

APPENDICES 8-15

**MURRAY RIVER COUNCIL
NOVEMBER ORDINARY COUNCIL MEETING**

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A guide to preparing local environmental plans



Planning &
Infrastructure



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It should be noted that the guidelines may be affected by changes to legislation at any time and/or be subject to revision without notice.

It is recommended that independent advice be sought in respect of the operation of the guidelines and the statutory requirements applying to plan making under the *Environmental Planning and Assessment Act 1979*.

A guide for preparing local environmental plans

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1

Introduction

This guideline provides guidance and information on the process for making local environmental plans (LEPs) under Part 3 of the *Environmental Planning & Assessment Act, 1979 (the Act)*.

The process as set out in the Act enables the preparation and assessment of proposed LEPs to be tailored to their complexity and likely impact. Early consideration of assessment requirements through the issuing of a Gateway determination and the incremental preparation of supporting documents ensures effort is invested at appropriate stages of the process and community consultation is informed and meaningful.

Further advice and assistance regarding the preparation of LEPs is available from the regional offices of the Department of Planning and Infrastructure (the department). Any person proposing an amendment to an existing LEP should initially discuss the matter with the relevant council. Councils are able to provide advice on the matters that should be included in a planning proposal and any other specific procedural matters that must be completed by a proponent when preparing a planning proposal to support an amendment to an LEP. If further advice is required, the initial point of contact with the department should be via its regional offices.

This guideline also details the procedures for pre and post-Gateway reviews. A proponent can request a pre-Gateway review when a council fails to make a decision on whether to support the preparation of a planning proposal within 90 days, or when a council resolves not to support a planning proposal. A

proponent must be able to demonstrate that there is strategic merit in the matter proceeding. A review of a Gateway determination can be requested by either a proponent or a council. The request to review the Gateway determination may be based on the conditions imposed by the Gateway, the decision (ie whether or not to proceed) or the requirement to resubmit the planning proposal to the Gateway for further consideration.

To streamline the plan making process, plan making powers have been delegated to councils for routine matters (eg reclassifications, minor map amendments and strategy consistent rezonings) and other matters that the Gateway determines are of local planning significance. Councils will be issued with an Authorisation to finalise and make the plan at the time a Gateway determination is issued. Procedures and general guidance on how to progress a delegated plan are also included in this guide.

This guide should also be read in conjunction with the '*A Guide to preparing planning proposals*'. That guide provides more detailed advice about preparing a planning proposal, which is a pre-cursor to an LEP. It also sets out specific requirements the Director-General has issued in accordance with s 55(3) of the Act concerning the matters that must be addressed when preparing planning proposals.

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What is a local environmental plan?

An LEP is a legal instrument that zones land, imposes standards to control development, or implements a state or local policy outcome. An LEP may also be used to reserve land for open space, as well as protecting trees and vegetation and items and areas of cultural heritage significance. The purpose of an LEP is to achieve the objects of the Act. It is a means to implement strategies, giving legal effect to where and under what circumstances places should be developed or particular environmental controls imposed. An LEP generally comprises a written document and accompanying maps.

An LEP applies to a particular area, generally the whole or part of a local government area (LGA). An LEP applying to the whole of an LGA is referred to as the **principal LEP**. The process for making a principal LEP and for amending a principal LEP is the same. That is, in order to amend a principal LEP it is necessary to make another LEP. For convenience, an LEP being made to amend a principal LEP is referred to as an **amending LEP**.

Most LEPs remain in force until they are amended or repealed by an amending LEP. This is important to provide certainty in the planning system. Where appropriate it is possible to specify that an LEP will have effect only for a specified period or in specified circumstances. The occasions when this is appropriate, however, will be limited. [EP&A Act s. 26(3A)]

All principal LEPs must be made in a standard form prescribed in the Standard Instrument (Local Environmental Plans) Order 2006. LEP maps must also conform to the '*Standard technical requirements for LEP maps*'. The Standard Instrument and standard technical requirements for LEP maps provide consistency in the appearance of LEPs and assist users interpreting planning controls across different LGAs. Complying with the standard technical requirements will also assist in the creation of an e-mapping platform and will enable all LEP maps to be made available online after the plan is made.

3

Who can initiate and make an LEP?

Only the Minister for Planning and Infrastructure (or delegate) can make an LEP following a process set out in the Act and described in section 5 of this guideline [EP&A Act s. 53].

In some limited circumstances, however, the process can be dispensed with. These circumstances relate only to amending LEPs and are described later in section 5.5.9 of these guidelines [EP&A Act s. 73A].

An LEP can be initiated by either the council for the local government area to which the LEP is to apply or by an authority appointed by the Minister [EP&A Act ss. 54-55].

Whether it is a council that has initiated an LEP or an authority appointed by the Minister, the body responsible for carrying out the process is known as the relevant planning authority (RPA). For council initiated LEPs the RPA will generally be the council. Where the Minister has initiated the process, the Minister will appoint the Director-General or some other person or body prescribed by the regulations, including a Joint Regional Planning Panel (regional panel), to be the RPA.

Circumstances when Minister can initiate an LEP

The Minister may direct that the Director-General (or any other person or body prescribed by the regulations) is the relevant planning authority for a proposed instrument in the following cases [Act s. 54(2)]:

- the proposed instrument relates to a matter that, in the opinion of the Minister, is of state or regional environmental planning significance
- the proposed instrument makes provision that, in the opinion of the Minister, is consequential on:
 - » the approval of the concept plan for a project under Part 3A
 - » the making of another environmental planning or other instrument
 - » changes made to a standard instrument under section 33A
- the Planning Assessment Commission or a regional panel has recommended to the Minister that the proposed instrument should be submitted for a determination under section 56 (Gateway determination) or that the proposed instrument should be made
- the council for the local government area concerned has, in the opinion of the Minister, failed to comply with its obligations with respect to the making of the proposed instrument or has not carried out those obligations in a satisfactory manner
- the proposed instrument is to apply to an area that is not within a local government area.

Further information and guidance regarding the matters the Minister will consider when deciding how to deal with a request to initiate an LEP, and how to make such requests, is described in LEP Practice Note PN 09-004 available on the department's website at www.planning.nsw.gov.au.

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What is the process for preparing an LEP?

The plan making process normally involves the following key components:

- the preparation of a planning proposal
- the issuing of a Gateway determination
- community and other consultation on the planning proposal (as required)
- finalising the planning proposal
- drafting of the LEP (legal instrument)
- making the plan
- notifying the LEP on the NSW Government Legislation website.

Two administrative review mechanisms exist within the plan making process – ‘pre-Gateway’ review and ‘post-Gateway’ review. These review mechanisms allow councils and proponents to seek a review of decisions in relation to proposed amendments to LEPs.

To increase the involvement of councils in the plan-making process and streamline the processing and making of draft LEPs, certain plan making powers are delegated to councils.

A flowchart detailing the LEP plan making process is provided at **Attachment 1**.

4.1 Delegation of plan making functions to local councils

Local plan making functions are now largely carried out by councils. Types of proposed instruments that are routinely delegated to councils to make include:

- mapping corrections
- LEPs which will result in a relaxation of a development standard on a site

to promote development including potential increases to FSR and height of building controls and, reduced minimum lot sizes

- Section 73A matters e.g. amending references to documents/agencies, minor errors and anomalies
- reclassification proposals where the Governor’s approval is not required in relation to the removal of covenants, trusts etc relating to the land
- heritage LEPs related to specific items (whether adding or removing an item from a Heritage Schedule) supported by an Office of Environment and Heritage endorsed local strategy or where the Office of Environment and Heritage provides preliminary support to the proposal
- spot rezonings consistent with a Regional Strategy or a local strategy endorsed by the Director-General
- spot rezonings that will result in an upzoning of land in existing areas zoned for residential, business, and industrial purposes, and
- any other matter that the Gateway determines is a matter of local planning significance.

Other types of LEPs not identified above may routinely be delegated to councils if the Gateway agrees that the matter is of local significance.

Delegation of proposed instruments that have been subject to a pre-Gateway review will be considered on a case by case basis.

Proposed instruments which would ‘down zone’ a parcel of land (ie reduce a site’s development potential) or which propose to introduce more restrictive development standards or controls will also be considered on a case-by-case basis.

A planning proposal which relates to a ‘suspension of covenants clause’ under section 28 of the Act or that discharges interests in public land under section 30 of the *Local Government Act 1993* will not be delegated to councils. These types of plans require the Minister to personally make a recommendation directly to the Governor who must approve the provisions before the plan can be made.

The following plan making functions of the Act will be delegated to councils:

- the decision whether to make or decide not to make a plan under section 59(2)
- deferring a matter from a plan under section 59(3)
- the ability to identify which matters must be considered and which stages of the plan making process must be carried out again prior to resubmission (section 59(4)) if the council determines not to proceed with a proposal or if a matter is deferred from the LEP.

Plan making delegation operates in respect of a draft LEP on receipt by council of a Written Authorisation to Exercise Delegation (the Authorisation). The Authorisation is issued to councils as part of the Gateway determination. When submitting a planning proposal, councils are required to identify whether they will be seeking an Authorisation to make the plan for each planning proposal.

Section 23 of the Act allows the Minister and the Director-General to delegate functions to a council and/or an officer or employee of a council. A council is to formally accept the delegation before the department will issue an Authorisation in respect of any individual draft LEP.

If a council chooses to accept the delegation, it may sub-delegate the function to an officer within council (usually the General Manager or planning director) who will exercise the delegation. If a council chooses to sub-delegate the function, the council should advise the department at the same time it accepts the delegation. When submitting a planning proposal to the gateway a council should advise the department whether the council or an officer will be exercising the delegated function.

