

Murray Shire Council
Planning Proposal to amend Murray LEP 2011
'Schedule 1 Additional permitted uses'

Vehicle Body Repair Workshop on Lot 1 DP 222761

Introduction

This report seeks Council's endorsement of a Planning Proposal that proposes to amend the *Murray Local Environmental Plan 2011* (Murray LEP 2011) by adding 'Vehicle Body Repair Workshop' as an additional permitted use with consent on the land known as Lot 1 DP 222761 (75 Meninya Street, Moama) into Schedule 1 of the Murray LEP 2011 via Clause 2.5.

The site is currently zoned 'B2 – Local Centre'. Under the current Murray LEP 2011, B2 – 'Local Centre' zoned land within Murray Shire prohibits the use of Vehicle Body Repair Workshop, hence the requirement for this planning proposal to be provided to Council for approval.

The Planning Proposal seeks to facilitate business/commercial development into the Shire by providing a Vehicle Body Repair Workshop (commonly known as a 'panel beater') onto the site. This application is supported by a comprehensive analysis of the site in relation to constraints, context, character and likely benefits, consideration against relevant local, regional and State planning policies/directions and an assessment of likely impacts. The successful approval of this planning proposal would result in an amendment to the *Murray LEP 2011* by adding 'Vehicle Body Repair Workshop' as an additional permitted use with consent on Lot 1 DP 222761 into Schedule 1 of the Murray LEP 2011 via Clause 2.5.

The Planning Proposal has been prepared in accordance with the NSW Department of Planning publication: '*A guide to preparing planning proposals (July 2012)*' and is consistent with the ongoing assessment and advice of the Murray Shire planning staff to ensure that all necessary research has been undertaken, documented and addressed for the purposes of demonstrating land capability for a Vehicle Body Repair Workshop business.

Background

On the 3 June 2014, Council received a formal application seeking to amend the Murray LEP 2011 to allow Vehicle Body Repair Workshop use with development consent on the site due to the strategic advantages of using the site for the proposed use, and appropriate private and public infrastructure currently available to service the site. In previous correspondence with Council, the proponent has noted their desire for frontage on a designated road in order to adequately advertise major insurance companies who would be associated with the panel beater business, along with the potential benefits given to customers due to the central location of the site to other commercial and retail businesses of Moama.

The property owners first approached Council with the idea to allow a panel beater business on the site on 13 June 2013, which was followed by the proponent submitting a pre application letter outlining their intentions on 4 March 2014. Council responded to this on 25 March 2014, detailing the requirement to lodge a Planning Proposal to proceed with the matter.

The Proponent has engaged local planning consultancy, 'Planright', in order to prepare this planning proposal for Council's consideration. The Planning Proposal seeks to demonstrate that the proposed additional permitted use of the subject site is a considered, orderly and appropriate planning outcome that will enable the site to be developed to its full potential.

Subject site

The subject site is Lot 1 of DP 222761, known as 75 Meninya Street, Moama and has a total area of approximately 6273sqm. The allotment is an 'L' shaped property which has street frontage on both Meninya Street (Cobb Highway) and Regent Street, Moama. The site is currently zoned B2 – Local Centre, and there are no planning overlays present on site. The site has existing access to the Cobb Highway, which is zoned SP2 Infrastructure. A large industrial type shed currently exists in the north western section of the property, along with an additional shed to the south of the previously mentioned shed. The proposal seeks to establish a Vehicle Body Repair Workshop in the existing larger shed in the northern corner of the property. Directly to the north of the site is a motel (River Country Inn), which is classed as **'tourist and visitor accommodation'** use under the Murray LEP 2011. Abutting the eastern border of the site is R1 General Residential Zoned land with subsequent established housing present. The motel building directly adjoining the subject site to the north is located approximately 14m from the shed in which the panel beater business is proposed to be located. The nearest dwelling to the shed, which is located on 54 Francis Street, is located 40m east of the shed, whilst the dwelling on 4 Ash Court is located approximately 60m. Directly to the east of the shed is a tennis court associated with the Motel.

A Caltex automobile service station, (**'service station'** use under the Murray LEP 2011) is located on the adjoining property directly to the south, which is located on the corner of Meninya Street/Regent Street but also surrounded by the subject site due to the 'L' shape of the subject site. Directly to the west of the subject site across the Cobb Highway/Meninya Street is the 'Moama Marketplace' which includes a large supermarket, additional retail premises and a significantly sized car parking area. Another service station is also present on this site. The use of this land is classed as **'retail premises'** along with **'service station'** under the Murray LEP 2011.

Across Meninya Street (Cobb Highway) to the west of the subject site is a grassed and slightly treed Council owned public park area. To the south of the subject site, diagonal across Meninya Street is a major tourist resort of Moama (Madison Spa Resort), which provides short stay accommodation and conference facilities approximately 150m from the subject site and its associated shedding. The uses on this site as listed under the Murray LEP 2011 include **'tourist and visitor accommodation'**, and **'function centre'**. To the south of the subject site across Regent Street contains additional residential land, with the closest dwelling to the subject building located approximately 80m away.

