

Murray LEP 2011 - Rezone land from RU1 to R1 and Minimum Lot Size Reduction at Twenty Four Lane, Moama

Proposal Title :	Murray LEP 2011 - Rezone land from RU1 to R1 and Minimum Lot Size Reduction at Twenty Four Lane, Moama		
Proposal Summary :	Murray LEP 2011 – Rezone land from zone RU1 Primary Production to zone R1 General Residential and reduce Minimum Lot Size from 120ha to 750m2 at Lot 11 DP 701453, corner of Twenty Four Lane and Beer Road, Moama		
PP Number :	PP_2016_MRIVE_004_00	Dop File No :	16/12839-1

Proposal Details

Date Planning Proposal Received :	20-Sep-2016	LGA covered :	Murray River
Region :	Western	RPA :	Murray River Council
State Electorate :	MURRAY DARLING	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	Twenty Four Lane		
Suburb :	City :	Moama	Postcode : 2731
Land Parcel :	Lot 11 DP 701453		

DoP Planning Officer Contact Details

Contact Name :	Jenna McNabb
Contact Number :	0268412180
Contact Email :	jenna.mcnabb@planning.nsw.gov.au

RPA Contact Details

Contact Name :	Llyan Smith
Contact Number :	0358843400
Contact Email :	l.smith@murrayriver.nsw.gov.au

DoP Project Manager Contact Details

Contact Name :	Wayne Garnsey
Contact Number :	0268412180
Contact Email :	wayne.garnsey@planning.nsw.gov.au

Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	N/A	Consistent with Strategy :	No

Murray LEP 2011 - Rezone land from RU1 to R1 and Minimum Lot Size Reduction at Twenty Four Lane, Moama

MDP Number :		Date of Release :	
Area of Release (Ha) :	60.00	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	472
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with :

If No, comment :

Have there been meetings or communications with registered lobbyists? :

No

If Yes, comment : **There have been no known meetings or communications with registered lobbyists.**

Supporting notes

Internal Supporting Notes :

The subject planning proposal seeks to provide 59.1 hectares of new R1 General Residential land with a minimum lot size of 750m2 in the locality of Moama, through the rezoning of Lot 11 DP 701453, Twenty Four Lane, Moama from zone RU1 Primary Production to zone R1 General Residential.

The subject land is 58.78 hectares in area and is currently cleared agricultural land, which has previously been utilised for viticulture. The lot adjoins RE2 Private Recreation Land (being the Rich River Golf Course) to the north, and RU1 Primary Production land to the east, south and west. Adjacent to the site (north-west) is an area of zone R5 Large Lot Residential and R1 General Residential.

There is no adopted regional strategy applicable to the planning proposal. The draft Riverina Murray Regional Plan has been publicly exhibited.

The proposal is the result of a review of the Murray Local Environmental Plan 2011 (LEP) conducted by Council, where community consultation was facilitated to determine areas suitable for review. Public submissions from local land holders were presented to Council by Council planning staff, setting out rural areas to be reviewed for rezoning for residential purposes. Lot 11, DP 701453, corner of Twenty Four Lane and Beer Road, Moama, formed part of these recommendations.

The land is identified in the SLUP as part of land release Future Residential – Stage 2. The proposal outlines that the rezoning of Lot 11 DP 701453 should be brought forward as 90ha of the Future Residential – Stage 1 release remains stagnant and no development has been proposed.

The subject land is not identified as being subject to the 1 in 100 year flood level in the MLEP 2011, however is identified in the Moama Floodplain Management Strategy 1999 as being within the 'extreme flood' or 'probable maximum flood' level. A small portion of the site is also identified as being within the bushfire prone land buffer.

Given the large increase in supply outlined in this planning proposal, it is necessary that Council work towards an endorsed strategy.

The proposal will provide Council with flexibility for housing provision in Moama and ensure a consistent supply is maintained in the town.

Murray LEP 2011 - Rezone land from RU1 to R1 and Minimum Lot Size Reduction at Twenty Four Lane, Moama

On 12 May 2016, Murray Shire and Wakool Shire amalgamated. The proposal is consistent with the (Departmental unendorsed) strategic direction of the former Murray Shire Council.