Section 381 of the *Local Government Act 1993* requires that such functions cannot be delegated to:

- a. the general manager, except with the approval of the council
- b. an employee of the council, except with the approval of the council and the general manager

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The stages in the plan making process

5.1 Pre-Gateway reviews

The pre-Gateway review mechanism allows proponents to request an independent body review decisions in relation to proposed amendments to LEPs.

Pre-Gateway reviews:

- may be requested by a proponent before a planning proposal has been submitted to the department for the issuing of a Gateway determination, and
- are informed by advice from regional panels or the Planning Assessment Commission (PAC)

Attachment 2 sets out the steps in the pre-Gateway review process undertaken by regional panels and the PAC. Those steps are explained further below.

Proponents will not be able to rely on a submission made during the exhibition of a council's comprehensive LEP to form the basis of a request under the pre-Gateway review mechanism. A proponent must lodge a request to prepare a planning proposal with a council before a review request can be made. For more information, see the department's publication *A guide to preparing planning proposals*.

Step 1 – Proponent seeks review

If a proponent (eg. developer, landowner) has requested that a council prepare a planning proposal for a proposed instrument¹, it may ask for a pre-Gateway review if:

¹ A **proposed instrument** may be a rezoning proposal to change a land use zone, or a proposal to change the development standards, land use table, local provisions or additional permitted uses (ie. Schedule 1) in LEPs.

- a. the council has notified the proponent that the request to prepare a planning proposal is not supported; or
- b. the council has failed to indicate its support 90 days after the proponent submitted a request, accompanied by the required information²

Councils currently process requests to prepare planning proposals in a number of different ways. In general terms, the 90 day assessment period may commence in a number of ways including:

- when council formally acknowledges the proponent has lodged sufficient information to support their request; or
- when council accepts a fee for the assessment of the initial request to prepare a planning proposal; or
- when council accepts a fee (staged or lump sum) to progress the planning proposal; or
- when a request has been lodged in accordance with an existing council policy.

The Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) requires councils to notify a proponent when the council decides not to prepare a planning proposal. The proponent of the proposed instrument then has 40 days³ from notification to request a review of the council's decision.

² The '**A guide to preparing planning proposals**' sets out what information a proponent may provide when requesting that council prepare a planning proposal. Information requirements will depend on the complexity of the planning proposal. Section 55 of the Act sets out what information a planning proposal is to include when submitted for a Gateway determination.

³ Periods will be extended over the Christmas and the New Year period.

A proponent may request a review by writing to the department and providing the following:

- a completed application form
- a copy of the proponent's request for the council to prepare and submit a planning proposal for Gateway determination, along with any additional information (including site plan, zoning map or location plan) provided to council
- all correspondence from the council in relation to the proposed instrument, including (if relevant) a copy of the council's advice detailing why the council did not proceed with preparing a planning proposal
- all correspondence from other Government agencies, if available, about the proposed instrument
- proponent's justification for why a review is warranted
- any supporting information to address the assessment criteria
- disclosure of reportable political donations under section 147 of the Act, if relevant and
- \$5000 initial fee for the department's administration and eligibility assessment.

On receipt of a proponent's request for pre-Gateway review, the department will check whether the request is eligible for review and accompanied by all the required information and fees. The department will contact the proponent to obtain further details if required.

The request should be accompanied by up-to-date supporting information to allow for appropriate consideration of the strategic and site-specific merits. Requests accompanied by out-of-date studies and other information will generally not be

considered eligible for review (depending on the currency, status and necessity of the information).

The department will notify the relevant council of a proponent's request if it is confirmed to be eligible and complete. The council will have 21 days to provide a response in relation to why the original request to council was not progressed.

Please note, for pre-Gateway reviews:

- a proponent who has made a request in writing for council to prepare a planning proposal prior to November 2012 may seek a review if the supporting information accompanying the request is still less than two years old, and
- a review request accompanied by information that is more than two years old will not normally be considered.

Step 2 - Department Assessment

The department will undertake an assessment to determine whether the proposal:

- a. has strategic merit as it:
 - is consistent with a relevant local strategy endorsed by the Director-General or
 - is consistent with the relevant regional strategy or Metropolitan Plan or
 - can otherwise demonstrate strategic merit, giving consideration to the relevant section 117 Directions applying to the site and other strategic considerations (eg proximity to existing urban areas, public transport and infrastructure accessibility, providing jobs closer to home etc)

b. has site-specific merit and is compatible with the surrounding land uses, having regard to the following:

- the natural environment (including known significant environmental values, resources or hazards)
- the existing uses, approved uses and likely future uses of land in the vicinity of the proposal
- the services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.

Proposals that do not reasonably meet the assessment criteria above will generally not proceed to review by the regional panel or the PAC.

The department will prepare a report outlining the following:

- a summary of the proposed instrument
- the outcomes of the assessment
- other considerations relevant to the merits of the proposal (case-by-case matters)
- the advice provided by council
- a recommendation about whether or not the proposed instrument should proceed to Gateway

If the Director-General determines that the proposed instrument does not qualify for review, the department will notify the proponent and council. The decision of the Director-General that a proposed instrument does not qualify for review is final and the assessment fee is not refundable.

For pre-Gateway review requests which progress, the proponent will be contacted

and a further \$15,000 fee for detailed assessment and regional panel or PAC costs will be payable prior to the proposal being forwarded to the regional panel/PAC.

Once the review fee is paid, the proposed instrument will be referred to the regional panel/PAC and the council will be notified that advice is being sought.

Step 3 – Regional panel or PAC review

The regional panel/PAC may meet with the department, council and proponent to clarify any issues before completing its review.

In reviewing the proposed instrument and preparing its advice, the regional panel/PAC will consider the department's recommendation and report and advice provided by council and the proponent.

The regional panel/PAC's advice will be framed around the merits of the proposal and whether the regional panel/PAC would recommend to the Minister that the proposed instrument should be submitted for a determination under section 56 of the Act (Gateway determination).

Step 4 – Ministerial determination

The Minister (or delegate) will make the final decision with respect to the proposed instrument. The final outcome may include:

- the regional panel/PAC considers that the proposed instrument should not proceed to Gateway, or
- the regional panel/PAC has recommended that the proposal has merit and that the proposed instrument be submitted for Gateway determination. The council may be requested to submit a planning proposal to the Gateway within 40 days, or

- the Minister may consult with the General Manager of the relevant council to discuss the possibility of changing the RPA to the Director-General of the department (or other body), or
- the Minister may retain his discretion to, or not to, proceed with the matter, notwithstanding the advice of the regional panel/PAC.

The department will contact the proponent and the council in respect of the outcome of the review.

In instances where the Director-General is appointed the RPA, the department will process the planning proposal and the proponent will need to pay a fee (\$25,000, plus additional charges to recover the department's costs on a proposal-specific basis).

The department will monitor progress of the pre-Gateway review requests and ensure that documents (review requests, department and regional panel/PAC reports, Minister/Director-General decisions) are published on the web within five days of the completion of each step.

5.2 The planning proposal

A planning proposal is to be prepared for consideration by the RPA and the department regardless of whether the matter has been subject to a pre-Gateway review. A planning proposal is a document that explains the intended effect of the proposed LEP and provides the justification for making it [EP&A Act s. 55(1)]. *A guide to preparing planning proposals* provides detailed advice on the preparation of a planning proposal.

When preparing and considering a planning proposal councils should consider whether they will be seeking

an Authorisation to make the plan under delegation.

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

Part 1 – A statement of the objectives and intended outcomes of the proposed instrument

Part 2 – An explanation of the provisions that are to be included in the proposed instrument

Part 3 – The justification for those objectives, outcomes and the process for their implementation

Part 4 – Maps, where relevant, to identify the intent of the planning proposal and the area to which it applies

Part 5 – Details of the community consultation that is to be undertaken on the planning proposal.

Section 55(3) of the Act allows the Director-General to issue requirements with respect to the preparation of a planning proposal. The Director-General's requirements include:

- specific matters that must be addressed in the justification (Part 3) of the planning proposal
- a project timeline to detail the anticipated timeframe for the plan making process for each planning proposal.

The project timeline forms **Part 6** of a planning proposal.

Parts 1 and 2 – Objectives and intended outcomes and explanation of provisions

It is important that the first two parts of the planning proposal, the 'objectives and outcomes', and the 'explanation of

provisions' are expressed clearly. They will ultimately provide the basis for the drafting of the legal instrument (the LEP) and must accurately convey the intended effect of the planning proposal for the purpose of community consultation.

Part 3 – Justification

For the purpose of preparing the justification (the third part of the planning proposal), the Director-General has issued requirements about the specific matters that must be addressed in planning proposals (other than those which solely intend to classify or reclassify public land – see section 5.5.4).

When preparing the justification:

- it is important that the level of justification for each planning proposal is proportionate to the impact the planning proposal will have. This is particularly the case for planning proposals that may be inconsistent with the local and/or regional strategic planning framework
- a response to each of the Director-General's criteria will not always be necessary depending on the nature and the scale of the planning proposal. If a matter is not considered relevant, the reasons why should be briefly explained
- it is appropriate in the early stages of preparing a planning proposal to identify issues that will require more detailed investigation if the planning proposal is to proceed. These more detailed investigations, studies, or material will be prepared by the proponent or the RPA following the initial Gateway determination. The Gateway determination will confirm the expected level of information required to form part of the exhibition material.

Part 4 – Mapping

If the proposed LEP is to include maps (such as maps for proposed land use zones, heritage areas, flood prone land and the like), they must also be included with the planning proposal. For planning proposals that amend a Standard Instrument LEP, all mapping should be prepared in accordance with the presentation requirements of '*Standard technical requirements for preparing LEP maps*'. The maps need to contain sufficient information to explain the substantive effect of the proposed LEP. This means that the maps must clearly and accurately identify the land affected by the planning proposal and the relationship of that land to neighbouring properties [EP&A Act s. 55(2)(d)]. Where appropriate, planning proposals should also include aerial photographs, figures, and graphic information to identify the subject site and explain the intended outcome of the planning proposal.