The site is currently home to 'Murray River Hire' and is used as a **'Vehicle Repair Station'** along with **'vehicle sales or hire premises'**. This includes the repairing of vehicle exhausts and selling/hiring of trailers and caravans etc. The Vehicle Repair Station is located in the southern shed on the site. The definitions chapter provides details of land use definitions for the readers information. The below pictures outline the subject site and the surrounding land uses; Part 4 of the Planning Proposal report provides more detailed mapping and aerial photographs of the subject site and its context with the surrounding area and associated land uses.



Figure 1 – Subject site and surrounding Land Uses



Figure 2 – Subject shed of proposed use

A photograph showing a paved road in the foreground, a grassy area with several large trees in the middle ground, and a building in the background under a cloudy sky. A utility pole is visible on the left side of the road.

A photograph of a long, single-story brick building with a red roof and a series of windows. The building is surrounded by trees and greenery, with a paved area in the foreground.

History of uses on subject site

Building Permit number 41/78 was approved on 24 July 1978 for the re-erection and extension of the shed as a factory in which the proposed use is to occur, along with the construction and use of a display office located to the west of the shed.

Further extensions and alterations to the shed to be used as a Machinery Shed were approved on 26 May 1997 as Building Application No. 46/97.

Development Application (DA) 030/14 for the use of the existing building for Mechanical Repair including work on buses was approved on 2 March 2014.

DA 123/04 was approved on 6 July 2004 for the use of the site as a Nursery and Garden Supplies Business.

The final extensions to the building were approved on 12 July 2010 as DA 190/10.

It is noted that not all of the businesses which may have occurred on the land have had official development consent; however the history of the uses of the site should still be taken in account.

Definitions

The following definitions as outlined in the Murray LEP 2011 are relevant to the Planning Proposal.

The land is zoned B2.

Zone B2 Local Centre

1 Objectives of zone

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To reinforce the role of Moama as the main commercial centre in Murray.

2 Permitted without consent

Environmental protection works; Home occupations

3 Permitted with consent

Boarding houses; Child care centres; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Information and education facilities; Medical centres; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Respite day care centres; Restricted premises; Roads; Service stations; Shop top housing; Tourist and visitor accommodation; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Biosolids treatment facilities; Camping grounds; Cemeteries; Correctional centres; Crematoria; Depots; Electricity generating works; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Heavy industrial storage establishments; Helipads; Industrial retail outlets; Industrial training facilities; Industries; Open cut mining; Recreation facilities (major); Residential accommodation; Resource recovery facilities; Rural industries; Sewage treatment plants; Sex services premises; Storage premises; Transport depots; Truck depots; **Vehicle body repair workshops**; Warehouse or distribution centres; Waste disposal facilities; Waste or resource management facilities; Water recycling facilities; Wharf or boating facilities

The R1 General Residential Zone provisions are also of note due to the adjoining land of the subject site zoned R1.

Zone R1 General Residential

1 Objectives of zone

- 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.

2 Permitted without consent

Environmental protection works; Home occupations

3 Permitted with consent

Attached dwellings; Biosolids treatment facilities; Boarding houses; Child care centres; Community facilities; Dwelling houses; Group homes; Home industries; Hostels; Multi dwelling housing; Neighbourhood shops; Places of public worship; Residential flat buildings; Respite day care centres; Roads; Semi-detached dwellings; Seniors housing; Shop top housing; Take away food and drink premises; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Boat building and repair facilities; Car parks; Cemeteries; Charter and tourism boating facilities; Commercial premises; Correctional centres; Crematoria; Depots; Electricity generating works; Entertainment facilities; Extractive industries; Farm buildings; Farm stay accommodation; Forestry; Freight transport facilities; Function centres; Heavy industrial storage establishments; Helipads; Highway service centres; Industrial retail outlets; Industrial training facilities; Industries; Marinas; Mooring pens; Mortuaries; Open cut mining; Passenger transport facilities; Public administration buildings; Recreation facilities (major); Registered clubs; Restricted premises; Rural industries; Rural workers' dwellings; Service stations; Sewage treatment plants; Sex services premises; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Veterinary hospitals; Warehouse or distribution centres; Waste or resource management facilities; Water recreation structures; Water recycling facilities; Wharf or boating facilities; Wholesale supplies

Under the Murray LEP 2011,

vehicle body repair workshop means a building or place used for the repair of vehicles or agricultural machinery, involving body building, panel building, panel beating, spray painting or chassis restoration.

