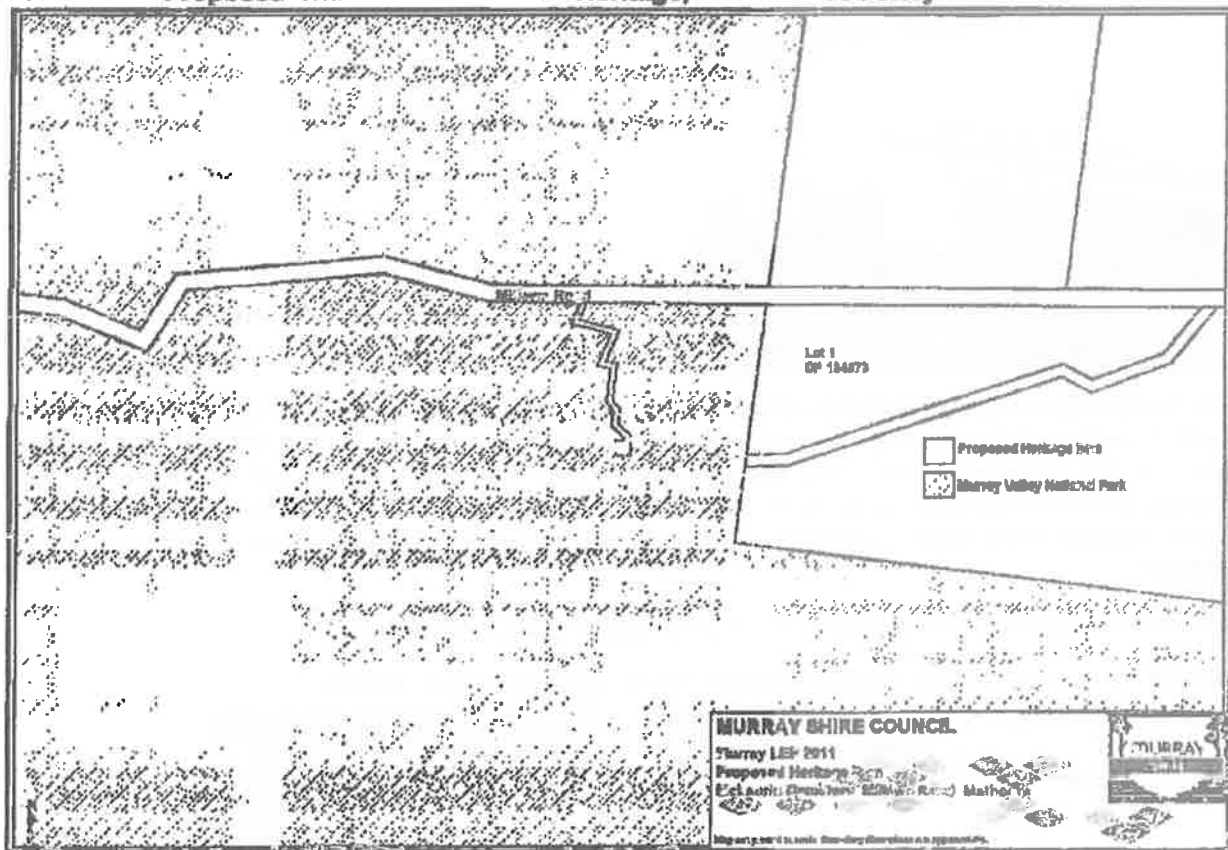
The land containing the cemetery was originally on a 320 acre lot purchased by James McLaurin and sons in 1855. The land was declared to be Crown Land in 1905 and was dedicated State Forest in 1917. Upon the lot being cancelled two roads were excluded from the State Forest and were to be the property of the 'grantees', that is the cemetery. Therefore, the McLaurin cemetery is located on a separating holding surrounded by the present day Millewa Precinct of the Murray Valley National Park.

The cemetery is of significance in the context of European settlement in the Murray Shire. The site is a small cemetery of an early pioneering family. It is one of the earliest remaining relics of European settlement in the area with one grave dated 1853 and another from 1856.



A member of the McLaurin family was contacted in respect to the proposal and did not raise any objection.

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FIGURE 12: Proposed Item of Environmental Heritage, McLaurin Cemetery**Recommendation**

It is recommended that the 'McLaurin Cemetery', Millewa Road, be added as an item of environmental heritage.

PROPOSED ITEM OF ENVIRONMENTAL HERITAGE- 'PERRICOOTA WOOLSHED'
LOT 1, DP 521210, PERRICOOTA ROAD, MOAMA

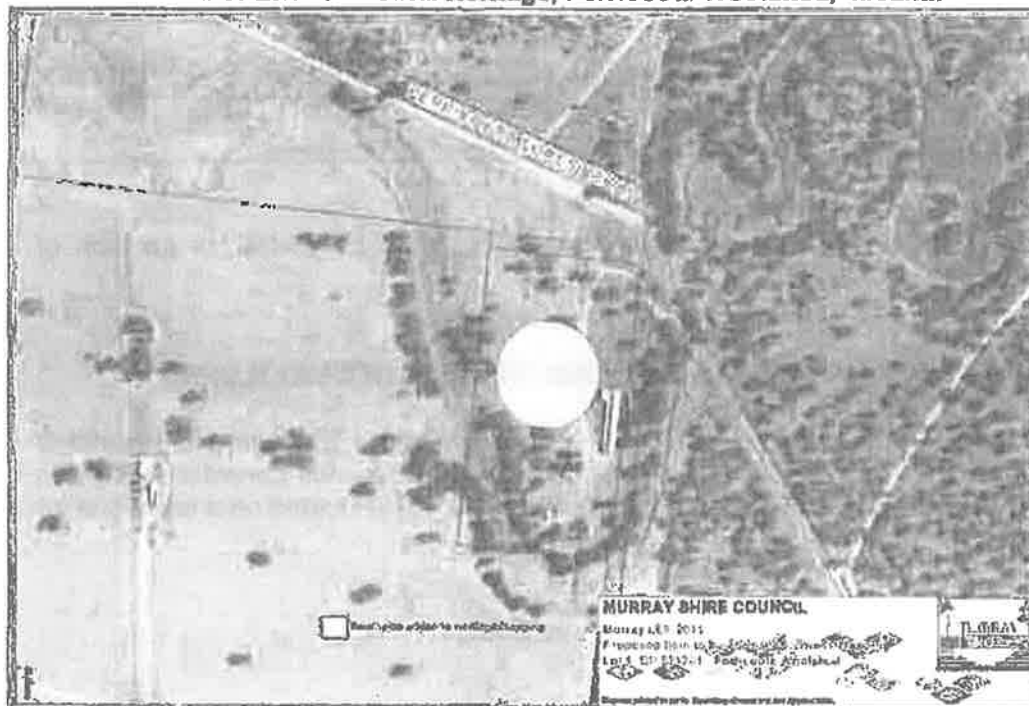
Murray Shire's Heritage Committee has reviewed Council's Items of Environmental Heritage listed under Schedule 5 of Murray LEP and has recommended Council consider listing the Perricoota Woolshed as an Item. The woolshed (refer to Figure 13) is located on a small 8ha lot on Perricoota Road, Moama.