Part 5 – Community consultation

A planning proposal must also outline the proposed community consultation that will be undertaken in relation to the proposal. Consultation includes public exhibition (typically 14 or 28 days) as well as details relating to any agencies that will be consulted. In the case of a large or complex planning proposal it may also be appropriate to include details of a community consultation strategy in the planning proposal. If any pre-lodgement consultation has been undertaken with agencies, an overview of the outcomes of this consultation including any agreements that may have been reached (e.g. scope of a technical study, agreement that an offset agreement is needed) should also be provided.

Part 6 – Project timeline

The Director-General has determined that a planning proposal must include a project timeline. The timeline is to clearly articulate the principal steps associated with finalising the plan together with anticipated start and completion dates. The timeline will be used by the department and others to manage workloads associated with finalising the plan, especially where the plan is to be delegated to council to complete. The project timeline must clearly identify:

- anticipated commencement date (date of Gateway determination)
- anticipated timeframe for the completion of required studies
- timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)
- commencement and completion dates for public exhibition period
- dates for public hearing (if required)
- timeframe for consideration of submissions
- timeframe for the consideration of a proposal post exhibition
- anticipated date RPA will make the plan (if delegated), and
- anticipated date RPA will forward to the department for notification (if delegated).

A primary goal of the plan making process is to facilitate the technical process to produce LEPs once the strategic decision of the issue of a Gateway determination has been taken. To meet this goal the Minister may consider taking action to finalise the LEP if the timeframes approved for the completion of the planning proposal are significantly or unreasonably delayed.

The planning proposal can be prepared by the RPA, or by a proponent for the proposed LEP. In either case, the RPA is responsible for the planning proposal and must be satisfied that it addresses the requirements of the Act and that enough information is provided to support the proposed amendment prior to forwarding it to the Minister to issue a Gateway determination.

5.3 The Gateway determination

A Gateway determination is issued by the Minister (or delegate). It specifies whether a planning proposal is to proceed and, if so, in what circumstances [EP&A Act s.56]. The Gateway determination will also include an Authorisation for the delegation of plan making functions to council where it has been requested or where the matters are determined to be of local planning significance by the Gateway.

The purpose of the Gateway determination is to ensure there is sufficient justification early in the process to proceed with a planning proposal. The Gateway determination is a checkpoint for planning proposals before resources are committed to carrying out investigative research, preparatory work and consultation with agencies and the community. It enables planning proposals that lack strategic planning merit to be stopped early in the process before time and resources are committed.

Once a planning proposal is forwarded to the Minister (or delegate) by the RPA for a Gateway determination, it is entered into the department's online register of planning proposals where the progress of the proposed LEP is monitored, based on the submitted project timeline. It is then assessed initially by the department's

regional team. Both the planning proposal and the recommendation of the department are forwarded to the LEP Review Panel. The LEP Review Panel considers the planning proposal and the recommendation of the department's regional office before providing its own recommendation to the Minister (or delegate).

The Minister (or delegate) will consider the recommendation of the LEP Review Panel and decide whether to give a Gateway determination to allow the proposal to proceed. The Gateway determination will indicate the following [EP&A Act s.56(2)]:

- whether the planning proposal should proceed (with or without variation)
- whether any studies are required and if necessary the scope of these additional studies
- whether the planning proposal should be resubmitted for any reason (including for further studies or other information, or for the revision of the planning proposal)
- the community consultation required before consideration is given to the making of the proposed instrument (the community consultation requirements)
- any consultation required with state or Commonwealth authorities
- whether a public hearing is to be held into the matter by the PAC or other specified person or body
- the times within which the various stages of the process for making of the proposed LEP are to be completed, and
- whether the function of making the LEP is to be exercised by the Minister or delegated to the RPA.

5.4 Review of Gateway determination

A council or proponent may request the Minister (or delegate) alter a Gateway determination in certain circumstances.

Attachment 3 sets out the steps in the Gateway review process.

[**Note:** Separate to the formal Gateway review process outlined below, a council may at any time request that the Gateway determination be reconsidered and re-issued. Councils should contact the department's regional team to discuss any concerns about the Gateway determination before deciding to request a formal review. For some routine matters, a Gateway determination may be altered without the need for a formal review.]

Step 1 – Proponent or council seeks review

A council or proponent may request the Minister (or delegate) alter a Gateway determination when a Gateway determination is made that:

- a. the planning proposal should not proceed
- b. the planning proposal should be resubmitted to the Gateway, or
- c. imposes requirements (other than consultation requirements) or makes variations to the proposal that the proponent or council thinks should be reconsidered.

These post-Gateway reviews apply only if the original Gateway determination was made by a delegate of the Minister.

If the Gateway determination is either to not proceed or to resubmit the planning proposal, the council or proponent has 40 days from being notified by the department to request a review.

If the Gateway determination is to proceed with the planning proposal but imposes conditions that the council or proponent considers inappropriate, the council or proponent has 14 days from being notified by the department to indicate their intent to request a review. The council or proponent then has 40 days to formally apply for a Gateway review. The initial 14 day period is intended to prevent any unnecessary delay in proceeding to community consultation on the planning proposal.

The department will notify the council and the proponent (if relevant) of the original Gateway determination and the periods in which they can request a review of the determination.

The council or proponent requesting a Gateway review must provide the department with the following within the 40 days:

- a completed application form
- a copy of the planning proposal and supporting information as submitted to the Gateway
- justification for why an alteration of the Gateway determination is warranted, including, where relevant, responses to issues raised by the original Gateway decision maker, and
- if relevant, disclosure of reportable political donations under section 147 of the Act

Step 2 - Department prepares preliminary report

The department will check whether the request is eligible for review and is accompanied by all the required information. The department will contact the council or proponent to obtain further details if required. If the Gateway review is proponent-initiated, the department will notify the relevant council of the proponent's request and the council will have 21 days to provide a response.

The department will prepare a report outlining the planning proposal, the reason(s) why the review request has been made, the reasons why the original Gateway determination was made, and the views of the council (if the review was proponent-initiated).

Step 3 - Regional panel/PAC advice

The department's report and accompanying information will be forwarded to the regional panel/PAC for its advice.

The regional panel/PAC will review the planning proposal, giving consideration to the council or proponent's submission and the reasons given for the original determination in the department's report.

The regional panel/PAC will then provide advice on whether or not the original Gateway determination should be altered and whether the planning proposal should proceed to public consultation.

Step 4 - Ministerial determination

The Minister (or delegate) will make the final decision with respect to the proposal giving consideration to:

- Gateway delegate's reasons for its original Gateway determination
- submissions from the council or proponent including why the Gateway determination should be altered
- views of the council (when the review has been initiated by the proponent)
- the PAC's advice in relation to the planning proposal, and
- other matters not considered by the original decision maker including strategic planning considerations (eg emerging state or regional policies relevant to the planning proposal).

The Minister (or delegate) may alter the Gateway determination and decide the planning proposal should proceed (in accordance with any revised conditions) at which point the council and proponent (if relevant) will be notified by the department of the altered determination and post-Gateway consultation on the planning proposal can commence.

Alternatively, if the Minister (or delegate) considers that the planning proposal should not proceed past the Gateway, the council and proponent (if relevant) will be notified by the department.

Following a Gateway review where the Minister or Director-General alters the determination, the standard process post-Gateway determination commences, including community consultation on the planning proposal.

The department will monitor progress of the Gateway review requests and ensure that documents (review requests, department and PAC reports, Minister/ Director-General decisions) are published on the web within five days of the completion of each step.

5.5 Finalising the planning proposal

The statutory process for making a plan following the issuing of a Gateway determination is the same regardless of whether the matter is delegated to council to finalise or whether the plan will be made by the Minister. The principal difference between the two processes is who has responsibility for undertaking the various statutory steps in the plan making process.

Table 5.1 provides an overview of the steps involved with the plan making process for delegated and non delegated matters. If, at Gateway, the plan making power of the Act is delegated to the RPA, then the RPA takes responsibility for all remaining steps in the plan making process. This includes both:

- requesting that the legal instrument (the LEP) is drafted by PCO, and
- the actual making of the LEP once an Opinion has been issued by Parliamentary Counsel's Office (PCO) that the plan can be legally made.

Further advice about key aspects of the plan making process is provided in the sections below.

When a planning proposal is delegated to an RPA to finalise and make, the department's primary function will be administrative in nature. The department will continue to provide support and advice to an RPA throughout the course of the process if requested to do so.

Table 5.1 – Comparative plan making process

Pre-Gateway and planning proposals	
Non Delegated Matters	<ul style="list-style-type: none"> • A planning proposal can be initiated by council or proponent. • A planning proposal to be prepared in accordance with the department's <i>A guide to preparing planning proposals</i>.
Delegated Matters	<ul style="list-style-type: none"> • A planning proposal can be initiated by council or proponent. • A planning proposal to be prepared in accordance with the department's <i>A guide to preparing planning proposals</i>. • Council to identify whether it is going to request an Authorisation to exercise delegation and provide responses to relevant matters in 'Evaluation criteria for the issuing of Authorisation' (see Attachment 4). • Council to identify whether the plan will be made by council or by sub-delegation to relevant officer (usually General Manager or planning director).
Assessment of planning proposal	
Non Delegated Matters	<ul style="list-style-type: none"> • Department's regional planning team undertakes assessment of planning proposal and prepares assessment report recommending Gateway determination conditions.
Delegated Matters	<ul style="list-style-type: none"> • Department's regional planning team undertakes assessment of planning proposal and prepares assessment report recommending Gateway determination conditions. • Assessment report includes review of responses provided by council in 'Evaluation criteria for the issuing of Authorisation' and a recommendation as to whether council's request for an Authorisation should be supported.