Also of note are the following uses as defined under the Murray LEP 2011

function centre means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.

retail premises means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following:

- (a) bulky goods premises,
- (b) cellar door premises,
- (c) food and drink premises,
- (d) garden centres,
- (e) hardware and building supplies,
- (f) kiosks,
- (g) landscaping material supplies,
- (h) markets,
- (i) plant nurseries,
- (j) roadside stalls,
- (k) rural supplies,
- (l) shops,
- (m) timber yards,
- (n) vehicle sales or hire premises,

but does not include highway service centres, service stations, industrial retail outlets or restricted premises.

service station means a building or place used for the sale by retail of fuels and lubricants for motor vehicles, whether or not the building or place is also used for any one or more of the following:

- (a) the ancillary sale by retail of spare parts and accessories for motor vehicles,
- (b) the cleaning of motor vehicles,
- (c) installation of accessories,
- (d) inspecting, repairing and servicing of motor vehicles (other than body building, panel beating, spray painting, or chassis restoration),
- (e) the ancillary retail selling or hiring of general merchandise or services or both.

tourist and visitor accommodation means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes any of the following:

- (a) backpackers' accommodation,

- (b) bed and breakfast accommodation,
- (c) farm stay accommodation,
- (d) hotel or motel accommodation,
- (e) serviced apartments,

but does not include:

- (f) camping grounds, or
- (g) caravan parks, or
- (h) eco-tourist facilities.

vehicle repair station means a building or place used for the purpose of carrying out repairs to, or the selling and fitting of accessories to, vehicles or agricultural machinery, but does not include a vehicle body repair workshop or vehicle sales or hire premises.

vehicle sales or 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.

Note. Vehicle sales or hire premises are a type of **retail premises**—see the definition of that term in this Dictionary.

In order to present this report to Council for adoption, the report utilises the layout as provided by ‘A guide to preparing planning proposals’ and is to include the following parts:

PART 1 – OBJECTIVES OR INTENDED OUTCOME

PART 2 – EXPLANATION OF PROVISIONS

PART 3 – JUSTIFICATION

PART 4 – MAPPING

PART 5 – COMMUNITY CONSULTATION

These 5 parts will now be detailed to support the recommendation for the Planning Proposal to be approved.

PART 1 – OBJECTIVES OR INTENDED OUTCOME

To allow the use of a Vehicle Body Repair Workshop on Lot 1 DP 222761 (75 Meninya Street, Moama) in order to facilitate the development of a local Vehicle Body Repair Workshop business (‘panel beater’).

PART 2 – EXPLANATION OF PROVISIONS

The proposed outcome would be achieved by:

Adding ‘Vehicle Body Repair Workshop’ as an additional permitted use with consent on the land known as Lot 1 DP 222761 (75 Meninya Street, Moama) into Schedule 1 of the Murray LEP 2011 via Clause 2.5 – Additional permitted uses for particular land.

PART 3 – JUSTIFICATION

Section A – Need for the planning proposal

Q1. Is the planning proposal a result of any strategic study or report?

The planning proposal is supported by a noise study conducted by Advanced Environmental Systems which outlines that the expected noise levels from any such subsequent Vehicle Body Repair Workshop business on the site would be acceptable. The above mentioned noise study is attached as Appendix 1 and is summarised in this report. This strategic study provides additional support of the planning proposal being adopted.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The planning proposal seeks to allow the use of Vehicle Body Repair Workshop on a particular site within the Shire, the site being Lot 1 DP 222761, known as 75 Meninya Street, Moama. The subject site is zoned B2 – Local Centre; currently all land zoned ‘B2 – Local Centre’ within Murray Shire prohibits the use of a Vehicle Body Repair Workshop. The planning proposal is a site specific application which would amend Schedule 1 –Additional Permitted Uses of the Murray LEP 2011 and does not change the Land Use Matrix of the Shire. Alternatively to this, the applicant could apply to rezone the particular parcel of land from B2 – Local Centre, to a zone which Vehicle Body Repair Workshop is currently permissible; however this is deemed to have no strategic justification and would be disruptive to the existing zoning of the location and surrounding area. It has previously been mentioned to the applicants client that they can apply for industrial type development within designated Industrial zones of the Shire, namely land within the Moama Business Park and Industrial zoned land to the East of the Moama township, however the applicant is satisfied that Meninya Street is the most desired location for the development to occur. The applicant could apply to amend the land use table for land within the B2 Local Centre Zone to allow Vehicle Body Repair Workshop use in all land zoned B2 Local Centre as this is not prohibited by the Standard Instrument; however it is considered that this would not be an appropriate planning outcome. This planning proposal is therefore the most efficient process for the applicant to utilise in order to achieve the desired objectives and intended outcome of using 75 Meninya Street, Moama as a Vehicle Body Repair Workshop.

Section B – Relationship to strategic planning framework

Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

DRAFT MURRAY REGIONAL STRATEGY 2009-36

The applicable regional strategy is known as the Draft Murray Regional Strategy 2009-36. This strategy outlines that the current and projected population growth of Moama is increasing at a large rate, therefore it is important for the town to have adequate infrastructure in place to meet the needs of the community.

The Draft Murray Regional Strategy 2009-36 also details that locations such as Moama may require additional employment land, therefore local business requirements as well as availability of suitable land and essential services should be considered. This proposal seeks to add to the existing employment opportunities currently on offer in Moama and would service vehicles of locals and visitors of Moama and the surrounding Murray Shire area. The applicant states that the proposal could allow for the employment of eight (8) members of the community, subject to development consent of the site.

Q4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?