Council has requested to be authorised to exercise delegations to complete the Planning Proposal and this is considered inappropriate as its land use strategies are not endorsed by the Department and this is a recently amalgamated Council.

External Supporting
Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The planning proposal seeks to provide 58.78 hectares of new zone R1 General Residential land with a minimum lot size of 750m2 in the locality of Moama.**

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The planning proposal seeks to amend the relevant Lot Size and Land Zone maps, which is consistent with the objective of the planning proposal.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.2 Rural Zones

1.3 Mining, Petroleum Production and Extractive Industries

1.5 Rural Lands

3.4 Integrating Land Use and Transport

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 :

d) Which SEPPs have the RPA identified?

SEPP No 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

SEPP (Mining, Petroleum Production and Extractive Industries) 2007

SEPP (Rural Lands) 2008

Murray REP No. 2 - Riverine Land

e) List any other
matters that need to
be considered :

Section 117 Directions:

The planning proposal identifies eight (8) section 117 Directions that are applicable to the proposal.

Direction 1.2 Rural Zones

This direction is applicable to the proposed LEP amendment as it affects land within an existing rural zone and it is intended to rezone the site from zone RU1 Primary Production to zone R1 General Residential and reduce the minimum lot size from 120ha to 750m2.

Whilst the SLUP has identified the subject land as suitable for future residential purposes, the SLUP has not been endorsed by the Department. The proposal is inconsistent with this direction because it seeks to rezone land from a rural zone to a residential zone as it proposes a minimum lot size less than that permitted in the RU1 zone, without an endorsed Strategy.

The subject land is currently used for agricultural/cropping purposes and is located on the outskirts of the urban area of Moama - bounded by zone RU1 land and the Rich River Golf Club.

The inconsistency with this direction is not considered to be minor and further work is required to justify the proposed rezoning and minimum lot size reduction. Therefore, consultation with DPI – Agriculture is required prior to community consultation. Council is to update the planning proposal to take into consideration any advice received from DPI - Agriculture.

1.3 Mining, Petroleum Production and Extractive Industries

This direction has not been identified or addressed in the planning proposal. The Direction is relevant in this case given the planning proposal (as amended) will have the effect of prohibiting mining, production of petroleum and obtaining of extractive materials. The proposal, as amended, will seek to rezone land from zone RU1 Primary Production in which 'extractive industries' is permissible with consent, to zone R1 General Residential, in which it is a prohibited land use. The inconsistency is required to be addressed through consultation with the Department of Industry - Resources and Energy. Council is to update the planning proposal to take into consideration any advice received from DoI - Resources and Energy.

Direction 1.5 Rural Lands

This direction is applicable to the proposed LEP amendment as it affects land within an existing rural zone that is intended to be rezoned to a residential zone and significantly reduce the minimum lot size from 120ha to 750m2.

The proposal has identified that the planning proposal affects land within a rural zone and advocates a minimum lot size for subdivision substantially less than that permitted in the RU1 zone.

Adjoining land uses include open space (golf course), zone RE2, to the north of the subject site and zone RU1 primary production to the south, east and west of the subject site. There is a potential for conflict with land adjoining Martin Road (to the south of the site) currently used for viticulture. As this land is also designated for future residential development in the SLUP (albeit not endorsed by the Department), a buffer between the conflicting uses is seen as appropriate until this transition occurs, and following the endorsement of a new strategy by the Department.

The proposal is inconsistent with this Direction.

Direction 3.4 Integrating Land Use and Transport

This direction has been identified and addressed in the planning proposal as the proposal will create provisions for land zoned for residential purposes. The proposal is considered consistent with this direction as the proposal creates opportunities for improved access to housing within 4.5km driving distance of the Moama commercial centre, and access to recreational facilities in the adjoining golf course.

Direction 4.3 Flood Prone Land

This direction has been identified and addressed in the planning proposal as the proposal creates a provision for development that may potentially affect flood prone land. According to Councils flood mapping (Murray LEP 2011) the subject site is shown to fall outside of the 1 in 100 year flood level. However, the Moama Floodplain Management Study 1999 indicates that the subject site is within the 'Extreme Flood' or 'Probable Maximum Flood' level. According to the Shire of Murray Floodplain Management Study (January 2001) the subject site is identified as "low hazard flood storage". Given the discrepancies between the studies, the planning proposal is considered inconsistent with this direction and is required to be justified in accordance with a 'floodplain risk management plan (FRMP). The FRMP is to be prepared in

consultation with OEH prior to public exhibition. The planning proposal may be updated with considerations produced from the FRMP. The FRMP is to be publicly exhibited with the planning proposal.