LEP Review Panel	
Non Delegated Matters	<ul style="list-style-type: none"> • Planning proposal considered by department's independent LEP Review Panel. • Recommendation made to Gateway including conditions for the finalisation of the planning proposal.
Delegated Matters	<ul style="list-style-type: none"> • Planning proposal considered by department's independent LEP Review Panel. • Recommendation made to Gateway including conditions for the finalisation of the planning proposal.
Gateway Determination	
Non Delegated Matters	<ul style="list-style-type: none"> • Gateway considers planning proposal, recommendations from regional planning team assessment report, and LEP Review Panel regarding conditions for the finalisation of the planning proposal. • Gateway determination notice issued with conditions related to: <ul style="list-style-type: none"> » requirements for community and agency consultation » whether additional supporting information is to be provided » the timeframe for the completion of the draft LEP » any other relevant matters. • Once Gateway determination has been given the planning proposal is returned to council.
Delegated Matters	<ul style="list-style-type: none"> • Gateway considers planning proposal, recommendations from regional planning team assessment report, and LEP Review Panel regarding conditions for the finalisation of the planning proposal. • Gateway determination notice issued with conditions related to: <ul style="list-style-type: none"> » requirements for community and agency consultation » whether additional supporting information is to be provided » the timeframe for the completion of the draft LEP, and » any other relevant matters. • If Gateway agrees with request from council to delegate plan making functions an Authorisation to exercise delegation is issued concurrently with the Gateway determination notice. • Once Gateway determination has been given the planning proposal is returned to council. • Delegation means the department will generally no longer be involved in the plan making process unless: <ul style="list-style-type: none"> » the council fails to meet its obligations in progressing the proposal in accordance with the conditions of the Gateway » the council decides not to process the draft LEP and requests that the Minister determine the matter no longer proceed.

Consultation

Non Delegated Matters

- Council is to undertake consultation in accordance with the conditions of the Gateway determination including:
 - » consultation required under section 34A of the EP&A Act where the RPA is of the opinion that critical habitat or threatened species populations, ecological communities or their habitats will or may be adversely affected by the planning proposal
 - » consultation required in accordance with Ministerial Direction under section 117 of the Act
 - » consultation that is required because in the opinion of the Minister (or delegate), a state or Commonwealth authority will or may be adversely affected by the proposed LEP.
- Public exhibition in accordance with the minimum timeframe established in the Gateway determination.

Delegated Matters

- Council is to undertake consultation in accordance with the conditions of the Gateway determination including:
 - » consultation required under section 34A of the EP&A Act where the RPA is of the opinion that critical habitat or threatened species populations, ecological communities or their habitats will or may be adversely affected by the planning proposal
 - » consultation required in accordance with a Ministerial Direction under section 117 of the Act
 - » consultation that is required because in the opinion of the Minister (or delegate), a state or Commonwealth authority will or may be adversely affected by the proposed LEP.
- Public exhibition in accordance with the minimum timeframe established in the Gateway determination.

Post exhibition review

Non Delegated Matters	<ul style="list-style-type: none"> • Council is to review the planning proposal following exhibition. • Council may, at any time, vary its proposal under section 58(1) of the Act as a consequence of its consideration of any submission or report during consultation, or for any other reason. • If a planning proposal is revised council is to forward a copy of the revised proposal to the department under section 58(2) of the Act. • The Minister will consider the revised proposal and determine whether further consultation is required and whether a revised Gateway determination should be issued.
Delegated Matters	<ul style="list-style-type: none"> • Council is to review the planning proposal following exhibition. • Council may, at any time, vary its proposal under section 58(1) of the Act as a consequence of its consideration of any submission or report during consultation, or for any other reason. • If a planning proposal is revised council is to forward a copy of the revised proposal to the department under section 58(2) of the Act. • Changes to the planning proposal after exhibition may be so substantial that the planning proposal may no longer be authorised by the Gateway determination. In these circumstances a new Gateway determination will be required before the LEP is made. • Consequently councils are encouraged to contact the relevant regional office of the department where there have been major changes to a planning proposal after exhibition whether as a result of community or agency comments. Councils should seek advice in this instance before finalising the LEP under delegation.

Legal Drafting of the LEP

Non Delegated Matters	<ul style="list-style-type: none"> • Council forwards a copy of the planning proposal and relevant supporting information to the department requesting that a draft LEP is prepared. • The Director-General makes arrangements for the drafting of the instrument PCO under section 59(1) of the Act. • Once a draft of the instrument has been prepared the Director-General consults with the RPA on the content of the LEP. • Content of the LEP finalised and an Opinion issued by PCO that the plan can be made.
Delegated Matters	<ul style="list-style-type: none"> • Council requests that a draft instrument be prepared under section 59(1) of the Act by emailing PCO directly at parliamentary.counsel@pco.nsw.gov.au. • Council will upload the maps and GIS data directly to the department's FTP site (ftp://lepup:lep_upload@203.3.194.247/). • Council will then provide a link only to this site in their email to PCO and copied to the department. • No maps or mapping/GIS data is to be sent directly to PCO. • A copy of the request to draft the instrument is sent to the department concurrently with the request to PCO for administrative purposes only. • The department will undertake a technical review only of any maps required to implement the LEP to ensure they comply with the LEP mapping technical guidelines and liaise with PCO to finalise maps. • Council and PCO liaise directly about the content of the draft LEP. • Content of the LEP finalised and an Opinion issued by PCO that the plan can be made.

Making of the draft LEP

Non Delegated Matters

- Council resolves to adopt the draft LEP and forwards a request to the department to request that the Minister make the plan together with all relevant supporting information.
- The Minister may, under sections 59(2) and (3) of the Act:
 - » Make the plan with or without variation
 - » Decide to not make the plan
 - » Decide to defer a matter from the plan.
- If the Minister decides not to make a plan or defers a matter under section 59(4) of the Act he may specify whether or not he is prepared to reconsider the plan or deferred matter and if so, which plan making procedures must be complied with before he will do so.

Delegated Matters

- Council resolves to adopt and make the draft LEP.
- Council may, under sections 59(2) and (3) of the Act:
 - » Decide to **make** the plan with or without any variation. In most instances this will be the expected outcome of the plan making process. If council resolves to make the plan it should forward a copy of all relevant documentation, including a copy of council's assessment report (ie details of community consultation, responses to submissions, maps, a copy of the Opinion from PCO, any other relevant material, and the completed delegation reporting template) to the department together with the plan. The department will then arrange for the plan to be notified on the NSW Government legislation website
 - » Decide to **not make** the plan in accordance with section 59(2)(b) of the Act. If council proposes to not make the plan, assistance from the relevant regional planning team should be sought prior to council's resolution to not make the plan. If council resolves to not make the plan its assessment report is to clearly identify the reasons behind this decision including whether the decision to not proceed was based on submissions received during public exhibition, an agency submission, or some other matter that was raised during the plan making process
 - » **Defer a matter** from the plan in accordance with section 59(3) of the Act. If the draft LEP relates to a number of items or sites, or if it addresses a number of housekeeping amendments for example, and one or more of these matters cannot be resolved satisfactorily, council may decided to defer that matter from the final plan prior to the plan being made. If council chooses to defer a matter, it should liaise with the relevant regional team of the department for assistance especially if the decision is the result of an agency submission. There are technical and legal requirements that are to be met when deferring a matter and the department will assist council to ensure the matter is properly addressed.
- If council decides not to make a plan or defers a matter under section 59(4) of the Act it may specify whether or not it is prepared to reconsider the plan or deferred matter and if so, which plan making procedures must be complied with before it will do so.
- Council must also notify PCO if the plan is not proceeding or if it will not be made.
- A council must not use its delegation under section 59 of the Act where there is an unresolved agency objection to the draft LEP. In this instance, council is to contact the relevant regional office of the department to seek assistance in resolving the matter so that the LEP may proceed under delegation. Where it is not possible to resolve the objection, the delegation may be withdrawn, and the department may proceed with finalising the plan, or the Minister (or delegate) may determine that the planning proposal no longer proceeds.

Notification of the LEP

Non Delegated Matters	<ul style="list-style-type: none"> Once the plan is made the department requests PCO that the plan be notified on the NSW Legislation website. The plan comes into force on the day the LEP is published on the legislation website.
Delegated Matters	<ul style="list-style-type: none"> Council advises the department that the plan has been made. The council requests the department to notify the plan. The following documents must be provided for notification with the request by council: <ul style="list-style-type: none"> » signed front page of the LEP – complete with full name of the LEP and PCO’s file reference; » complete signed map cover sheet (in the case of changes to maps of instruments containing the standard map clause); » the maps that relate to the signed map cover sheet; and » the name/position of the delegate who signed the LEP. It is anticipated that the LEP will generally be notified on a Friday. However, urgent or delayed notification can be arranged. For normal notification on a Friday the request along with all required information should be sent to the department by 5.00pm on the Tuesday of that week. Requests for notification should be sent to planmaking.monitoring@planning.nsw.gov.au. The department requests PCO that the plan be notified on the NSW Legislation website. The plan comes into force on the day the LEP is published on the legislation website.

5.5.1 Director-General's approval before community consultation

If required, the Director-General (or delegate) must approve the form of planning proposals, as revised, to comply with the Gateway determination, before community consultation is undertaken [EP&A Act s. 57(2)].

Wherever possible this approval will be granted at the same time as issuing the Gateway determination. In instances where it is likely the planning proposal will need to be revised as a consequence of the Gateway determination, or subsequent consultation with public authorities, the Director-General's approval may be withheld. If the Director-General's approval is withheld, the RPA must obtain approval

before any community consultation takes place.