Murray Shire's *Strategic Land Use Plan 2010-30* outlines Council's vision for land use planning, which is "to ensure that the Shire's natural environment is carefully managed and that its natural and built assets are protected from inappropriate rural and urban development that would prejudice the agricultural, heritage and urban attributes of the Shire."

The Strategic Land Use Plan outlines that traditionally Moama's commercial 'centre' has been in Meninya Street (between Blair and Echuca Streets). Commercial uses are present all the way up to Perricoota Road however these currently lack adequate cohesion and can be classed as detrimental to sustainable practices. The recently completed supermarket complex on the corner of Cobb Highway and Perricoota Road is likely to further develop and thus create an additional commercial focus. The location of this planning proposal is situated in close proximity, just south of the Cobb Highway/Perricoota Road intersection. The proposed use of Vehicle Body Repair Workshop could be classified as a hybrid of commercial and light industrial use due to significant changes in the way Vehicle Body Repair Workshops function in the present day.

The applicant states,

"Vehicle Body Repair Workshops have previously been known as panel beaters and have been associated with noise and odours. Due to modern vehicles and work practices these issues no longer occur." Whilst newer model vehicles are likely to reduce the noise created when taken to a Vehicle Body Repair Workshop, there are still a significant amount of older vehicles on the road which also require maintenance and possible repair.

The applicant also states that many parts and panels of modern day vehicles are made of lightweight materials such as aluminium or plastic, and are designed to crumple in the event of an accident in order to absorb energy and protect occupants. This results in these panels or parts being replaced completely, instead of being worked on which was previously the norm. This has led to reductions in noise levels associated with Vehicle Body Repair Workshops or 'panel beaters' when working on these particular sorts of projects.

Also noted by the applicant is that any repairs which need to be done to structural parts of vehicles such as a chassis are now completed by hydraulically operated machinery. This process does not produce excessive noise than was the case previously. A noise study has been provided by the applicant to support these comments which will be attached to his report as Annexure 1.

Any spray-painting which may be permitted at a later date within the premises would be required to adhere to Australian standards and Council guidelines and conditions imposed on any development

consent given in order to reduce the possibility of odour and other affects to be created to adjoining properties and the community in general.

As outlined in the Murray LEP 2011, the objectives for Land zoned B2 – Local Centre are as follows:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To reinforce the role of Moama as the main commercial centre in Murray.*

The proposed planning amendment is deemed to be consistent with the objectives outlined for land zoned B2 – Local Centre, therefore there is no requirement to propose a change of zoning of the land.

The proposal would provide an additional business to serve the needs of people who live in, work in and visit the area.

The proposal would encourage employment opportunities, and is located within an accessible location due to its location on Meninya Street (Cobb Highway) and close proximity to Perricoota Road.

It is viewed that the proposal does not trigger any requirements relating to maximising public transport patronage or to encourage walking and cycling. The proposal would serve the needs of vehicular usage which is still a significant component of everyday life in Moama and Murray Shire in general.

The proposal is consistent in reinforcing the role of Moama as the main commercial centre in Murray Shire and would add to the services available within the town limits.

Q5. Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

It has been deemed that there are no applicable State Environmental Planning Policies relating to this planning proposal to allow the use of Vehicle Body Repair Workshop at 75 Meninya Street, Moama. The proposal can be assessed via other planning policies and legislation currently in effect.

Q6. Is the Planning Proposal consistent with applicable Ministerial Directions (S. 117 directions)?

This planning proposal is subject to the following applicable Ministerial Directions (Section 117 directions) which must be taken into consideration when assessing the proposal.

1. Employment and Resources

1.1 Business and Industrial Zones

Objectives

(1) The objectives of this direction are to:

- (a) Encourage employment growth in suitable locations.
- (b) Protect employment land in business and industrial zones, and
- (c) Support the viability of identified strategic centres.

Assessment – This planning proposal is consistent with encouraging employment growth in suitable locations as the proposal aims to allow a Vehicle Body Repair Workshop in a location which is currently zoned B2 – Local Centre, and is in a suitable location close to Cobb Highway and within range of other important service industries. The subject site can be labelled as a ‘suitable location’ due to the positioning of the building on the site along with the existing infrastructure in place which can service the business. The site is not constrained by adjoining properties (due to setbacks of residential dwellings, and non residential land uses also surrounding the site) and would provide additional commercial development to the Shire.

The proposal protects employment land within the current business zoned land. The additional business created will provide further employment opportunities to the town and create an additional chance to attract new people and families into the area.

The proposal is consistent with supporting the viability of identified strategic centres as it is located in close proximity to the centre of Moama along with the new commercial precinct at the intersection of Cobb Highway and Perricoota Road. As the applicant’s client has stated, the site is ideal for their proposed business due to its close proximity with the retail centre of Moama, along with the new addition of the Moama Marketplace complex on Perricoota Road.

6. Local Plan Making

6.3 Site Specific Provisions

Objective

- (1) The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.

Where this direction applies

- (2) This direction applies to all relevant planning authorities.

When this direction applies

- (3) This direction applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out.

What a relevant planning authority must do if this direction applies

(4) A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:

(a) allow that land use to be carried out in the zone the land is situated on, or

(b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or

(c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.

