



Ms Margot Stork
Interim General Manager
Murray Shire Council
PO Box 21
Mathoura NSW 2710

16/12840

Attention: Ms Llyan Smith, Planning Support Officer

Dear Ms Stork

Planning Proposal (PP_2016_MRIVE_004_00) to amend Murray LEP 2011 to rezone land from zone RU1 Primary Production to zone R1 General Residential and reduce the minimum lot size from 120ha to 750m² at Lot 11 DP 701453, Twenty Four Lane, Moama

I am writing in response to Council's request for a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* in respect of the planning proposal to amend Schedule 1 of the Murray LEP 2011 to rezone land from zone RU1 Primary Production to zone R1 General Residential and reduce the minimum lot size from 120ha to 750m² at Lot 11 DP 701453, Twenty Four Lane, Moama.

As delegate of the Minister for Planning, I have now determined that the planning proposal should proceed, subject to conditions in the attached Gateway determination (Attachment 1). I have made this decision with the proviso that Council finalises its comprehensive land use strategy and seeks Departmental endorsement prior to community consultation.

The proposal is inconsistent with the following section 117 Directions: 1.2 Rural Zones, 1.5 Rural Lands and 4.4 Planning for Bushfire Protection. Prior to community consultation being undertaken, Council is to consult with the NSW Rural Fire Service (RFS) and obtain agreement of the Department's Secretary (delegate) to comply with requirements of section 117 Direction 4.4 Planning for Bushfire Protection. Council is to forward responses from public authorities to the Department and seek approval to proceed to community consultation. (Refer to Condition No. 5 of the Gateway determination).

Council is to also consult with the Office of Environment & Heritage (OEH) on natural hazards including potential flooding, the Roads and Maritime Service (RMS) and the Department of Industries – Resource and Energy, and Department of Primary Industries - Agriculture.

In relation to the draft Murray Shire Strategic Land Use Plan 2010 – 2030, Council is to review the draft strategy and seek the endorsement of the Department prior to undertaking community consultation. This work should also include updating the

preferred staging of release for residential land, and current supply and demand analysis. The Department is available to discuss the process to undertake this work.

The Minister delegated plan making powers to Councils in October 2012. It is noted that Council has requested to be issued with delegation for this planning proposal. I have considered the nature of Council's planning proposal and have decided not to issue an authorisation for Council to exercise delegation to make this plan in this case as it is not consistent with a Department endorsed strategy.

The amending Local Environmental Plan (LEP) is to be finalised within 12 months of the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request for the Department of Planning and Environment to draft and finalise the LEP should be made 10 weeks prior to the projected publication date. This request is to be forwarded to the Department of Planning and Environment's Western Region office (westernregion@planning.nsw.gov.au).

All related files for the LEP Amendment, including Maps, Map Cover Sheet, Planning Proposal document, section 59 Reporting and GIS data, if available, must be submitted to the Department via the Planning Portal Website at <https://www.planningportal.nsw.gov.au/planning-tools/online-submission-planning-data>. To submit the data, Council is required to create an account and log in using these details.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the *Environmental Planning and Assessment Act, 1979* if the timeframes outlined in this determination are not met.

Should you have any queries in regard to this matter, I have arranged for Jenna McNabb of the Department's Western Region office to assist you. Ms McNabb can be contacted on (02) 68412180.

Yours sincerely

 14-10-2016

Ashley Albury
Director Regions, Western
Planning Services

Encl:
Attachment 1 – Gateway determination



Gateway Determination

Planning proposal (Department Ref: PP_2016_MRIVE_003_00): to amend the Murray Local Environmental Plan 2013 to rezone land from zone RU1 Primary Production to zone R1 General Residential and reduce the minimum lot size from 120ha to 750m² at Lot 11 DP 701453, Twenty Four Lane, Moama.

I, the Director Regions, Western at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* that the amendment to the Murray Local Environmental Plan 2013 (LEP) to rezone land from zone RU1 Primary Production to zone R1 General Residential and reduce the minimum lot size from 120ha to 750m² at Lot 11 DP 701453, Twenty Four Lane, Moama, should proceed subject to the following conditions:

1. Council is to review the draft Murray Shire Strategic Land Use Plan including the preferred staging of residential land releases around Moama. Demand and supply data must be updated to accurately reflect development activity. The revised draft Murray Strategic Land Use Plan is to be endorsed by the Department prior to 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 and as part of the draft Strategy preparation, Council needs to thoroughly address the proposal's inconsistency with section 117 Directions 1.2 and 1.5 Rural Land and Rural Zones in consultation with the Department of Primary Industry - Agriculture. 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/or 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 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.

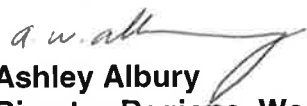
6. Community consultation is required under sections 56(2)(c) and 57 of the *Environmental Planning and Assessment Act 1979* as follows:

- (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 endorsed strategy is to be placed on public exhibition with the amended planning proposal.

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

Dated 14 day of October 2016.


Ashley Albury
Director Regions, Western
Planning Services
Department of Planning and Environment

Delegate of the Minister for Planning