Direction 4.4 Planning for Bushfire Protection

This direction has been identified and addressed in the planning proposal as the LEP amendment affects, or is in proximity to land mapped as bushfire prone land. A small section of Lot 11 DP 701453 is identified as being bush fire prone. At this time the proposal is inconsistent with this Direction and consultation is required and needs to be settled with the NSW Rural Fire Service prior to community consultation.

Direction 5.1 Implementation of Regional Plans

This direction was not identified or addressed by the planning proposal, however is applicable as the draft Riverina-Murray Regional Plan has been on exhibition. The proposal is not inconsistent with this draft Plan as the land is identified for future urban use.

SEPPs:

The planning proposal identifies and addresses five (5) SEPPs that are applicable in this case.

SEPP No. 44 – Koala Habitat Protection

The SEPP is relevant in this case given the former Murray Shire is listed in Schedule 1 of the SEPP, which identifies Local Government Areas to which the policy applies. Vegetation on the subject site is identified as being primarily River Red Gum, a species which is nominated in Schedule 2 and outlined as a “feed tree species” for Koalas. While proposal outlines the site is not “core koala habitat”, the matter can be considered as part of Council’s merit assessment for a development application and is therefore not inconsistent with the SEPP.

SEPP No. 55 – Remediation of Land

The SEPP is relevant in this case given the subject site is zoned RU1 Primary Production and has been used for agricultural purposes. As such potential land contamination needs to be investigated under SEPP 55 Remediation of Land. A preliminary review of the site and initial site contamination report are to be prepared and placed on public exhibition to satisfy the requirements of SEPP 55.

SEPP (Mining, Petroleum Production & Extractive Industries) 2007

The SEPP is relevant in this case given the planning proposal (as amended to seek a rezoning) will have the effect of prohibiting mining, production of petroleum and obtaining of extractive materials. Any inconsistency with this SEPP will be addressed through consultation with Department of Industry - Resources and Energy, as required to satisfy inconsistency with section 117 Direction 1.3 Mining, Petroleum Production and Extractive Industries.

Murray Regional Environmental Plan No. 2 – Riverine Land

The subject site is physically separated from the Murray River, and the land to which this policy applies. The planning proposal is generally consistent with the MREP 2. Specific development will be assessed, and applicable agencies will be consulted at development application stage.

SEPP (Rural Lands) 2008

Council’s Strategy has not been endorsed by the Department. The proponent considers that the proposal is consistent with the Rural Lands SEPP as the land uses in the immediate vicinity of the subject land are a mix of open space (golf course), rural, industry (viticulture), residential and tourist accommodation, additional residential development will benefit the township of Moama, proximity to Moama in terms of servicing and consistent with an ‘unendorsed’ strategy.

The proposal is inconsistent with the Rural Planning Principles identified in Clause 7 of

Murray LEP 2011 - Rezone land from RU1 to R1 and Minimum Lot Size Reduction at Twenty Four Lane, Moama

the SEPP to protect and maintain agricultural and productive land. The rezoning, significant reduction of minimum lot size and loss of agricultural land has not been adequately supported by the proposal and proposes significant fragmentation of productive rural land.

The land is identified for future residential land in the MSLUP, however, the MSLUP is not endorsed, and the land release is out of preferred sequence identified in the MSLUP. Council is required to obtain endorsement of the MSLUP to justify the proposals inconsistency with the SEPP prior to commencing community consultation.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : **Indicative mapping identifying the site has been provided. Mapping prepared in accordance with DPE technical guidelines will be required for submission at Section 59 stage.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The applicant has noted that at a minimum, they expect the Planning Proposal will be exhibited for a period of 28 days in accordance with the requirements of Section 57 of the EP&A Act 1979 and that this will include written notification to landowners adjoining the site, consultation with relevant Government Departments and agencies, service providers and key stakeholders as determined in the Gateway determination, public notices in the local media (including local newspaper and on Councils website), display of the proposal at Councils public buildings and electronic copies of all documentation available from Councils website.**