Assessment – The planning proposal does not encourage unnecessarily restrictive site specific planning controls but instead promotes an additional land use for a specific site within the B2 – Local Centre. This proposal does not intend to change the zoning of the land.

Subgroup (c) applies for this proposal application. The introduction of the land use for the subject into Schedule 1 of the Murray LEP 2011 will specify that it may be carried out with development consent only on the particular parcel of land, subject to Council Conditions. Development consent will then be required to be attained to carry out the intended use and development of the site. Council would be required to place conditions of any development application approval which it deems appropriate.

Section C – Environmental, social and economic impact

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

There is currently a building located on the subject site, and there has previously been a variety of uses contained within the building. There is no remaining significant habitat remaining on the site. As a result, it is considered that there is no likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, would be adversely affected as a result of the proposal.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The site is not covered by any Bush Fire Prone Land, Flooding, Biodiversity or Heritage Overlays and there are no unique circumstances of the site, therefore it is considered that these environmental effects are not applicable. There is a Bush Fire Prone Land buffer to the south west of the site however this does not affect the proposal site.

The particular activities which would occur as part of the approved Vehicle Body Repair Workshop would include

- Vehicle Panel removal
- Vehicle Panel replacement
- Spray painting and baking
- Sanding, smoothing and surface preparation
- Cutting of metal and plastic
- Welding
- Paint mixing

Therefore it is considered that environmental effects relating to noise and odours may possibly occur as a result of the planning proposal. The planning proposal is seeking to allow the use of Vehicle Body Repair Workshop in B2 – Local Centre zoned land. The Murray LEP 2011 currently states that Vehicle Body Repair Workshop use is prohibited within land which is zoned B2, and there are currently no exceptions to this. As outlined in the Murray LEP 2011, *Vehicle Body Repair Workshop* means a building or place used for the repair of vehicles or agricultural machinery, involving body building, panel building, panel beating, spray painting or chassis restoration. It can be

assumed that noise and odours are likely to occur during the operation of any Vehicle Body Repair Workshop, which is most likely a large contributing factor of the use being prohibited from B2 Zoned land in the first place. It is noted that the Western Model Matrix (Land Use Matrix) which Murray Shire Council utilises when developing the Murray LEP 2011 states that the use is prohibited; however it is not mandated under the Standard Instrument. This therefore is important to consider as there is a greater chance to amend land use permissions within the Murray LEP 2011 when they are deemed to not be mandatory inclusions or exclusions.

The issue of noise is of primary concern when assessing this planning proposal, as the proposal has the potential to adversely impact on the surrounding area. As the site is located directly next to a residential area, along with an existing Motel site, it is important that any adverse effects which may result from the proposal be mitigated. The applicant states that the land owner has met with the operators of the adjoining motel to explain the proposal and that at present the Motel operators are supportive of the proposal. If the Planning Proposal eventuates in allowing Vehicle Body Repair Workshop use on the subject site, any subsequent DA would need to consider and possibly restrict the operating hours of the use and also provide adequate and appropriate sound buffering techniques to respect the neighbouring properties.

As part of the assessment of the planning proposal, further information was requested by Council staff to the applicant in order to gain more information into any possible impacts relating to noise. The applicant provided a Noise Study on expected noise levels from the proposal, which is attached as Annexure 1 as part of this report.

The Noise Study was produced by Advanced Environmental Systems, and in summary states that 'the nature of automotive body repairs has changed over time so we are not so concerned with the operation of this business'. The study suggests that the most likely producer of any negative impacts from noise would be from the use of angle grinders as part of the business. The use of angle grinders is likely to be audible outside the motel rooms, though not inside the rooms. This can be mitigated however by conditioning the hours in which the business can operate. The suggestion provided in the Noise study is from after 0800 hours and not after 1800 hours; however this can be dealt with at the DA stage and of course can be further revised when the applicant applies for development consent (subject to support of this planning proposal).

The applicant has stated that the subject site has previously accommodated a number of uses which do not comply with the current requirements of B2 Zoned Land. The applicant states that previous uses on the site have included a nursery, agricultural equipment sales and repair, exhaust sales and repairs, trailer hire, and pool and spa sales to name a few. Under the Murray LEP 1989 (which was the previous LEP utilised by Murray Shire until early 2012) the subject site was zoned 2(v) Village or Urban. Below is the outline of Zone No 2 (v) (Village or Urban). It is noted that there were less stringent requirements in terms of the use of the land.

Zone No 2 (v) (Village or Urban)

1 Objectives of zone

The objective of this zone is to promote development in existing towns and villages in a manner which is compatible with their urban function.

2 Without development consent

Nil.

3 Only with development consent

Any purpose other than a purpose included in item 4.

4 Prohibited

Extractive industries; intensive livestock keeping establishments; mines; offensive and hazardous industries.

Some but not all historic uses of the site have not received development consent, however it is noted that they were not prohibited in the previous Murray LEP 1989. It is therefore important to take into consideration the history of the use of the site in determining this planning proposal.