The Perricoota woolshed dates to at least the start of the 20th century. Perricoota Station was used in conjunction with the neighbouring Moira Station to graze merino sheep which were shorn at the shearing shed. The shed was originally located 10km to the north east of its present location, however upon sale of part of the property in 1911 the shed was dismantled and re-erected in its current location. The shed is an important artefact of the regions pastoral heritage.

The land owner has been notified but no comment has been received.

FIGURE 13: Item of Environmental Heritage, Perricoota Woolshed, Moama



Recommendation

It is recommended that the 'Perricoota Woolshed', Lot 1, DP 521210, Perricoota Road, Moama be added as an item of environmental heritage.

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RIVER FRONT AREAS CLAUSE

Council resolved to prepare and submit a planning proposal to amend Clause 7.4 'Development of river front areas' of Murray LEP 2011. This was due to legal advice Council had received in respect to restrictions within the clause.

The primary objective of the planning proposal was to;

- *provide flexibility in respect to development permitted within 'river front areas'*

A secondary objective was to;

- *insert the 'Edward River' into the definition of river front areas*

During the process, the 'planning proposal' was amended to provide details as to how Council suggested the objective of the 'planning proposal' be achieved. This included:-

- permitting 'ancillary development' within river front areas;
- reducing the building setback in rural areas from 100m to 60m; and
- defining bank within the LEP instrument.

During consideration of the 'planning proposal' the Department of Planning and Infrastructure provided advice in respect to case law that supports a principal of planning law which permits 'ancillary development' (subordinate land use) where it would otherwise be prohibited. This advice was forwarded to Council legal representatives who upon consideration of this Department comments amended their previous advice. The revised legal advice concurred that development could be consented within a river front area where the character and nature of the development was ancillary and subservient to another permissible use or existing lawful use.

This advice addresses the issue in respect to flexibility of Clause 7.4 for circumstances where Council wishes to consent to 'ancillary development'. However, the issue in respect to the 'Edward River' and river setback in rural areas remains. The Department have advised that the 'planning proposal' will have to be re-submitted to address these issues.

It is recommended that Council proceed with having the Edward River inserted into clauses which refers to the Murray and Wakool Rivers to ensure that the Edward River has the same status as these rivers. This would rectify the error in the current instrument.

In respect to the setback of buildings from the bank of the river, it is recommended that Council would also proceed with proposing an amendment to 'river front area' from 100m to 60m in rural zones including RU1 Primary Production, RU3 Forestry and E3 Environmental Management zones. This would provide consistency with Council's previous LEP instrument (Murray LEP 1989) and the local clause drafted by Council in the original draft Murray LEP. This would remove significant amounts of development from being affected by the clause including all development approved under Murray LEP 1989 with a 60m setback from the bank of the river.

Council was directed to insert the model clause which stipulated a 100m setback for rural zones when it prepared the Murray LEP. When Council submitted the final draft Murray LEP under s64 of the EP&A Act 1979, the covering letter stated that Council objected to inserting the model clause including the definition of 'river front area' and requested that should the Department's policy change that the clause be considered for amendment.

This was reiterated in the covering letter provided for the submission of the draft LEP in accordance with s88 of the EP&A Act 1979. It appears that the Department is now willing to consider alternative river setback provisions, and therefore it is recommended that Council proceed in reverting back to a 60m building setback.

With a reduced building setback it is considered that certain land uses may not be appropriate within river front areas. Of the land uses currently permitted in river front areas it is considered that recreation facility (outdoor) should be restricted within river front areas. The definition of recreation facility (outdoor) is provided below.

recreation facility (outdoor) means a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major).

It is considered that a number of these facilities are not consistent with the objectives of the clause and there is no reason why these facilities cannot be set back 60m from the bank of the river. Recreation areas including playgrounds, areas used for sporting activities and parks/gardens would still be permitted within river front areas.

In summary, the changes requested are detailed below with proposed changes highlighted in red.

7.4 Development on river front areas

(1) The objectives of this clause are as follows:

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

(2) Despite any other provision of this Plan, development consent may only be granted to development on land in a river front area for the following purposes:

- (a) boat building and repair facilities, boat launching ramps, boat sheds, charter and tourism boating facilities or marinas,**
- (b) the extension or alteration of an existing building that is wholly or partly in the river front area, but only if the extension or alteration is to be located no closer to the river bank than the existing building,**
- (c) environmental protection works,**
- (d) extensive agriculture and intensive plant agriculture,**
- (e) environmental facilities, recreation areas and recreation facilities (outdoors),**
- (f) water recreation structures.**

(3) Development consent must not be granted under subclause (2) unless the consent authority is satisfied of the following:

- (a) that the appearance of the development, from both the river concerned and the river front area, will be compatible with the surrounding area,
- (b) that the development is not likely to cause environmental harm, including (but not limited to) the following:
 - (i) pollution or siltation of the river concerned,
 - (ii) any adverse effect on surrounding uses, riverine habitat, wetland areas or flora or fauna habitats,
 - (iii) any adverse effect on drainage patterns,
- (c) that the development is likely to cause only minimal visual disturbance to the existing landscape,
- (d) that continuous public access, and opportunities to provide continuous public access, along the river front and to the river concerned are not likely to be compromised,
- (e) that any historic, scientific, cultural, social archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land is to be maintained.