A planning proposal should be a **concise** document supported, if necessary, by technical studies and investigations. If there are circumstances in which it is appropriate to summarise the detailed provisions of a planning proposal for the purpose of community consultation, the Act provides that the Director-General (or delegate) can approve such a summary if satisfied that it provides sufficient details for community consultation. The RPA should indicate in section 5 of the planning proposal (details of the community consultation that is to be undertaken) that it intends seeking the Director-General's approval to issue a summary

of the planning proposal for the purpose of community consultation. A copy of the summary must be submitted for the approval of the Director-General prior to commencing community consultation. Even in circumstances where a summary is issued for community consultation, the complete planning proposal and supporting studies should also be available for interested members of the public to inspect [EP&A Act s. 57(2)].

5.5.2 Community consultation

The gateway determination will specify the community consultation that must be undertaken on the planning proposal. The consultation will be tailored to specific proposals.

Planning proposal type	exhibition period
Low impact proposals*	14 days
All other planning proposals (including any proposal to reclassify land)	28 days

* A 'low' impact planning proposal is a planning proposal that, in the opinion of the person making the Gateway determination is:

- consistent with the pattern of surrounding land use zones and/or land uses
- consistent with the strategic planning framework
- presents no issues with regard to infrastructure servicing
- not a principal LEP
- does not reclassify public land.

Public exhibition of the planning proposal is generally undertaken in the following manner:

- notification in a newspaper that circulates in the area affected by the planning proposal
- notification on the website of the RPA

- notification in writing to affected and adjoining landowners, unless the planning authority is of the opinion that the number of landowners makes it impractical to notify them.

The RPA can undertake additional consultation if this is deemed appropriate or necessary. This may include, but is not limited to broad consultation by letter, open days or public forum.

The written notice must:

- give a brief description of the objectives or intended outcomes of the planning proposal
- indicate the land affected by the planning proposal
- state where and when the planning proposal can be inspected
- give the name and address of the RPA for the receipt of submissions
- indicate the last date for submissions
- confirm whether the Minister has chosen to delegate the making of the LEP to the RPA.

During the exhibition period, the following material must be made available for inspection:

- the planning proposal, in the form approved for community consultation by the Gateway determination
- the Gateway determination
- any information or technical information relied upon by the planning proposal.

The community consultation is complete only when the RPA has considered any submissions made concerning the proposed LEP and the report of any public hearing into the proposed LEP [EP&A Act s. 57(8)].

Many RPAs have adopted policies for the exhibition of planning proposals and broader community consultation activities. If an RPA is recommending that consultation in addition to that recommended in this guideline is undertaken, an overview of that additional consultation should be provided in the planning proposal for consideration by the Gateway.

The plan making process does not require community consultation to be undertaken prior to a proponent lodging a request with an RPA to prepare a planning proposal. Depending on the nature of the proposal, an RPA may consider that it is appropriate to seek the general views of the community to assist in further defining the intent of the planning proposal prior to submitting it to Gateway. Alternatively, a proponent may consider it best practice to undertake pre-lodgement consultation if the proposal relates to a significant or large site. If this approach is adopted, it is recommended that consultation relate primarily to the underlying proposed amendment to the LEP and that issues associated with the potential future development of the site be given secondary consideration.

As noted in *A guide to preparing planning proposals*, a planning proposal relates to a change in an LEP control. While a variation to a control may be pursued to secure a particular development outcome for a site, that outcome will itself be subject to a separate assessment via the Development Application process. The principal focus of any pre-lodgement consultation should therefore be to seek the community's views on whether the proposed alternate zone or development standard is an appropriate outcome for that particular site. Matters associated with the design of a potential building, a subdivision layout, or other

detailed matters are more appropriately addressed via the development assessment process and the public exhibition of any subsequent Development Application.

5.5.3 Public hearings

The RPA can decide to conduct a public hearing into any issue associated with a planning proposal [EP&A Act s. 57(6)]. Where the planning proposal is to reclassify community land, the RPA is obligated by the *Local Government Act 1993* to hold a public hearing.

A person making a submission during the public exhibition of a planning proposal can also request that the RPA conducts a public hearing into the issues raised in their submission. If the RPA considers that the issues raised in the submission are of such significance they should be the subject of a hearing, the RPA must arrange a public hearing [EP&A Act s. 57(5)].

Where an RPA decides to conduct a public hearing or is required to conduct a public hearing in the case of LEPs that propose to reclassify public land from 'community' to 'operational' under the *Local Government Act 1993*, it must:

- give notice of the arrangements for the public hearing in a local newspaper, and
- give notice in a letter to each of the persons who requested a public hearing when making a submission, at least 21 days before the date of the hearing.

Notice of the public hearing must not be given before the conclusion of the public exhibition of the planning proposal to ensure each person making a submission and requesting a public hearing is given the requisite 21 days notice.

5.5.4 Classification and reclassification of public land

In the case of proposed LEPs which are being prepared solely to classify or reclassify public land, the Director-General has issued the following requirements as to the specific matters that must be addressed in the justification for the planning proposal [EP&A Act s. 55(3)]:

Director-General's requirements regarding matters that must be addressed in the justification of all planning proposals to reclassify public land

- a. Is the planning proposal the result of a strategic study or report?
- b. Is the planning proposal consistent with the local council's community plan, or other local strategic plan?
- c. If the provisions of the planning proposal include the extinguishment of any interests in the land, an explanation of the reasons why the interests are proposed to be extinguished should be provided.
- d. The concurrence of the landowner, where the land is not owned by the relevant planning authority.

5.5.5 Legal drafting of the LEP

The LEP is the legal instrument which gives effect to the planning proposal. The drafting of the LEP is undertaken by PCO upon receipt of instructions from the department or from an RPA if the plan making process has been delegated to the RPA at Gateway determination stage.

Where the department is still responsible for drafting the LEP instrument it will consult the RPA on the terms of the LEP to ensure it is consistent with the objectives and outcomes and the explanation of provisions set out in parts 1 and 2 of the planning proposal.

For planning proposals that have been delegated, the council will be responsible for providing instructions to PCO to obtain the draft legal instrument. The request to draft the instrument will be provided to the PCO directly in an electronic format. Council must concurrently copy the instructions to the department for monitoring and reporting purposes. A central email address has been provided at the PCO for councils to forward their drafting instructions and requests to. That email address is: parliamentary.counsel@pco.nsw.gov.au

Further information and details about the legal drafting process for delegated LEPs is provided at the website of the PCO (<http://www.pco.nsw.gov.au>)

Council must concurrently copy the instructions to the department for monitoring and reporting purposes. This information is to be forwarded to the following email address: planmaking.monitoring@planning.nsw.gov.au

Council is to include the following details with the instructions to PCO:

- the planning proposal
- a copy of the Gateway determination and any subsequent determinations given with respect to the planning proposal
- draft maps (where relevant) consistent with the Standard Instrument Technical Mapping requirements should be provided to the department via a link to an FTP portal, at the same time as instructions are provided to PCO. The department will forward maps to PCO
- a copy of the GIS data relevant to any map amendment associated with the planning proposal*

* Note: All GIS and mapping data to be supplied in a single .ZIP or .RAR file for ease of data transfer. Any questions related to mapping and GIS data should be directed to the departments POC GIS team at pocgis@planning.nsw.gov.au

- details of exhibition (if applicable) and a report detailing how issues raised in any submissions made during exhibition have been addressed by council
- variations to the planning proposal after the Gateway determination was given and justification for these amendments
- details relating to the planning proposal's consistency with relevant Section 117 Directions, including where the Director-General has agreed that any inconsistencies are justified, or minor in nature
- any other relevant background or explanatory information that may assist the PCO with its drafting of the instrument eg council policy forming the basis of the amendment, council report(s) detailing the background and rationale for the draft LEP, any correspondence between the council and the department which provides background to the approach adopted in the draft LEP, and
- completed template detailing dates for key steps of the process.

Communications between PCO and the council may be subject to legal professional privilege and must be maintained in the strictest confidence. This privilege also extends to drafts of the instrument and drafting notes provided by PCO to the council. Councils should contact the department and PCO before publishing these preliminary drafts on their websites or otherwise making them available to third parties, in order to avoid this privilege being waived. Legal professional privilege is also relevant in considering whether to disclose government information under the *Government Information (Public Access) Act 2009*.

PCO will produce a draft instrument (the LEP) and following any discussions with the RPA about the content of the instrument PCO will issue an Opinion that the draft instrument can be legally made. An LEP cannot be signed unless such an opinion has been issued.

5.5.6 Varying a proposal

An early dialogue between the department and the RPA regarding the assessment requirements for a planning proposal is an important feature of the process of preparing a LEP. It is important, therefore, that planning proposals can be built upon, or evolve, as a consequence of more detailed studies and investigations in the period following the initial Gateway determination and leading up to community consultation.

The EP&A Act provides that if an RPA varies its proposal following the initial Gateway determination, it must inform the Minister, who may issue a revised Gateway determination, depending on the nature of the variations.

An RPA is taken to have varied its proposals when it changes the statement of the objectives or intended outcomes of the proposed LEP required by s. 55(2)(a) of the Act (part 1 of the planning proposal), or the explanation of the provisions that are to be included in the proposed LEP required by s. 55(2)(b) (part 2 of the planning proposal).

Changes to the justification for those objectives, outcomes and provisions and the process for their implementation required by s. 55(2)(c) of the EP&A Act are not regarded as variations to the proposals and therefore do not require the revised planning proposal to be forwarded to the Minister for Planning and Infrastructure.

It should be noted that resubmission of the planning proposal following the completion of studies may be included as a requirement in the Gateway determination.