Directly north of the subject site is a tourist and accommodation business (motel). This use of the land is similar to residential land however not exactly the same due to the temporary accommodation aspect of the business or use. The motel buildings are the closest structures to the building where the proposed use would occur, and therefore would be most affected by any potential adverse effects.

The applicant along with the supporting Noise study confirms that the concern with noise is to be managed by the fact that modern work practices and vehicles have helped reduce any noise associated with 'panel beaters' as they used to be commonly known. As the use has been prohibited on this particular site as a result of strategic planning, it is important to ensure that this is the case, through the Noise study which has been submitted.

EPA NSW have also developed a document entitled 'Noise Guide for Local Government' which can be helpful to use when assessing this planning proposal and whether or not the use of a Vehicle Body Repair Workshop would be reasonable for the particular site.

Section 2.1.4 *Offensive Noise Test* of the Guide can be used when determining if the proposal is likely to produce 'Offensive Noise' which cannot be justified as the proposed use would be established in a zone in which this particular use has deliberately been prohibited to protect the amenity of the environment. This assessment includes the following points:

- the loudness of the noise, especially compared with other noise in the area
- the character of the noise
- the time and duration of the noise
- whether the noise is typical for the area
- how often the noise occurs
- the number of people affected by the noise

The submitted noise study was produced by Richard Unkles (M. AAS) Engineer, and Peter Clinnick (B. Ag. Sci. Hons; M. AIRAH) Environmental Scientist), of Advanced Environmental Systems. From correspondence with this agency, Mr Unkles has over 30 years experience in noise impact assessments. This study was able to adequately address these issues and provide a recommendation that limiting the use of angle grinders during an acceptable daylight hour is sufficient to protect the

amenity of the surrounding properties, whilst allowing the subject site to pursue the use of a Vehicle Body Repair Workshop. As stated in the Noise report, 'Overall the emissions for most of a normal working day are expected to be not much more than the prevailing background noise, and so within acceptable limits for Day Time operations'.

Another environmental effect which has the potential to be created by the planning proposal is odour. Odour can potentially occur from spray-painting and other activities associated with Vehicle Body Repair Workshop.

The applicant was asked to provide proof of odour reduction techniques due to the proposed use of odour producing equipment and practices on the site in order for Council to be certain that no adverse impacts associated with odour would occur to adjoining properties along with to the general public.

The applicant successfully addressed these concerns. The applicant has stated that a "Driforce Spray Painting Booth" is proposed to be installed inside the workshop. These types of spray painting booths are self-contained fully enclosed units and are manufactured to meet Australian Standard (AS/NSZ 4114.1) which is the relevant Australian standard associated. All work associated with odour producing techniques and products will comply with Australian standards, and this can be further enforced through conditions of any subsequent Development Consent via a Development Application. The applicant's response in regards to the potential odour impacts has been attached as Annexure 2 for your convenience.

Q9. Has the planning proposal adequately addressed any social and economic effects?

The planning proposal has the potential to cause economic impact to the adjoining motel through potential loss of revenue associated with possible noise from the subject site's proposed use. The proposal in its current format is unlikely to deliver any adverse social effects. Any approved planning proposal to allow an additional use of Vehicle Body Repair Workshop at 75 Meninya Street, Moama does not by default approve development consent and the use of the site for a panel beater business. A subsequent Development Application for a Vehicle Body Repair Workshop to commence on the site would be required to be lodged and be able to address all relevant issues and considerations. This DA would be assessed under Section 79C 'Evaluation' of the Environmental Planning and Assessment Act 1979 as per any other Development Application received by Council. The potential noises impact to the adjoining motel business by allowing Vehicle Body Repair Workshop use on the site could be mitigated by conditioning the operation hours of the business. No significant items or places of either Indigenous or Non-Indigenous heritage have been labelled on site. Social infrastructure such as schools, hospitals etc. are unlikely to be affected by the planning proposal as they are not in close proximity to the site. The planning proposal is positive in the sense that it is likely to achieve positive social and economic outcomes to Moama due to promoting new employment for the area. The applicant states that the proposed business proprietor is willing to spend up to \$250,000 in establishing the proposed business onsite, which is most likely to produce a positive social and positive economic effect. Any potential impacts on surrounding properties have been adequately addressed and thus it is deemed that the planning proposal does allow any adverse social or economic effects to occur.

Section D – State and Commonwealth Interests

Is there adequate public infrastructure for the planning proposal?

There is adequate public infrastructure currently in place for the planning proposal to go ahead. The site is currently serviced by electricity, storm water drainage, reticulated water, sewerage connection and has access to the public road network. The proposal is not of a large scale however any upgrading of infrastructure would be required to be paid for by the proposed developer. The planning proposal also affects land in which an existing industrial type building is present. This means that there is no further requirement for the applicant to construct a new building on the site.

Q11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

The proposal is deemed to be of a minor nature with regards to State or National significance, and therefore has not been referred to state and Commonwealth public authorities for comment at this preliminary stage.

PART 4 – MAPPING

Sufficient mapping of the site and surrounding area is required in order for the Planning Proposal to be approved. Below are several maps which details the property and surrounding properties.