The proposed community consultation is considered appropriate.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **Murray LEP 2011 was notified on 16 December 2011.**

Assessment Criteria

Need for planning proposal : **The planning proposal is the result of public submissions provided to Council in regards to a review via a future amendment of the Murray LEP 2011. The submissions were compiled into a report, which outlined the proponent wished to rezone Lot 11 DP 701453 from zone**

Murray LEP 2011 - Rezone land from RU1 to R1 and Minimum Lot Size Reduction at Twenty Four Lane, Moama

RU1 Primary Production to zone R1 General Residential and reduce Minimum Lot Size from 120ha to 750m2 to increase housing supply within Moama.

Consistency with strategic planning framework :

The land is identified in the Murray Strategic Land Use Plan (MSLUP) as being appropriate for residential development. The MSLUP recommends Lot 11 DP 701453 be made available for residential land as part of Stage 2 release, which is currently still in Stage 1. The proposal will provide for potential 472 new R1 lots in Moama out of sequence.

The release of the land at Lot 11 DP 701453 is supported by the MSLUP which outlines land to the north and either side of Martin Road should be made available when supply drops below 15 years, with current supply of residential land in Moama at approximately 13.8 years.

Murray River Council have three outstanding Gateway determinations for residential rezonings, which will provide approximately 90 lots within Moama (312 Perricoota Road, Boundary Road and Clifton Street) increasing supply to approximately 15 years. Currently, lot yield averages 8 x lots/ha, so the proposal has the potential to yield approximately 472 lots increasing supply in Moama to approximately 21 years, being above Council's target.

The proposal is consistent with the unendorsed draft Murray Regional Strategy and draft Riverina Murray Regional Plan in that, it outlines the intent to rezone RU1 Primary Production land, to provide additional residential land in Moama. It is not considered to pose a significant impact to resource availability or agricultural efficiency as the surrounding lots have been identified as future residential land release, however, have not been developed for this purpose at this time. Further, the proposal has outlined a buffer will be implemented between residential uses and viticulture adjoining the site, until such time as the vines are removed on the adjoining site for future residential purposes. This cannot be guaranteed by the planning proposal, and will be required to be enforced by Council during the development of the land. However, the site adjoins an existing approved residential subdivision and golf course and is considered to have strategic merit as the site can be connected to existing services and incorporated to the road network.

The planning proposal can be supported, as the proposal has strategic merit and will eventually form a logical extension of the township of Moama. However, given the large increase in housing supply and lack of endorsed strategy it is necessary that Council work towards an endorsed strategy, prior to community consultation given the approval of in excess of 568 new residential lots in the past four planning proposals without an endorsed strategy.

Council's current practice of submitting numerous planning proposals for upzoning rural land without an endorsed strategy has the potential to result in an oversupply of residential land in the LGA and in an unordered sequence, and is not supported by the Department.

Environmental social economic impacts :

The rezoning of land from zone RU1 Primary Production to zone R1 General Residential and reduce Minimum Lot Size from 120ha to 750m2 at Lot 11 DP 701453, corner of Twenty Four Lane and Beer Road, Moama does not pose any immediate environmental impacts.

The land is not covered by Councils biodiversity mapping in the MLEP, and falls outside the 1 in 100 year flood zone. The preparation of a FRMP, in consultation with OEH, will ensure discrepancies with flood mapping will not have an adverse effect on development during a 'PMF' or 'Extreme Flood' event, as identified within the Moama Floodplain Management Study 1999.

A section of the site is mapped as bush fire prone and as a result, the Department has conditioned that the NSW Rural Fire Service is consulted under section 59(2) of the Environmental Planning and Assessment Act 1979, prior to community consultation to satisfy section 117 Direction 4.4 Planning for Bushfire Protection.

Positive social and economic impacts can be expected, providing for a greater supply of housing within Moama, broadening the choice of building types and locations available in

Murray LEP 2011 - Rezone land from RU1 to R1 and Minimum Lot Size Reduction at Twenty Four Lane, Moama

the housing market. However, negative impacts can also be expected where there is an oversupply of residential land located in a disjointed, discontinuous rural location. Council is encouraged to concentrate on the finalisation and endorsement of the MSLUP to provide certainty and direction to the community. The current practice of submitting numerous ad-hoc planning proposals without an endorsed strategy is not supported by the Department.