7.5 Riparian land and Murray River and other watercourses—general principles

- (1) The objective of this clause is to protect and maintain the following:
 - (a) water quality within the Murray, Edward and Wakool Rivers and other watercourses,
 - (b) the stability of the bed and banks of those rivers and other watercourses,
 - (c) aquatic riparian habitats,
 - (d) ecological processes within those rivers and other watercourses and riparian areas.
- (2) This clause applies to land:
 - (a) identified as "Riparian Land and Waterways" on the Watercourse Map, and
 - (b) situated within 40 metres of the top of the bank of a watercourse (being a watercourse situated on land referred to in paragraph (a)).
- (3) Before determining a development application to carry out development on land to which this clause applies, the consent authority must consider whether or not the development:
 - (a) is likely to cause any adverse impact on the following:
 - (i) the water quality and flows within a watercourse,
 - (ii) aquatic and riparian species, habitats and ecosystems,
 - (iii) the stability of the bed, shore and banks of a watercourse,
 - (iv) the free passage of fish and other aquatic organisms within or along a watercourse,
 - (v) any future rehabilitation of a watercourse and riparian areas, and
 - (b) will increase water extraction from a watercourse.
- (4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
 - (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or
 - (b) if that impact cannot be avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

7.6 Additional provisions—development on river bed and banks of the Murray, Edward and Wakool Rivers

- (1) The objectives of this clause are as follows:
 - (a) to manage and maintain the quality of water in the Murray, Edward and Wakool Rivers,

- (b) to protect the environmental values and scenic amenity and cultural heritage of those rivers,*
- (c) to protect the stability of the bed and banks of those rivers,*
- (d) to limit the impact of structures in or near those rivers on natural riverine processes and navigability of those rivers.*
- (2) This clause applies to land comprising the bed of the Murray or Wakool River and up to the top of the bank of that River.*
- (3) Development consent must not be granted to any development on land to which this clause applies unless the consent authority is satisfied of the following:*
 - (a) that the development is likely to contribute to achieving the objectives of the zone in which the land is located,*
 - (b) that the development will not increase erosion,*
 - (c) that the development is not likely to cause an adverse effect on riverine habitat or flora or fauna habitats,*
 - (d) that the development will not cause an adverse effect on drainage or flow patterns.*
- (4) Development consent must not be granted for the erection of a structure on land to which this clause applies unless the consent authority is satisfied of the following:*
 - (a) that the proposed structure will not be located on an outside bank of the Murray or Wakool River,*
 - (b) that the appearance of the proposed structure, from both that River and any adjacent land, will be compatible with the surrounding area,*
 - (c) that the development does not involve, and will not result in, the erection of more than one mooring per lot or per lots owned by the same owner or owners.*
- (5) This clause is in addition to clause 7.5 and prevails to the extent of any inconsistency with that clause.*

river front area means:

- (a) in Zone RU5 Village, Zone R1 General Residential, Zone R2 Low Density Residential, Zone R5 Large Lot Residential, Zone SP3 Tourism and Zone B2 Local Centre—the land within 40m of the top of the bank of the Murray, Edward or Wakool River, or*
- (b) in Zone RU1 Primary Production, Zone RU3 Forestry and Zone E3 Environmental Management—the land within 60m of the top of the bank of the Murray, Edward or Wakool River.*

Recommendation

It is recommended that:-

- The 'Edward River' be inserted into Clauses 7.4, 7.5, 7.6 and the riverfront land definition.
- Recreation Facility (Outdoor) be removed from permissible uses within 'river front areas'.
- The area to which the 'river front area' applies to in RU1 Primary Production, Zone RU3 Forestry and Zone E3 Environmental Management zones be amended from 100m to 60m.

PLANRIGHT REQUEST- BUILDING SETBACK FROM RIVER, CHANTER ST, MOAMA

This request (copy attached as Appendix U) relates to development in River Front areas being along Chanter Street 'as proposed development is within 100 metres of the bank of the Murray River' and development is prohibited under LEP (2011).

The request asks for the controls to be relaxed in a section of Chanter Street as it seems inconsistent with existing development in this area. The request suggests that there would be other parcels that would benefit from an amendment to LEP and a relaxation of building controls.

It is considered that the reduction of the land to which 'river front area' applies to from 100m to 60m in zones RU1 Primary Production, zone RU3 Forestry and zone E3 Environmental Management zones will address this issue.

Recommendation

It is recommended that the area to which the 'river front area' applies to in RU1 Primary Production, RU3 Forestry and E3 Environmental Management zones be amended from 100m to 60m.

MOAMA LIONS COMMUNITY VILLAGE COMMITTEE REQUEST

The Moama Lions Community Village Committee has made a request (copy attached as Appendix V) to Council to consider rezoning land owned by Council to a residential zone to facilitate a community housing project. The subject land is Lot 1 DP 249655. The land shown below is located between Echuca Street, Martin Street, Blair Street and a private industrial lot.

FIGURE 14: Subject Land



The lot is zoned IN1 General Industrial under the Murray LEP 2011 and is classified as 'community land' under the Local Government Act 1993. The land acts as a buffer between the Moama Industrial Estate and Moama residential areas. Therefore, it is inappropriate that the land be developed for housing and recommended that the request not be supported.

Recommendation

It is recommended that no change be made to the Murray LEP 2011.

PLANRIGHT REQUEST- LOT 1DP 1181714, BERRY STREET, MOAMA

Lot 1 DP 1181714 is a former part of a Crown road reserve that has been closed and sold to the adjoining land holder. The land is currently zoned E3 Environmental Management. The land adjoins land zoned R1 General Residential which is owned by new land holder.

FIGURE 15: Subject Land



The request (copy attached as Appendix U) is that the new land also be zoned R1 General Residential. It is considered that the land is at a similar height to the land zoned Residential so is unlikely to be affected by flooding.