Figure 7 – Blue star indicates Subject Site in relation to Moama

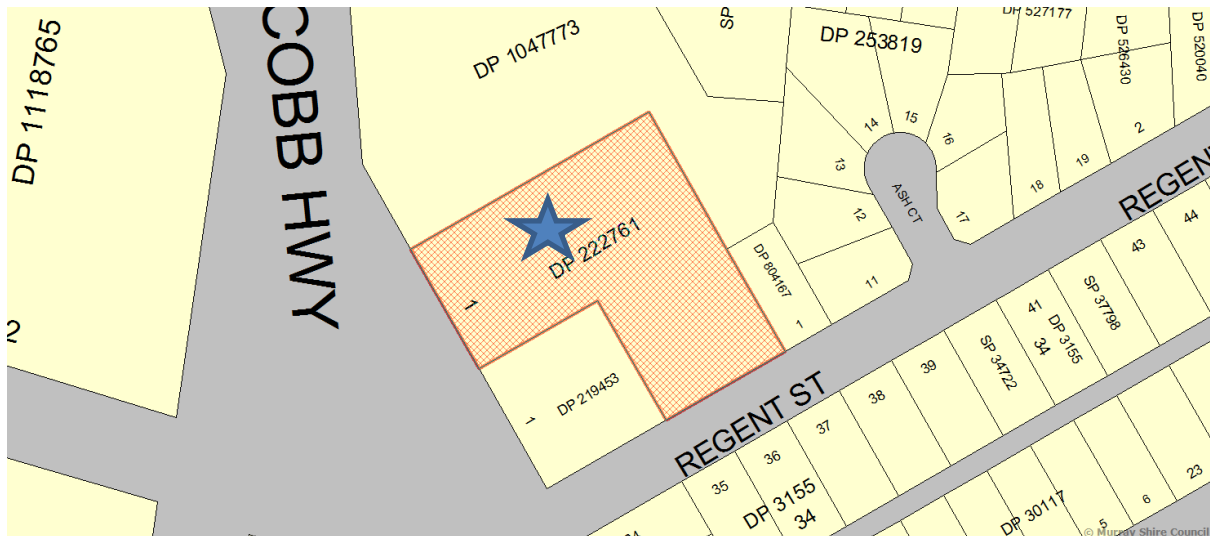


Figure 8 – Zoomed map of subject site with Blue Star indicating approximate location of building where proposed use is to occur.

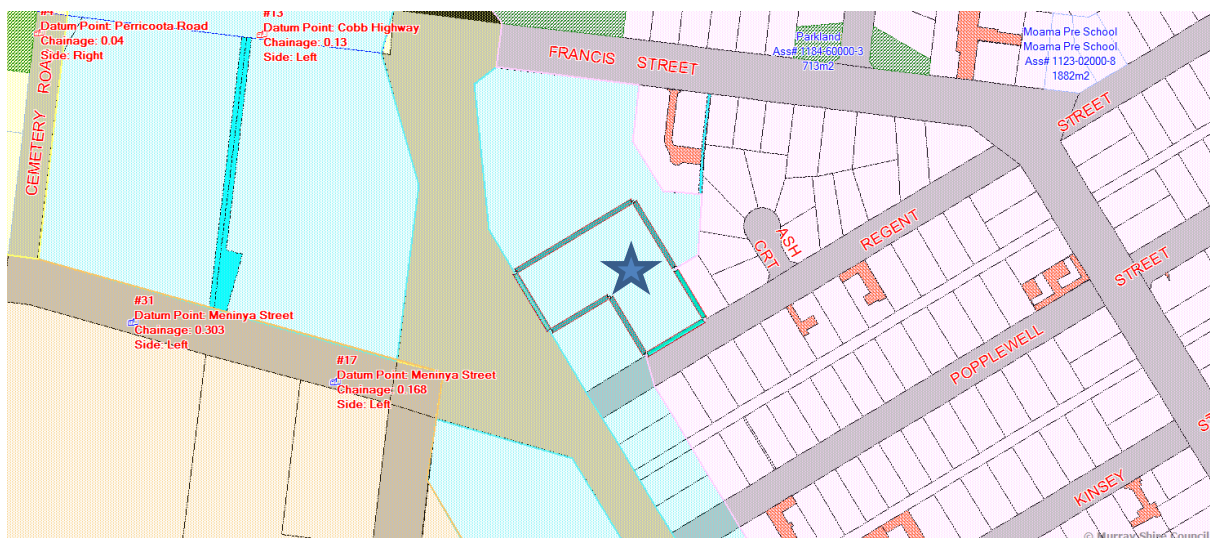


Figure 9 – Zoning Map. B2 – Local Centre zoned land labelled in Green, Zone R1 General Residential labelled pink (where dwellings are currently constructed), to the east and south of the subject site.



Figure 10 - Aerial photograph of location – Blue star demarcates the location of the shed where proposed business is to occur. Adjoining land uses noted.