Assessment Process

Proposal type : **Inconsistent** Community Consultation Period : **28 Days**

Timeframe to make LEP : **12 months** Delegation : **RPA**

Public Authority Consultation - 56(2)(d) : **Office of Environment and Heritage
NSW Department of Primary Industries - Agriculture
NSW Department of Primary Industries - Minerals and Petroleum
NSW Rural Fire Service
Transport for NSW - Roads and Maritime Services**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
--------------------	-------------------	-----------

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.2 Rural Zones**
- 1.3 Mining, Petroleum Production and Extractive Industries**
- 1.5 Rural Lands**
- 3.4 Integrating Land Use and Transport**
- 4.3 Flood Prone Land**
- 4.4 Planning for Bushfire Protection**
- 5.1 Implementation of Regional Strategies**

Additional Information :

1. Council is to revise the Murray Shire Strategic Land Use Plan to reflect the changes to the preferred staging of release of residential land the Shire. Demand and supply data must be updated to reflect the current situation. The revised Murray Strategic Land Use Plan is to be endorsed by the Department prior to undertaking community consultation.

Council is to amend the planning proposal to reflect the outcomes of this work and seek approval from the Department prior to undertaking community consultation.

2. Prior to undertaking community consultation, consultation with NSW Rural Fire Service is required to address the proposal's inconsistency with section 117 Direction 4.4 Planning for Bushfire Protection.

Council is to update the planning proposal to take into account the outcomes of this work and forward the NSW Rural Fire Service response to the Department to seek approval from the Department prior to undertaking community consultation.

3. Prior to undertaking community consultation, a flood study and Floodplain Risk Management Plan are to be prepared to address the proposal's inconsistency with section 117 Direction 4.3 Flood Prone Land, in consultation with NSW Office of Environment and Heritage. Council is to update the planning proposal to take into account the outcomes of this work and seek approval from the Department prior to undertaking community consultation.

4. Prior to undertaking community consultation, Council is to ensure that the planning proposal satisfies the requirements of State Environmental Planning Policy (SEPP) 55 – Remediation of Land. An initial site contamination report is to be prepared to demonstrate that the land is suitable for rezoning to the proposed R1 General Residential zone. The preliminary review of the subject land, which has been undertaken by Council, and initial site contamination investigation report are to be placed on public exhibition with the planning proposal.

5. Consultation is required prior to public exhibition with the following public authorities under section 56(2)(d) of the Environmental Planning and Assessment Act 1979 and to comply with the requirements of relevant section 117 Ministerial Directions:

- **Office of Environment and Heritage**
- **Transport for NSW – Roads and Maritime Services**
- **Department of Primary Industries – Agriculture**
- **Department of Industries – Resources and Energy**

Each public authority is to be provided with a copy of the planning proposal (as amended) and any relevant supporting material, and given at least 21 days to comment on the proposal. Council is to forward public authority responses to the Department and seek approval to proceed to community consultation.

6. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 as follows:

(a) The planning proposal is required to be made publicly available on exhibition for 28 days as described in A Guide to Preparing LEPs (Department of Planning and Infrastructure 2013).

(b) The relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs.

The flood study and endorsed strategy are to be placed on public exhibition with the revised planning proposal.

7. A public hearing is not required to be held into the matter by any person or body under

Murray LEP 2011 - Rezone land from RU1 to R1 and Minimum Lot Size Reduction at Twenty Four Lane, Moama

section 56(2)(e) of the Environmental Planning and Assessment Act 1979. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

8. Prior to submission of the planning proposal under section 59 of the Environmental Planning and Assessment Act 1979, the final LEP maps must be prepared and be compliant with the Department's 'Standard Technical Requirements for Spatial Datasets and Maps' 2015.

9. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

10. Murray River Council not be authorised to exercise delegation.

Supporting Reasons :

The amendment to the Land Zoning Map and Minimum Lot Size map in the Murray LEP 2011 to allow the subject land to be developed for general residential is considered appropriate and the Director Regions, Western can use delegation as the proposal is consistent with local strategic planning (albeit not endorsed by the Department) and broader Government Policy.

Signature:



Printed Name:

Jenna McNabb

Date:

11/10/16.