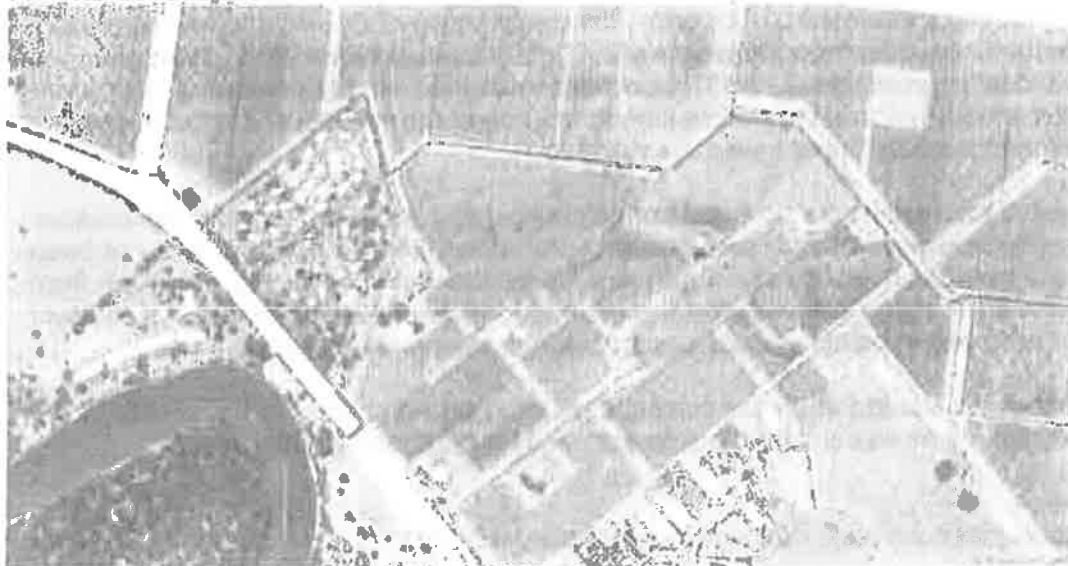
However, the land is severely affected by bushfire constraints as the land adjoins the Horseshoe Lagoon bushland reserve. Section 117 Ministerial Direction 4.4 'planning for bushfire protection' requires planning proposals to incorporate a number of measures including an 'asset protection zone'. It is considered that the subject land is the 'asset protection zone' for the adjoining residential area and therefore it would be inappropriate to support its rezoning to facilitate further residential development. The land may be used in conjunction with the existing dwelling under its existing E3 Environmental Management zone.

Recommendation

It is recommended that no change be made to the Murray LEP 2011.

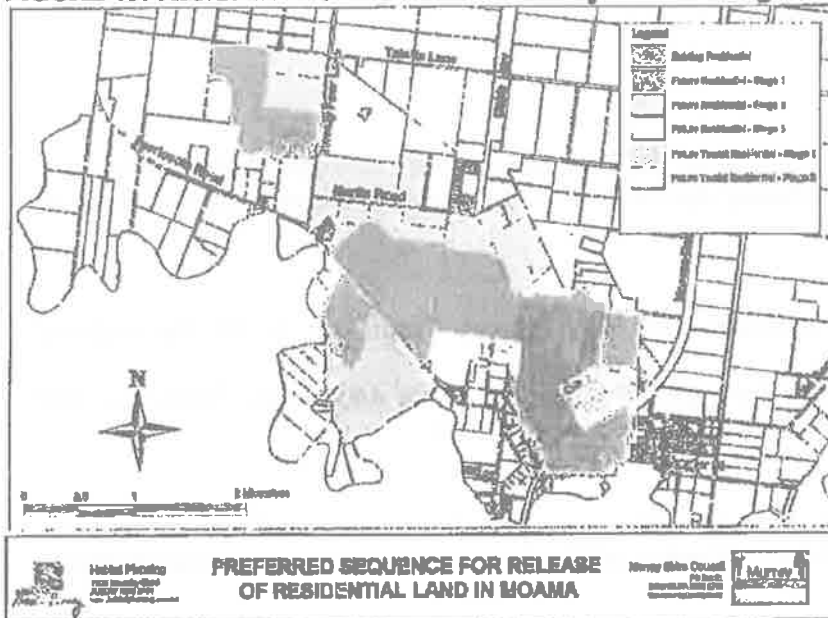
PLANRIGHT REQUEST- LOT 11 DP 285511, PERRICootA ROAD, MOAMA

A request (copy attached as Appendix U) has been made to incorporate Lot 11 DP 285511 into the R1 General Residential zone.

FIGURE 16: Subject Land

The request considers this to be a more appropriate outcome in terms of land release, existing and proposed infrastructure and access. A subdivision application has been submitted for adjoining parcels which demonstrates an integrated subdivision plan with the subject lot.

Council's Strategic Land Use Plan identified a preferred sequence for release of residential land in Moama. The subject land was identified as part of Stage 2 as it was on the edge of the urban boundary.

FIGURE 17: Residential Land Release in Murray Shire Strategic Land Use Plan

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'Planning proposals' are required to provide justification for proposed amendments to environmental planning instruments. As part of the new Murray LEP 2011 the entire Stage 1 was rezoned which accounted for approximately 200ha of new residential land. It is envisaged that this will provide approximately 20-50 years residential land supply depending on growth rates. Given the amount of existing undeveloped land zoned for residential land use, there is limited justification to support further land to be rezoned.

Further, the subject land contains viticultural and a 'preliminary site investigation' in accordance with SEPP 55: Remediation of Land would need to be undertaken. Since, this has not been undertaken the inclusion of this land would likely delay the entire 'planning proposal' from proceeding. Issues in respect to managing the interface between residential and viticulture of the adjoining lot will need to be considered as part of the development application.

Therefore, it is recommended that at the current time there be no change to the zoning of the Murray LEP until such time as demand requires the need for further residential land.

Recommendation

It is recommended that no change be made to the Murray LEP 2011.

PLANRIGHT REQUEST- LOT 214 DP 751159, GULVAL ROAD, MOAMA

A request (copy attached as Appendix U) has been made to enable Council to consider the erection of a dwelling on Lot 214 DP 751159, Gulval Road, Moama. The lot is located in an area where there are predominantly small rural lots supporting a range of rural land uses.

Council staff are currently awaiting advice from the Department of Planning and Infrastructure in respect to rural dwellings prior to considering this request.