5.5.7 Benchmark timeframes for preparing LEPs

LEPs take different forms and degrees of complexity. It is important, that the state planning system responds to changing circumstances and emerging opportunities and that planning proposals are given proper consideration within a reasonable timeframe.

Benchmark timeframes have been set for the following types of LEPs where they are consistent with the state's strategic planning framework:

- administrative changes and errors
3 months
- minor spot rezoning **6 months**
- major land release and urban renewal
12-18 months
- principal LEPs **24 months**.

Delegating plan making to local councils is intended to fast track the delivery of LEPs.

The progress of LEPs from the initial submission of a planning proposal through to the finalisation of an LEP can also be monitored on the department's LEP Tracking System which can be accessed via the department's website. The Tracking System provides details of all planning proposals that have been lodged with the department. The Tracking System (www.planning.nsw.gov.au/local-planning) can be searched by local government area and provides a status update for each LEP.

5.5.8 Tracking and reporting on the plan making process

The process for tracking the status of a planning proposal and draft LEP through the plan making stages continues to be the department's LEP Tracking System. The community will continue to be able to log onto the tracking system to check the status of a plan.

To ensure that information on the status of delegated LEPs is current, councils are required to advise the relevant regional office in writing when each stage of the plan making process (ie dates for exhibition, date reported to council etc) is completed. This will enable the department to update the data in the tracking system which will then be available for the public to review via the publicly available site.

Councils will be provided with a template at the same time as the Authorisation is issued. The template (see **Attachment 5**) lists the key dates that council will be required to report on in relation to each LEP. Councils must provide a copy of the completed template with its request that the plan be notified.

No additional reporting on the progress of LEPs will be required from councils.

If any issues related to the plan making process are identified at any stage and council is uncertain how to proceed, council should consult with the relevant regional team of the department.

The department will continue to monitor the progress of LEPs against the timeframes identified in the original Gateway determination notice. Council is still accountable to the timeframe requirements identified in the Gateway determination. Where council cannot demonstrate a commitment to completing the LEP within a satisfactory timeframe, consideration will be given to discontinuing the planning proposal in accordance with section 56(7) of the Act or appointing an alternative RPA under section 54(2) of the Act.

5.5.9 Circumstances in which it is not necessary to follow this process

In the following circumstances, the Minister (or delegate) may dispense with all or part of the plan-making process described within this section, including community consultation, in the making of an amending LEP but not the processes set out in section 5.5.5 of this guide:

- if the purpose of the proposed LEP is to implement the Standard Instrument (Local Environmental Plans) Order 2006 and the Minister is of the opinion that the proposed LEP does not make any substantial changes to the general effect of the existing instrument or instruments [EP&A Act s. 33A(8A)]
- if the purpose of the proposed LEP is to correct an obvious error in the principal LEP, or address other matters that are of a minor nature [EP&A Act s.73A(1)(a) and (b)], or
- if in the opinion of the Minister, the matters dealt with by the amending LEP will not have any significant adverse impact on the environment or adjoining land [EP&A Act s. 73A(1)(c)].

An RPA wishing to seek the Minister's dispensation of all or part of the process must, in the first instance, write to the Director-General setting out the reasons why in the context of the criteria described above (sections 33A(8A) or 73A as applicable). The Minister (or delegate) will advise which, if any, parts of the process can be dispensed with when the initial Gateway determination is issued.

5.5.10 Additional assistance

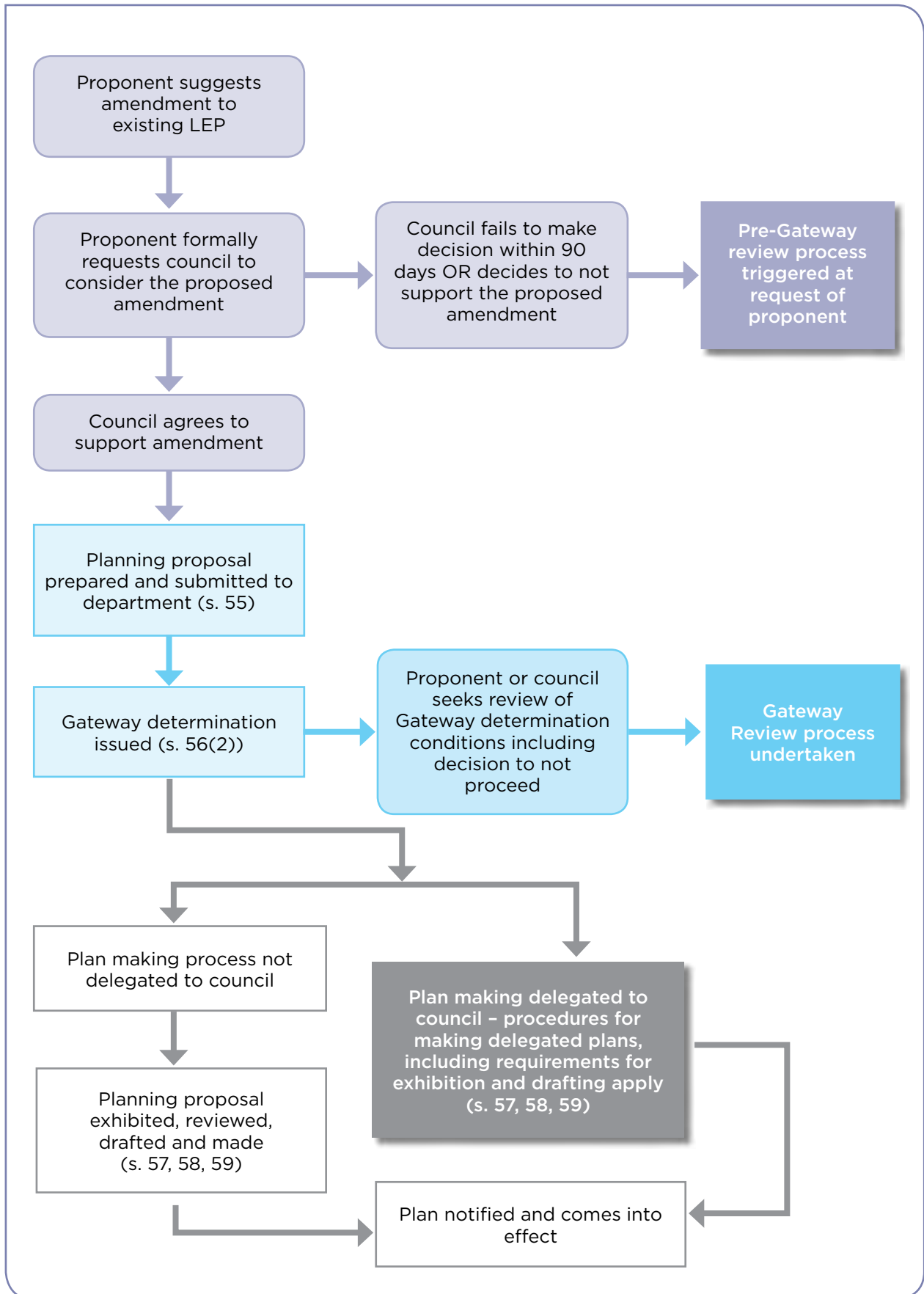
The department will continue to provide assistance to any council that requests it at any stage of the plan making process. This assistance may include:

- preparation of and assistance with supporting LEP maps
- liaison with agencies where an objection or issue is raised during exhibition or as a result of consultation required under the Gateway determination
- advice on appropriate matters for inclusion in draft LEP provisions, and
- discussions with PCO on drafting matters.

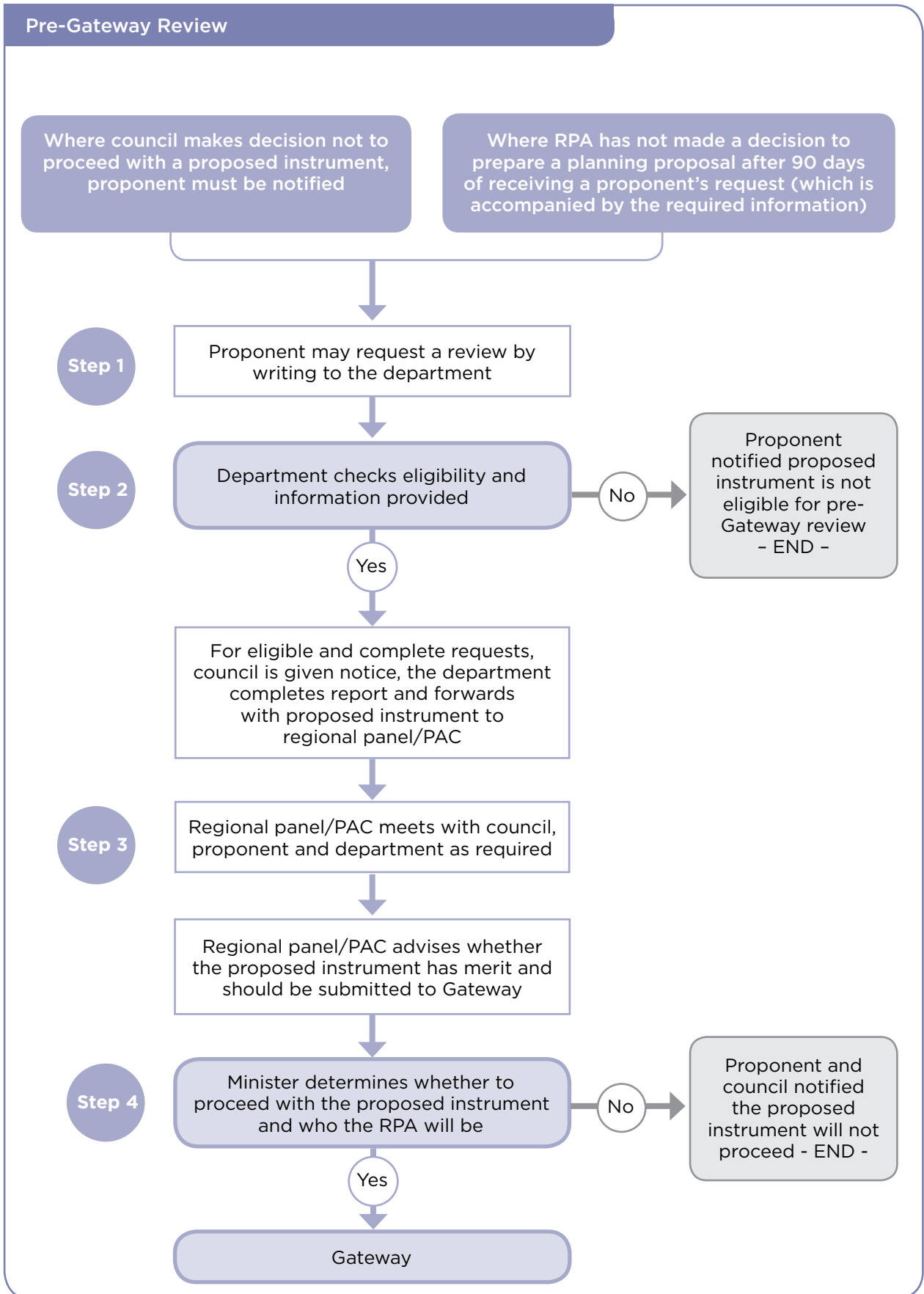
Councils should initially contact the relevant regional office for this assistance.