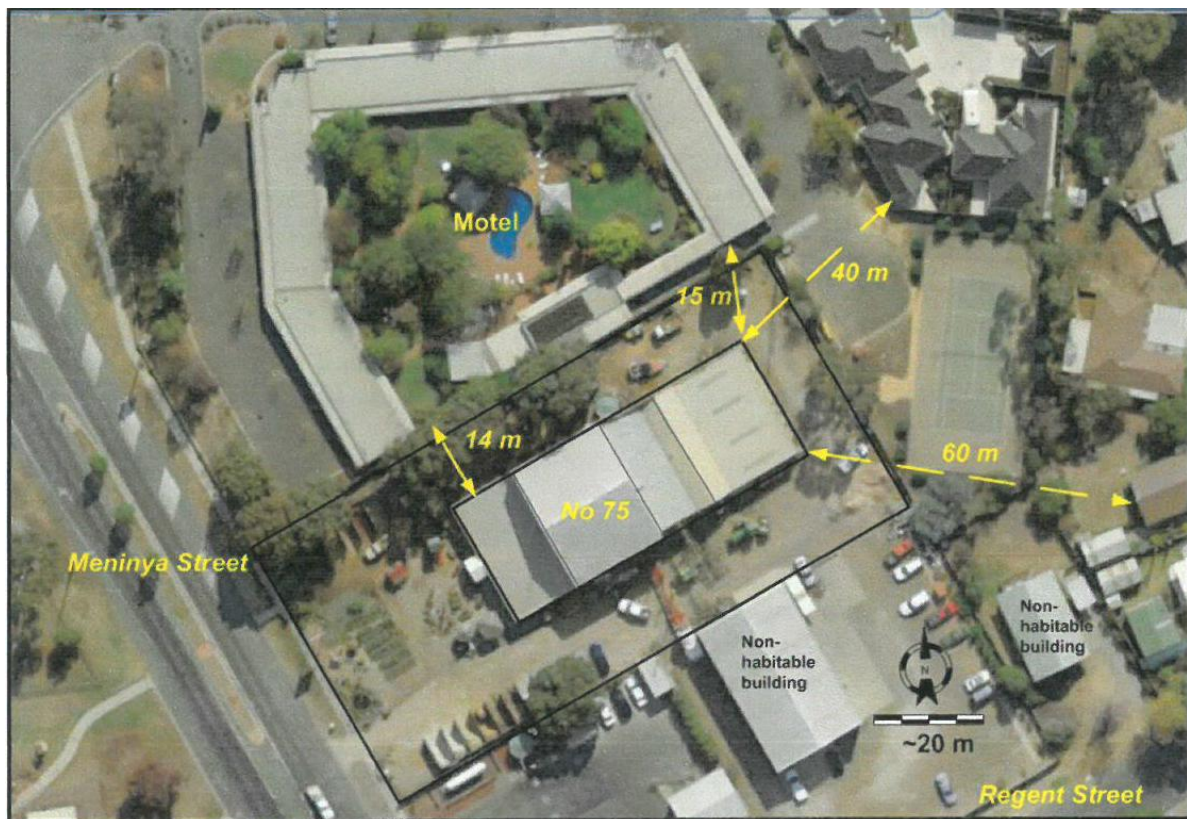


Figure 11 – Setbacks of adjoining buildings from the shed of proposed business use.

PART 5 – COMMUNITY CONSULTATION

If the planning proposal was to gain approval from Council in the preliminary stage, the proposal would be required to be put on community consultation. A community consultation will allow members of the community to have their say regarding the proposed changes to the subject site. The recommended exhibition period for this planning proposal is 28 days. Low impact proposals are only required to have an exhibition period of 14 days, however it is deemed that this proposal does not fit the requirements to be classified as a low impact proposal due to potential noise and odour impacts on neighbouring properties. All other planning proposals are required to be exhibited for a maximum of 28 days which is considered appropriate in this instance. This will give any adjoining property owners along with the general public a chance to provide any submissions and or objections to the proposal and allow Council staff to assess these accordingly. The community consultation process would involve distribution of letters of notification to adjoining property holders, a newspaper advertisement, and providing copies of the planning proposal to Council's Moama and Mathoura offices for public viewing. Council does not propose to hold a public hearing in respect to this Planning Proposal as this is considered unnecessary due to the nature of the proposal.

Recommendation:

It is recommended that the planning proposal be submitted to the NSW Department of Planning and Environment with a request for Gateway determination to make the following amendment to Murray Local Environmental Plan 2011: -

Adding 'Vehicle Body Repair Workshop' as an additional permitted use with consent on the land known as Lot 1 DP 222761 (75 Meninya Street, Moama) into Schedule 1 of the Murray LEP 2011 via Clause 2.5 – Additional permitted uses for particular land.

TO BE ATTACHED

Annexure 1 - K:\Planning & Development\Planning Proposals\Lot 1 DP 222761 Vehicle Body Repair Workshop\ Noise Study for Lot 1 DP 222761

Annexure 2 - K:\Planning & Development\Planning Proposals\Lot 1 DP 222761 Vehicle Body Repair Workshop\ Further Information