Recommendation

For Councils Information.

Recommendation

It is recommended that a 'planning proposal' be submitted to the Department of Planning and Infrastructure with a request for gateway determination to make the following amendments to Murray LEP 2011:-

Land Zoning Map

- Deep Creek (waterway) be rezoned from RU1 Primary Production to W2 Recreational Waterways.
- Lot 44 DP 756303 be rezoned from part E1 National Parks and Nature Reserves, part RU1 Primary Production to E3 Environmental Management.

Lot Size Map

- Minimum lot size not be applied to part of Moama residential areas as defined in Figure 6.
- Minimum lot size increased from 4000m² to 8000m² to part of Moama as defined in Figure 8.

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Land Use Tables

- 'Boat building and repair facility' be a permissible land use within the RU1 Primary Production zone.
- 'Biosolids treatment facility' be prohibited within the R1 General Residential zone.
- Attached dwellings be prohibited within the R2 Low Density Residential zone.
- Boarding Houses be prohibited within the R2 Low Density Residential zone.
- Dual Occupancies including Dual Occupancy (attached) and Dual Occupancy (detached) be prohibited within the R2 Low Density Residential zone.
- Seniors Housing be prohibited within the R2 Low Density Residential zone.
- Dual Occupancy including Dual Occupancy (attached) and Dual Occupancy (detached) be prohibited within the R5 Large Lot Residential zone.
- Seniors Housing be prohibited within the R5 Large Lot Residential zone.
- 'Secondary dwellings' be made a permissible land use within the R5 Large Lot Residential, RU1 Primary Production and E3 Environmental Management zones.
- 'Vehicle Sales and Hire Premises' be made a permissible land use within the B6 Enterprise Corridor zone and IN1 General Industrial zone.
- The following land uses be made permissible in the SP3 Tourist zone;
 - o building identification sign
 - o business identification sign
 - o environmental protection works
 - o jetty
 - o marina
 - o water recreation structure
- Advertising structures be made permissible in RE1 Public Recreation and RE2 Private Recreation.

Heritage Conservation

- A heritage conservation area be created over part of 'old Moama' defined in Figure 9.
- The property description and heritage map for Item of Environmental Heritage I63- Mathoura Station be amended to refer to Lot 2 DP 756272.
- The property description and heritage map for Item of Environmental Heritage I4- 8 Simms Street be amended to refer to Lot 1 DP 514180.
- The property description and heritage map for Item of Environmental Heritage I43- 27 Conargo Street be amended to refer to Lot 3 DP Section 65 DP 758856.
- I24- Timber Federation Regency style dwelling at 9 Simms St, Moama be removed from Council's 'Items of Environmental Heritage' listed under Schedule 5 Murray LEP 2011.
- 'McLaurin Cemetery', Millewa Road, be added as an item of environmental heritage.
- 'Perricoota Woolshed', Lot 1, DP 521210, Perricoota Road, Moama be added as an item of environmental heritage.

Additional Local Provisions

- The 'Edward River' be inserted into Clauses 7.4, 7.5, 7.6 and the riverfront land definition.
- Recreation Facility (Outdoor) be removed from permissible uses within 'river front areas'.
- The area to which the 'river front area' applies to in RU1 Primary Production, Zone RU3 Forestry and Zone E3 Environmental Management zones be amended from 100m to 60m.

- Clause 5.4(9)(b) be revised from 50% to 20% of the total floor area of the principal dwelling.



Simon Arkinstall
Director of Environmental Services

Section 4. Recommendations

It is recommended that Council refuses Development Application 198/13 for the two lot strata subdivision (plus common property) of Lot 21 DP 791272 for the following reasons:-

1. The subdivision does not comply with Clause 4.1A of Murray LEP 2011 as the proposed lot sizes for Lot 1 and Lot 2 are less than the required minimum lot size of 120ha as stipulated on the Lot Size Map.
2. The subdivision is inconsistent with the context and character as considered under Murray Development Control Plan 2012.
3. The site is not considered suitable for the development as it is in an area where subdivisions are restricted given the constraints of the area.
4. The subdivision is not in the public interest as it has the potential to set a precedent in respect to the subdivision of other similar properties at Picnic Point.

CLAUSE 3. MURRAY LEP 2011- PLANNING PROPOSAL TO MAKE MINOR AMENDMENTS

Background

At its Ordinary meeting held Tuesday, 10 December 2013, Council considered a number of minor amendments to the Murray LEP 2011. Council resolved to include the majority of these into a 'planning proposal' to be sent to the Department of Planning and Infrastructure.

However, Council resolved to defer a decision in respect to the inclusion of part of 'Old Moama' into a Heritage Conservation Area subject to a site inspection. Therefore, the report recommending that part of 'Old Moama' be covered by a 'heritage conservation area' is resubmitted for Council's consideration.

In addition, other minor changes which have arisen since the previous meeting are also proposed.

Old Moama Heritage Conservation Area

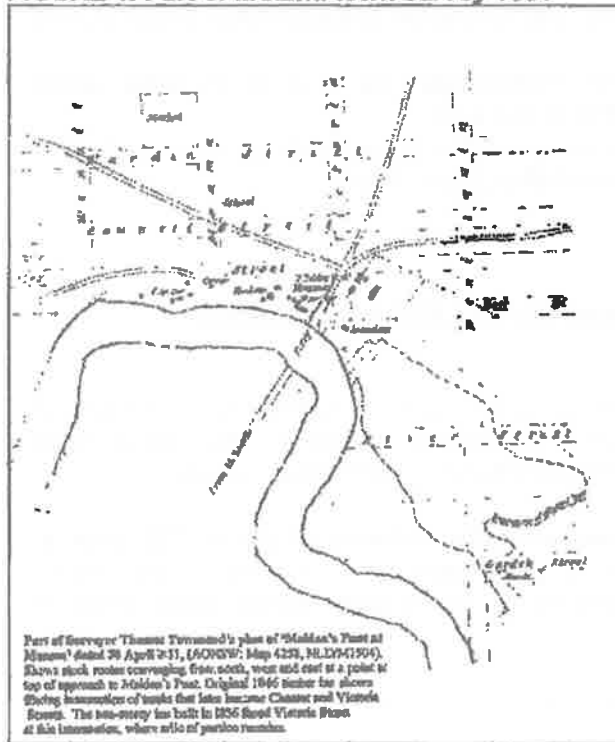
The Friends of Old Moama have made a submission (copy enclosed as Appendix E) to Murray Shire to consider amending Murray Local Environmental Plan (LEP) 2011 and creating a conservation area around the heritage precinct of 'Old Moama'. The Friends of Old Moama have become increasingly concerned about proposed and potential development within close proximity to the Old Telegraph Station in Charter Street. The proposed 'conservation area' would incorporate land along Charter Street between Winall Street and Victoria Street which encompasses the area that was part of the original settlement of Moama. It is considered that the proposal has merit and it is recommended that Council consider amending the Murray LEP as part of a review process of the LEP.