Attachment 1 - LEP plan making process

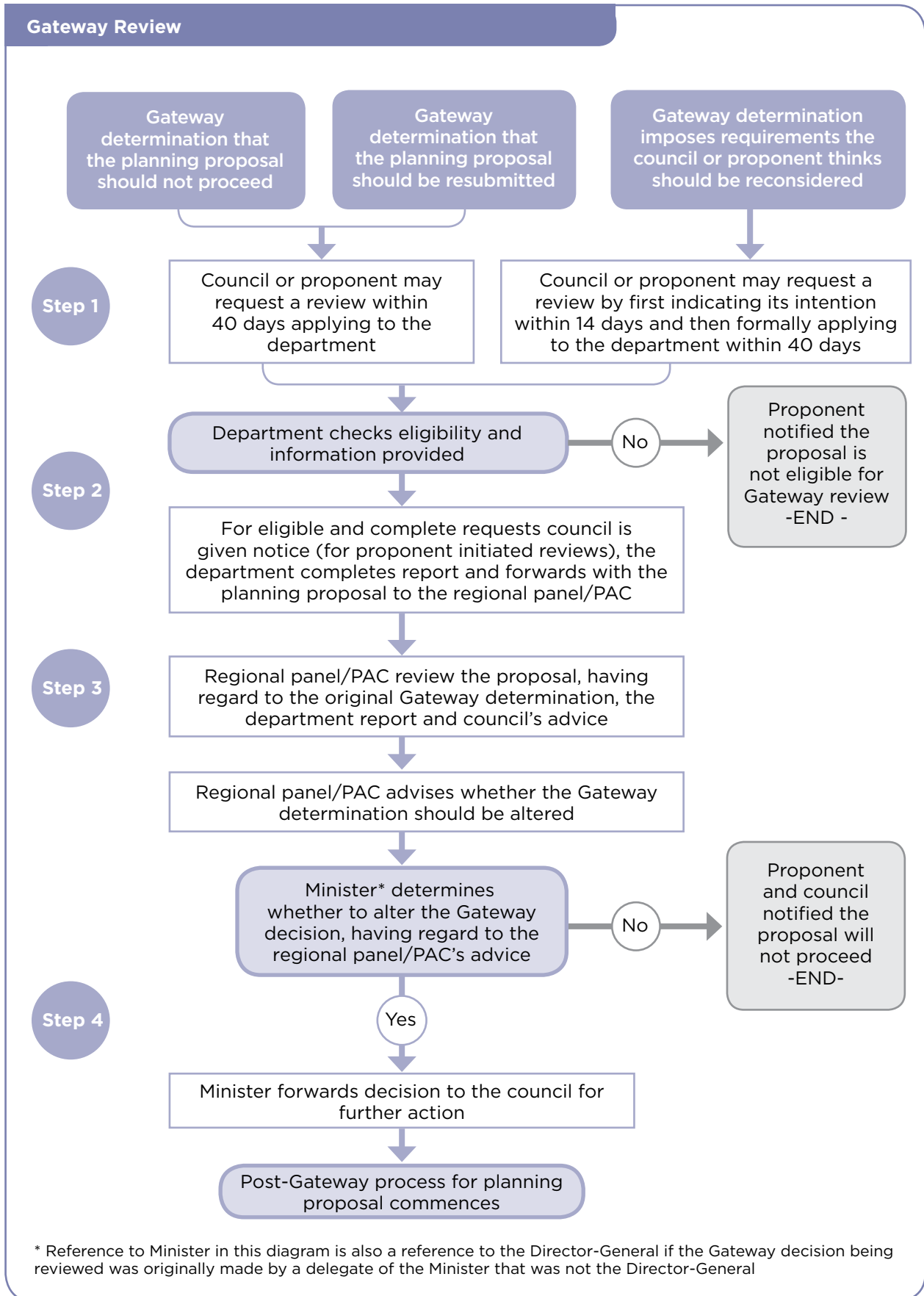


Attachment 2 - Pre-Gateway review process





Attachment 3 – Gateway determination review process



Attachment 4 – Evaluation criteria for the delegation of plan making functions

Checklist for the review of a request for delegation of plan making functions to councils

Local Government Area:

Name of draft LEP:

Address of Land (if applicable):

Intent of draft LEP:

Additional Supporting Points/Information:



Evaluation criteria for the issuing of an Authorisation				
(NOTE - where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed)	Council response		Department assessment	
	Y/N	Not relevant	Agree	Not agree
Is the planning proposal consistent with the Standard Instrument Order, 2006?				
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?				
Are appropriate maps included to identify the location of the site and the intent of the amendment?				
Does the planning proposal contain details related to proposed consultation?				
Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Director-General?				
Does the planning proposal adequately address any consistency with all relevant S117 Planning Directions?				
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?				
Minor Mapping Error Amendments	Y/N			
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?				
Heritage LEPs	Y/N			
Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?				
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?				
Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?				
Reclassifications	Y/N			
Is there an associated spot rezoning with the reclassification?				
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?				
Is the planning proposal proposed to rectify an anomaly in a classification?				
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?				
Will the draft LEP discharge any interests in public land under section 30 of the <i>Local Government Act, 1993</i> ?				

If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the planning proposal?				
Has the council identified that it will exhibit the planning proposal in accordance with the department's Practice Note (PN 09-003) <i>Classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land</i> ?				
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?				
Spot Rezoning	Y/N			
Will the proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?				
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?				
Will the planning proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?				
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?				
Does the planning proposal create an exception to a mapped development standard?				
Section 73A matters				
Does the proposed instrument <ul style="list-style-type: none"> a. correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?; b. address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?; or c. deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land? <p>(NOTE - the Minister (or Delegate) will need to form an Opinion under section 73(A)(1)(c) of the Act in order for a matter in this category to proceed).</p>				
<p>NOTES</p> <ul style="list-style-type: none"> • Where a council responds 'yes' or can demonstrate that the matter is 'not relevant', in most cases, the planning proposal will routinely be delegated to council to finalise as a matter of local planning significance. • Endorsed strategy means a regional strategy, sub-regional strategy, or any other local strategic planning document that is endorsed by the Director-General of the department. 				



Attachment 5 – Delegated plan making reporting template

Reporting Template for Delegated LEP Amendments

Notes:

- Planning proposal number will be provided by the department following receipt of the planning proposal
- The department will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the department’s publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the department with the RPA’s request to have the LEP notified

Table 1 – To be completed by the department

Stage	Date/Details
Planning Proposal Number	
Date Sent to department under s56	
Date considered at LEP Review Panel	
Gateway determination date	

Table 2 – To be completed by the RPA

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt LEP		
Date LEP made by GM (or other) under delegation		
Date sent to DP&I requesting notification		

Table 3 – To be completed by the department

Stage	Date/Details
Notification Date and details	

Additional Relevant Information:



