



NSW GOVERNMENT
Department of Planning

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Our ref: Q06/00001-1
Your ref:
File: Murray 4 LESs

Dear Mr Murdoch

Subject: Murray LGA Local Environmental Studies for Lot 24, Twenty Four Lane, Moama; 2040 Perricoota Road, Moama; 'Kooyong Park', Moama; Old Deniliquin Road, Moama; Deep Creek, Perricoota Road

I refer to the above local environmental studies (LESs) provided to the Department for comments, and subsequent discussions held between the Department, Council and its consultant on 28 April 2009.

The Department thanks Council for the opportunity to meet and discuss the overall strategic work and comprehensive LEP, together with the four new release areas in more detail. The Department recognises that the overall project represents a significant commitment of resources by Council, and a significant opportunity for Council in partnership with its respective communities and stakeholders to plan strategically for the future of the LGA. In this respect, the Department is keen to work with, and support Council in the future, to realise the full potential of this project.

As discussed, the Department requests that Council establish its own formal support or otherwise for each of the four sites. In this respect, Council's overall LES should consider each of the four sites in the context of its own adopted Strategic Land Use Plan (SLUP), and the additional information requested in the Department's letter dated 4 February 2009. Following that, Council is requested to provide a justified recommendation of support or otherwise for the four sites to be formally included in the overall SLUP.

Following a preliminary review of the documents, the Department has identified some additional information that should be provided to facilitate the completion of appropriately documented LESs for the proposed new release areas provided at (Attachment 1).

If you have any queries please contact Anna Patton who is available on telephone number 02 6841 2180.

Yours sincerely,

Tim Deverell
Team Leader for
Lois Gray
Regional Director, Western Region

Attachment 1: Matters for consideration

A Lot 24, Twenty Four Lane, Moama

- The proposal appears to consolidate existing fragmentation west of Moama;
- The site is located some distance from existing vineyards identified for protection in the SLUP (until demand requires their conversion to urban land uses).
- Consider the appropriate time to release this land when completing the final staging plan for the SLUP.
- Consider whether rezoning the site in the current comprehensive LEP is justified once the land supply and demand figures are available which identify lot yield estimates for the current comprehensive LEP.
- The LES has not considered the new section 117 Directions which are available on the Department's website and can be found at:
http://www.planning.nsw.gov.au/planningsystem/pdf/s117s_latest_issued.pdf
- The LES has not considered the SEPP (Rural Lands) 2008.
- The LES has not considered Part 2 of the Murray Regional Environmental Plan No 2 - Riverine Land.
- Establish how will the potential land use conflicts from surrounding agricultural land be mitigated, e.g. use of buffers, larger lots along relevant boundaries?
- A traffic assessment should be completed to address the traffic generation of the proposed development, adequacy of existing and proposed road networks/treatments and recommendations for any improvements/mitigation/changes.

B 2040 Perricoota Road, Moama

- The SLUP's recommendation identifies the site for 'future tourist' purposes which may be appropriate given its location away from the existing urban area of Moama but adjoining the Murray River.
- The site is located directly opposite existing vineyards which are recommended for protection in Council's adopted SLUP until such time as demand for additional land requires them to be converted to urban uses. The need to incorporate suitable buffers to avoid future land use conflict between the site and the existing vineyards would thus limit the development potential of the site for residential purposes at this stage.
- Rezoning the subject site in the current comprehensive LEP would disadvantage proposed and future areas for rezoning which have been strategically identified and subject to a considered staging analysis.
- The site does not represent efficient or orderly provision of services or infrastructure given that all infrastructure necessary for the development would have to be extended to the site.
- The LES has not addressed all of the relevant section 117 directions, e.g. 4.3 Flood Prone Land; 1.2 Residential Zones; 1.5 Rural Lands etc.
- If this site is considered for tourism uses in the current comprehensive LEP, Council will need to form an opinion regarding whether the buffer zone proposed is acceptable under SEPP 55: Managing Land Contamination - Planning Guidelines. Council would need to be satisfied that the buffer proposed would encompass any existing and (potential) migrating contamination of the development site and henceforth, whether the site is suitable for residential purposes. Alternatively, if Council determines that additional work is necessary following consideration of the Guidelines and in accordance with the conclusions of the Site Contamination Report, it should advise whether additional investigations should occur prior to the rezoning, or whether other provisions are adequate, i.e. consider the issue at DA stage.