Heritage Significance

The subject area is part of the original settlement of Moama. Land was surveyed for the township of Moama in this location in around 1850 where a small settlement grew around the location of Maldens Punt. The settlement is said to have included police barracks, post office, telegraph station, saleyards, Maldens Inn hotel, blacksmith shop, tailor, laundry, carrier, boot makers and numerous dwellings (source: Galleries of Pink Galahs).

The plan below from 1851 depicts this settlement and the layout of the streets which still exist today. Floods in 1867 and 1870 severely affected the settlement and as a result, the township progressively moved to higher ground centred around the Deniliquin-Moama railway. Still remaining in this area from the Old Moama township include the old police station, old telegraph station, a cottage, pillars of the Maidens Inn hotel and bank cutting leading to Maidens Punt.

FIGURE 1: Part of Moama town survey 1851



Existing Development

As stated above, there are a number of remnants and former buildings within the subject area from the Old Moama Township. This includes the 'Old Telegraph Station' owned by Council as a heritage building. There is also an old brick dwelling and another small dwelling known as the 'River Captain Cottage' which is located on land currently owned by the Moama Aboriginal Land Council. Also on this land is a reasonably new dwelling which has been converted to their office. Vacant land separates these three sites. The Moama levee bank located on the Winall Street road reserve is the extent of the area to the west.

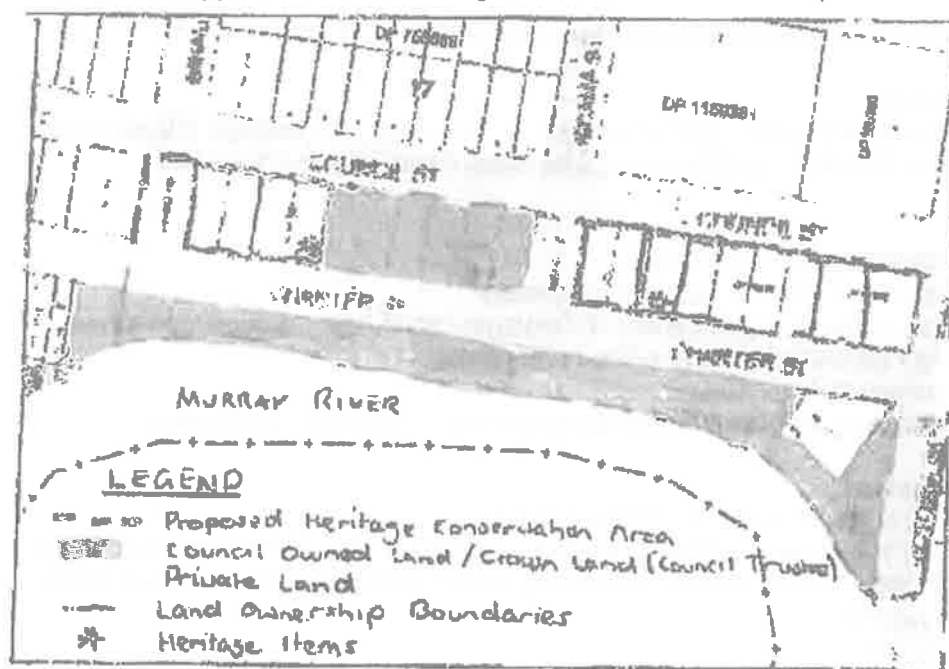
At the eastern end of the area, the pillars to Maidens Inn hotel are situated on land owned by Aspen Funds Management Ltd (Maidens Inn Caravan Park). The site adjoins the Victoria Street road reserve south of Charter Street. Adjoining this site located on a crown reserve is the bank cutting leading to the former site of Maidens Punt. A new private residence is located adjacent to the former punt site. There are no other buildings located between Charter Street and the Murray River. Much of the land where former buildings stood has been eroded. Across Charter Street from the Maidens Punt site is a new private dwelling and a shed used as a café with no heritage significance.

Existing Land Ownership

The figure below shows the existing land ownership within the proposed 'heritage conservation area'. The figure shows that a significant portion of lots within the precinct are either owned by Council or Council is the trustee of the public land. Of the private land, two properties contain heritage items. These items are the River Captains Cottage and the Old Gaol. The Rivers Captain Cottage property contains a dwelling currently used as an office by the Moama Local Aboriginal Land Council although it is foreseeable that the land containing the Cottage will be transferred to Council. The old brick dwelling is currently used as a private residence.

In addition to these properties there are six other properties included within the conservation area. These properties are proposed to be included in the area given their proximity to heritage items and the potential impact development on these properties may have of the heritage value of these items and the area.

Two of these properties contain an existing dwelling. Another lot contains an existing café. The remaining three properties are currently vacant. These three allotments are subject to development applications for dwellings discussed later in this report.



Existing Heritage Controls

There are five sites within the subject area which are listed as items of environmental heritage under Murray LEP 2011.

These sites are:-

Former river captain's cottage	54 Charter Street	Lot 4, Section 18, DP 758686
Former Moama Telegraph Station	60 Charter Street	Lot 8, Section 18, DP 758686
Residence	72 Charter Street	Lot 3, DP 577291
Portal entry (former Maiden's Inn Hotel)	100 Charter Street	Lot 1, Section 1, DP 758686
Maiden's Punt	Charter Street	Lot 7021, DP 1123285

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FIGURE 2: Items of Environmental Heritage in Murray LEP 2011

For development on these sites, Council must consider the following clause:-

5.10 Heritage conservation

Note. Heritage items (if any) are listed and described in Schedule 5. Heritage conservation areas (if any) are shown on the Heritage Map as well as being described in Schedule 5.

(1) Objectives

The objectives of this clause are as follows:

- (a) to conserve the environmental heritage of Murray,
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,
- (c) to conserve archaeological sites,
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

(2) Requirement for consent

Development consent is required for any of the following:

- (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):
 - 1. a heritage item,
 - 2. an Aboriginal object,
 - 3. a building, work, relic or tree within a heritage conservation area,
- (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,
- (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- (d) disturbing or excavating an Aboriginal place of heritage significance,
- (e) erecting a building on land:
 - 1. on which a heritage item is located or that is within a heritage conservation area, or

2. on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,
- (f) subdividing land:
 1. on which a heritage item is located or that is within a heritage conservation area, or
 2. on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.
- (3) **When consent not required**
 However, development consent under this clause is not required if:
 - (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:
 - (i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and
 - (ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or
 - (b) the development is in a cemetery or burial ground and the proposed development:
 - (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and
 - (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or
 - (c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or
 - (d) the development is exempt development.
- (4) **Effect of proposed development on heritage significance**
 The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).
- (5) **Heritage assessment**
 The consent authority may, before granting consent to any development:
 - (a) on land on which a heritage item is located, or
 - (b) on land that is within a heritage conservation area, or
 - (c) on land that is within the vicinity of land referred to in paragraph (a) or (b),
 require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.
- (6) **Heritage conservation management plans**
 The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

(7) Archaeological sites

The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the Heritage Act 1977 applies):

- (a) notify the Heritage Council of its intention to grant consent, and*
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.*

(8) Aboriginal places of heritage significance

The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance:

- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and*
- (b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.*

(9) Demolition of nominated State heritage items

The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item:

- (a) notify the Heritage Council about the application, and*
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.*

(10) Conservation incentives

The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that:

- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and*
- (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and*
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and*
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and*
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.*

Council can also consider the effect on the heritage significance of these heritage items for development in the vicinity these heritage items under this clause or as a s79C(b) consideration.

Development Pressures

The area has been zoned E3 Environmental Management which restricts the amount of development in the area which reflects the flooding constraints and environmental values (heritage, Murray River, biodiversity, etc.) of the area. The objectives of this zone are:-

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.

The LEP allows for a limited range of compatible land uses within this zone.

Further, the minimum lot size for dwellings in the area is 120ha which severely restricts further dwellings in the area.

However, Council has received three applications for dwelling houses in the subject area on 'existing holdings' (refer to Figure 3 below). These three dwellings are proposed on the three currently vacant properties in the area.

Two of these applications are for double storey dwellings and the other is for a single storey dwelling. Council is currently awaiting further information in respect to these applications. These applications have also been referred to Councils Heritage Advisor for comment.

FIGURE 3: Development Applications currently being assessed by Council



The Friends of Old Moama are concerned about the proposed developments and other potential developments within the area, particularly around the 'Old Telegraph Station'. They are concerned the subject developments are not in keeping with the area and will not conserve the historical context of the area.

Proposal

The Friends of Old Moama have requested Murray Shire to consider amending Murray LEP 2011 and creating a 'conservation area' encompassing the heritage precinct of 'Old Moama'. The conservation area would be incorporated into the Murray LEP 2011 and would recognise the heritage significance of the area. The Friends of Old Moama believe that this will strengthen the level of development control and provide greater protection from unsuitable development. The proposed area would incorporate land located along Charter Street between Winall Street and Victoria Street which encompasses the area that was part of the original settlement of Moama. This area is indicated below in Figure 4.

FIGURE 4: Subject Area Proposed to be Incorporated as a 'Conservation Area'



Discussion

Conservation areas are generally used for areas/precincts which have combined heritage significance, for example, a neighbourhood or main street with heritage values. It does not provide any greater controls on 'items of environmental heritage'. A 'conservation area' triggers consideration of Clause 5.10: Heritage Conservation of Murray LEP 2011 for development of a property within the 'conservation area'. The difference in heritage controls affecting properties proposed to be included in Heritage Conservation Area is shown in Table 1.

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Table 1

Types of Development	Current Planning Controls on non Heritage Items in areas proposed to be affected by Heritage Conservation Area	Proposed Planning Controls on Properties affected by Heritage Conservation Area
Exempt Development	General Exempt Development Code applies	Most exempt development only permitted in the rear yard of properties in a heritage conservation area i.e.: development that is highly visible from the street requires a development application.
Complying Development (General and Rural Housing Codes)	Not applicable for land zoned E3 Environmental Management	Remains the same. Not applicable for land zoned E3 Environmental Management and not permitted within a heritage conservation area.
Permitted with consent (ie: development application required)	Agriculture; Bed and breakfast accommodation; Boat building and repair facilities; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Camping grounds; Cellar door premises; Charter and tourism boating facilities; Community facilities; Dwelling houses; Eco-tourist facilities; Environmental facilities; Environmental protection works; Extractive industries; Farm buildings; Farm stay accommodation; Flood mitigation works; Forestry; Home-based child care; Home businesses; Home industries; Information and education facilities; Jetties; Kiosks; Marinas; Mooring pens; Moorings; Recreation areas; Recreation facilities (outdoor); Research stations; Roads; Roadside stalls; Water recreation structures; Water supply systems.	Remains the same.
Consideration of the developments impacts on the heritage significance of the area concerned.	Considered as an impact of the proposed development under s79c of the EP&A Act 1979.	Considered as per clause 5.10 of Murray LEP 2011. <i>"The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned".</i>

Requirement for a heritage management document to be prepared.	Can be requested in accordance is Clause 5.10(5)(c) of Murray LEP 2011.	Can be requested in accordance is Clause 5.10(5)(b) of Murray LEP 2011.
Prohibited Development	Industries; Intensive livestock agriculture; Multi dwelling housing; Residential flat buildings; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3.	Remains the same.

The table demonstrates the impact is minimal and is aimed at ensuring Council considered the impact of development in this area on the heritage values of the property. Properties currently listed as items of environmental heritage are not included in the table as the controls affecting these properties will not change.