C Kooyong Park, Old Deniliquin Road, Moama

- The proposal is at variance with the findings of Council's adopted SLUP which indicates the following for the subject site:
 - *'Possible development site subject to further investigation (including extension of town flood levee)';*
 - *'Sites protected by rural levees are not regarded as suitable for urban development as the levees are not designed, constructed, or intended to guarantee flood protection in a major event'.*
 - *The SLUP has 'not identified any land in Moama below the 1:100 year flood event not protected by the town flood levee as suitable for future urban development. In regards to the area east of the Moama levee this effectively means maintaining existing and approved proposals (including several major tourist developments) with no further intensification'.*
- Council, in its adopted SLUP has made a strategic decision to focus all planned growth to the west of Moama to avoid flood affected areas (pp58 - Background and Issues Paper), not protected by the town levee; protect existing vineyards until demand requires their conversion to urban uses; take advantage of the potential for river-based settlement and to consolidate existing development along Perricoota Road.
- It is anticipated that Council's SLUP has identified a considerable supply of residential land for the 30 year life of the SLUP which is accessible via existing sealed roads, available, less constrained and more consistent with Council's established strategic approach to focus Moama's future growth to the west of the Cobb Highway.
- A number of natural hazards including flooding and bushfire constrain the site and will require future management to enable urban development on the site. Intensification of urban development in areas subject to natural hazards when there are less constrained, alternative sites available is not encouraged by the Department.
- The areas directly east of the township of Moama appear less constrained by urban fragmentation compared with other sites identified for land use change in the SLUP west of Moama.
- An assessment of the proposal against the relevant section 117 Ministerial Directions, SEPPs, and REPs has not been completed. In particular, *SEPP (Rural Lands) 2008* and the *section 117 Direction 1.5 Rural Lands* have not been considered by the LES.
- The agricultural land capability and suitability classifications of the land have not been provided.
- A strategic review of the Moama Floodplain Management Study has not been completed in accordance with the Floodplain Development Manual to determine the impact of the proposed development. The Floodplain Development Manual summarily indicates that *'the cumulative impact of the development must be addressed at the regional rather than development specific level. The study will form the basis for review, by council and the floodplain risk management committee, to determine whether the management plan can be altered to accommodate the proposal without affecting its integrity. It should be noted that a private or site specific flood plan (see Section N7) for the proposed development is not an appropriate measure to rectify adverse impacts or to manage the consequences of inappropriate decisions' (pp 16-17, Floodplain Development Manual, April 2005).*
- An assessment of environmental and land constraints which are best represented through a spatial mapping exercise has not been completed, e.g. bushfire, contamination, biodiversity etc.
- A servicing and infrastructure analysis for the supply of utilities and possible social facilities has not been completed
- A flora and fauna, and definitive cultural heritage assessment of the site has not been completed.

- Council needs to determine past land use activities on the site to establish whether there is potential for contamination in accordance with the *SEPP 55 Remediation of Land-Managing Land Contamination Guidelines*.
- Potential for amenity disturbance from noise and vibration from the adjoining rail corridor should be considered.
- The LES identifies a number of unique proposals for the site in the form of a restaurant with function facility focusing on marketing the region's high quality organic food and drink to domestic and international markets. In addition, a 'power plant' energy savings proposal. Acknowledgement is made of the concepts, however consideration should be given regarding whether only the subject site contains those unique site characteristics which specifically support the proposals, or whether they could potentially be carried out on other alternative, strategically supported less constrained sites.

D Deep Creek, Perricoota Road

The findings of the preliminary LES for this site do not support the development being proposed at this stage.

Council may consider leaving the site under its existing zoning until clear recommendations for its future use can be made in the broader strategic context. However, if Council determines that it does not wish to support the proposal currently being made for the subject site, following its consideration in a broad strategic context, the Council may wish to consider rezoning the existing land uses on the site for tourism purposes.

During the preparation of the comprehensive LES, formal consultation with the relevant local, state or commonwealth agencies, service providers, and affected land owners needs to occur given the passage of time and changes to staff considering the proposal. The comprehensive LES must clearly indicate the issues raised by stakeholders during consultation, and how those matters have been addressed in the LES.

The following summary of requirements for a supplement to the existing LES should be considered by Council.

Preliminary Requirements

- A description of the various components of the development and a clear staging plan.
- Consideration of all relevant state environmental planning policies, regional environmental plans, applicable planning instruments and policies, and relevant legislation. This analysis must address planning principles contained in Part 2 of the *Murray REP 2 - Riverine Land*.
- A conclusion justifying the development including:
 - establishing whether the creation of a new river based village remote from existing townships will affect the future growth and provision of services and infrastructure in Moama. This must be considered in the broader context of the existing and proposed supply of tourism/residential accommodation and development in the Shire. This information is anticipated to be provided as part of the additional information requested in the Department's letter dated 4 February 2009.
 - Environmental impacts of the proposal shown spatially, mitigation measures to address these impacts, the cumulative impacts of the proposal, and the suitability of the site. This exercise should involve overlaying the constraints and values mapping over the site. The following examples are given of the constraints and values Council may consider as part of this exercise: flooding, biodiversity, contaminated lands – POEO scheduled premises, salinity (if applicable), bushfire, location of mineral resources, mineral exploration areas, stressed

groundwater aquifers, groundwater availability systems (depending upon services provided), land capability, agricultural land suitability, land degradation, biodiversity, vegetation, water (ground and surface), heritage (Indigenous and European).

- whether or not the project is in the public interest. Council should consider the net costs and benefits to the existing local community and to the regional community in terms of the development's impact on the natural environment.
- Establish how infrastructure will be owned and maintained in the future. Note, community title ownership of significant infrastructure is unlikely to be sustainable in the long term for a new town.
- Some of the regional strategies completed by the Department include *Sustainability Criteria for New Land Releases* are applicable here and should be addressed as part of the LES for this proposal (Attachment 2).
- The LES has included recommendations for the drafting of the comprehensive LEP to acknowledge the existing tourist land uses on the site to be recognised and zoned appropriately. The Department provides the following comments:
 - Food and drink premises and tourist and visitor accommodation will be 'permitted with consent' in the SP3 zone.
 - The Department has a model 'settled' clause for flooding where adopted flood mapping is available, which will apply to the whole Shire and has been provided to Council in the Department's letter dated 4 February 2009.
- Include Appendices in the LES which include Government Agency responses.