There is merit in considering a 'conservation area' for the Old Moama area as the precinct has a combined heritage significance. The heritage items have a shared significance associated with the early Moama township and it is important that any new development in the area does not affect the significance of the area. The conservation area will ensure heritage is considered for all development within the area and assist in identifying the area as a heritage precinct.

Council notified affected property owners of the proposal. Land owners were interested to know how the proposal would affect them. The NSW Aboriginal Land Council indicated their objection to being included in the area with concerns that it may impact upon what the Local Aboriginal Land Council may do on the land which is to be gifted to them. Another owner of four parcels in the area requested to make a deputation to Council to discuss the proposal and its impact on their property. However, it is considered that this is not appropriate until the proposal, if supported, has been publicly exhibited to enable all stakeholders that same opportunity. The 'planning proposal' process will involve formal consultation with affected property owners and stakeholders.

Council will be aware that a heritage consultant has been engaged to prepare a 'conservation management plan' for the Rivers Captain Cottage. Although this project relates to a building within the area, the brief of the project is specifically related to conservation of this building. Some of the information derived from the project could assist in developing a 'statement of significance for the area' however the project itself is not related nor should influence the proposal to create a heritage conservation overlay over the surrounding area.

Recommendation

It is recommended that a heritage conservation area be proposed over part of 'Old Moama' as defined in Figure 4.

Item of Environmental Heritage 18- 72 Chanter Street, Moama

This item of environmental heritage is described under Schedule 5- Environmental Heritage as being 'residence (former gaol and police station)'. However, recent research conducted by a local heritage group has found no evidence of it being used as gaol/police station and believes it is likely that the building has always been used as a residence.

Therefore, it is recommended that the property description for Item of Environmental Heritage 18- 72 Chanter Street, Moama be amended to remove reference to 'former gaol and police station'.

Recommendation

It is recommended that the property description for item of Environmental Heritage 18- 72 Chanter Street, Moama, be amended to remove reference to 'former gaol and police station'.

Schedule 2 Exempt Development - Advertisements and advertising structures

Under Murray LEP 2011, Council included some provision to exempt advertising and advertising structures from requiring development consent. The clause is based on the exemptions under SEPP 60 Exempt and Complying Development and the provisions under the former Murray Shire Development Control Plan. However, the Department of Planning and Infrastructure is amending the SEPP (Exempt and Complying Development Codes) 2008 to include exempt provisions for advertising and signage. Therefore, there is no need for Council to have exempt provisions for advertisements and advertising structures in its LEP. It is recommended that these be removed. The relevant part of the revised SEPP which will come into effect on 22 February 2014 is attached as Appendix F.

However, the provisions do not permit any 'business identification signs' to be exempt provisions. A 'business identification sign' means a sign:-

(a) that indicates:

- (i) the name of the person or business, and
- (ii) the nature of the business carried on by the person at the premises or place at which the sign is displayed, and

(b) that may include the address of the premises or place and a logo or other symbol that identifies the business, but that does not contain any advertising relating to a person who does not carry on business at the premises or place.

It is recommended that exempt provisions similar to the 'building identification signage' contained within the SEPP be inserted into Schedule 2 of the Murray LEP 2011 for 'business identification signage'. This will permit such signage to be erected without Council consent if it complies with the provisions.

Recommendation

It is recommended that:-

1. Exempt provisions for advertisements and advertising structures be removed from Murray LEP 2011.
2. Exempt provisions for 'business identification signage' be inserted into Schedule 2.

Lots 110, 113, 115, 119, 172, 173, 174 DP 751152

A development application has been lodged with Council for the erection of a single storey dwelling with attached garage on the subject property (Lot 110) under the existing holding provisions of Clause 4.2A of Murray LEP 2011. There has been some discussion in respect to whether the property constitutes an 'existing holding' or whether the dwelling entitlement for the 'holding' has already been exhausted due to the erection of a dwelling on Lot 235 which is separated from the property by the Deniliquin-Moama railway and Barnes Road. During this discussion, it appeared that Council were supportive of a dwelling being erected on the property, and therefore have instructed staff to carry out further investigation as per the resolution from the Ordinary meeting held Tuesday, 21 January 2014.

Should such investigation result in the need to amend Murray LEP 2011, it is recommended that it be incorporated into the subject 'planning proposal'. It should be noted that this is subject to the investigation determining that an LEP amendment is the best method to achieve the desired outcome and can be achieved in accordance with legal and planning requirements.

Recommendation

It is recommended that any proposed amendment to the Murray LEP 2011, if such results from the further investigation and negotiations conducted with the landowner/consultant in respect to the erection of dwelling-house on the subject property be incorporated into the subject 'planning proposal'

CLAUSE 4. LAWRY PARK**Introduction**

Council has requested that staff prepare a report to Council in relation to Lawry Park and that an onsite meeting be held.

Discussion

There are limited details available in relation to Lawry Park, however from discussion with local community members the following summary is provided.

The park was developed as a community project around 1990 as part of the Tidy Towns program. The project initially involved the development of a community garden that was constructed and maintained by community volunteers.

The aim was to develop a community garden and initially resulted in over 100 trees being planted and maintained. As part of the process the Moama Lions Club donated the irrigation pipe for the gardens and the local scout groups assisted in the planting of the initial native trees. Plaques were placed at the base of the trees to acknowledge the volunteers that donated trees or similar.

A competition or similar was held to assist in the naming of the Reserve, and as a result the Reserve was named Lawry Park, which acknowledged the last Mayor of the Moama Municipality prior to amalgamation into Murray Shire.

In addition to the above, the following comments are also noted in relation to Lawry Park:-

- Moama Rural Fire Service relocated their facilities from adjacent to the Moama Water Filtration Plant/Moama Cemetery to its current location at Lawry Park.

THIS IS PAGE NO. 40 OF THE DIRECTOR OF ENVIRONMENTAL SERVICES REPORT TO THE ORDINARY MEETING OF MURRAY SHIRE COUNCIL HELD AT THE MURRAY SHIRE OFFICES, MOAMA, ON TUESDAY 4TH FEBRUARY 2014.