Notes

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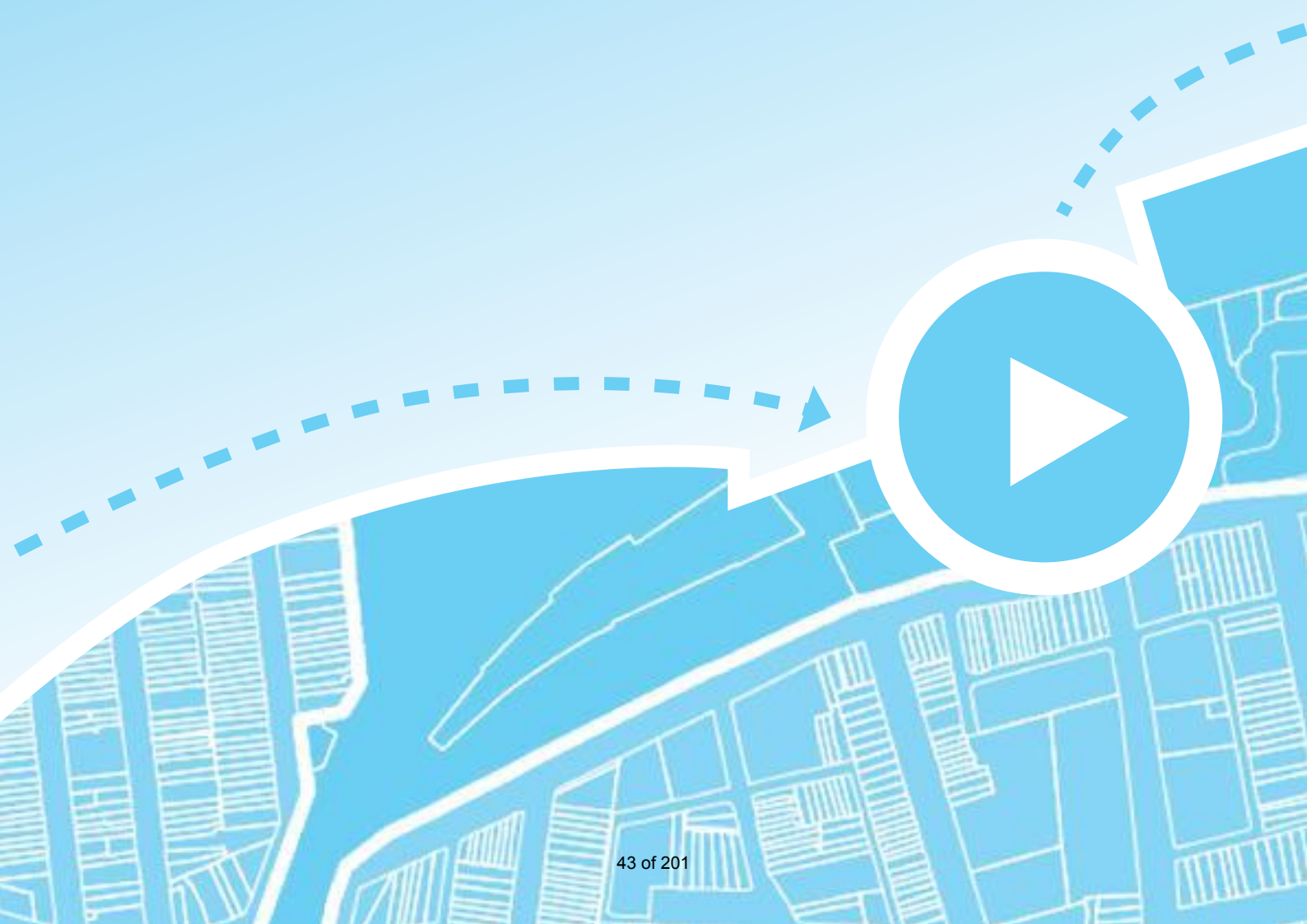


Appendix 9	Report 19 A guide to preparing planning proposals
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A guide to preparing planning proposals



Planning & Infrastructure



DISCLAIMER

These guidelines are provided for general guidance and information only. The guidelines are made available on the understanding that the NSW Department of Planning and Infrastructure ('department') is not providing legal advice. The Department has compiled the guidelines in good faith, exercising all due care and attention.

The guidelines do not affect or replace relevant statutory requirements. Where an inconsistency arises between the provisions of the guidelines and relevant statutory provisions, the statutory requirements prevail.

While every reasonable effort has been made to ensure that this document is correct at the time of printing, the State of New South Wales, its agents and employees, disclaim any and all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance upon the whole or any part of this document. The guidelines are not intended to give rise to any rights, claims, benefits, privileges, liabilities or obligations with respect to matters the subject of the guidelines.

It should be noted that the guidelines may be affected by changes to legislation at any time and/or be subject to revision without notice.

It is recommended that independent advice be sought in respect of the operation of the guidelines and the statutory requirements applying to plan making under the *Environmental Planning and Assessment Act 1979*.

A guide to preparing planning proposals

© State of New South Wales through the NSW Department of Planning and Infrastructure October 2012

23-33 Bridge Street Sydney NSW Australia

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1

Introduction

This guideline is issued under s55 (3) of the *Environmental Planning and Assessment Act 1979* (*the Act*) and provides guidance and information on the process for preparing planning proposals.

1.1 What is a planning proposal?

A planning proposal is a document that explains the intended effect of a proposed local environmental plan (LEP) and sets out the justification for making that plan. It will be used and read by a wide audience including those who are responsible for deciding whether the proposal should proceed, as well as the general community. It must be concise and written in language that is clear and easy to understand. It must also be technically competent and include an accurate assessment of the likely impacts of the proposal. It should be supported by technical information and investigations where necessary.

The preparation of a planning proposal is the first step in preparing an LEP. Throughout the course of preparing the proposed LEP, the planning proposal itself may evolve. This is particularly the case for complex proposals.

A Gateway determination is issued by the Minister (or delegate). It specifies whether a planning proposal is to proceed and if so, in what circumstances. The purpose of the Gateway determination is to ensure there is sufficient justification early in the process to proceed with a planning proposal. It enables planning proposals that lack strategic planning merit to be stopped early in the process before time and resources are committed.

The Gateway determination will confirm the information (which may include studies) and consultation required before the LEP can be finalised. The Gateway determination will also establish the timeframe in which the required steps are to be carried out. As the necessary information is gathered and consultation undertaken, the planning proposal may need to be updated by including additional documentation.

This document provides guidance on the matters that should be included in a planning proposal to satisfy the requirements of the Act. This guideline should be read in conjunction with other relevant guidelines/guidance documents issued by the department which are available on the department's website. Together, these guideline documents explain the plan making process and the role of planning proposals in the process.

1.2 Who can prepare a planning proposal?

The Act does not say who must prepare the information needed for a planning proposal. In practice, the planning proposal document can be prepared by a council, a landowner or developer seeking to change the planning controls relating to a particular site, or by a third party on behalf of a landowner or council.

Whoever prepares the background information must ensure the level of detail provided is sufficient to respond to the statutory requirements of the Act and the supplementary information requirements set out in this guideline (refer to Section 2 of these guidelines).

Once the document is prepared, it must be forwarded to the Minister for Planning and Infrastructure (the Minister) by the relevant planning authority (RPA) for consideration. In most instances, the RPA will be the council for the local government area to which the planning proposal relates. In exceptional circumstances the RPA may be the Director-General of the Department of Planning and Infrastructure (the department) or another public body, such as a joint regional planning panel (regional panel).

The RPA is responsible for the content of the planning proposal and the quality of the information provided in support of the proposal. The RPA must ensure the information is accurate, current and sufficient for issuing a Gateway determination and detailed enough for the purposes of consulting with agencies and the general community.

A guide to preparing local environmental plans provides an overview of the plan-making process.

1.3 How much information should be in a planning proposal?

A planning proposal must demonstrate the strategic merit of the proposed amendment to the LEP proceeding.

A planning proposal must provide enough information to determine whether there is merit in the proposed amendment proceeding to the next stage of the plan-making process. The level of detail required in a planning proposal should be proportionate to the complexity of the proposed amendment. The planning proposal should contain enough information to demonstrate that relevant environmental, social, economic, and other site specific matters have been identified and if necessary that any issues can be addressed with additional information and/or through consultation with agencies and the community.

Each planning proposal is unique. It is difficult therefore to prescribe standard 'appropriate information' to support a planning proposal in each and every case.

An 'Information checklist' has been developed to assist both proponents and councils to identify and agree on the range of information that may be appropriate to support a planning proposal. A copy of the checklist is provided as Attachment 1.

Not all information listed on the checklist will be relevant or required in all circumstances. To prevent unnecessary work prior to the Gateway stage, specific information nominated as being necessary would not be expected to be completed prior to the submission of the planning proposal. In such circumstances, it would be sufficient to identify what information may be required to demonstrate the

proposal's strategic merit or compliance with a relevant statutory consideration such as a section 117 Direction. The scope of any information should be outlined and evidence of any preliminary consultation with relevant agencies should be included to support the request for a planning proposal to proceed.

It is recommended that proponents and RPAs work together to agree on the range and scope of information necessary. This is best done via a pre-lodgement meeting.

Evidence of any pre-lodgement discussions, negotiations and agreement between the parties on the scope of work to be completed should be provided to support a request for a pre-Gateway review of a decision by a council not to proceed with a planning proposal, or where the council fails to make a decision on a planning proposal in the required time. This may include a completed 'Information checklist'. Further advice in relation to the pre-Gateway review process can be found in the department publication *A guide to preparing local environmental plans*.

1.4 When is a pre-lodgement meeting appropriate?

It is recommended that a proponent seek a pre-lodgement meeting with an RPA prior to preparing and submitting a planning proposal. This will be critical where the matter is complex with many factors to be considered. A pre-lodgement meeting will assist the RPA and the proponent to reach agreement on the information necessary to justify further consideration of the proposed change to land-use or controls. It will also ensure that a proponent does not commit time and resources undertaking unnecessary studies or preparing information that does not address the main areas of concern with appropriate detail.

The 'Information checklist' provided at Attachment 1 forms a suggested framework for discussion at a pre-lodgement meeting. The checklist may also be a useful starting point where a council does not have a similar guide or where a proponent is preparing a planning proposal for the first time. It is worth noting that in some cases the nature of a planning proposal will be such that its merits may be able to be demonstrated without the need to prepare any supporting strategic studies.

2

The parts of a planning proposal

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

Part 1 - A statement of the objectives and intended outcomes of the proposed instrument

Part 2 - An explanation of the provisions that are to be included in the proposed instrument

Part 3 - The justification for those objectives, outcomes and the process for their implementation

Part 4 - Maps, where relevant, to identify the intent of the planning proposal and the area to which it applies

Part 5 - Details of the community consultation that is to be undertaken on the planning proposal.

Section 55(3) of the Act allows the Director-General to issue requirements with respect to the preparation of a planning proposal. The Director-General's requirements include:

- Specific matters that must be addressed in the justification (Part 3) of the planning proposal
- A project timeline to detail the anticipated timeframe for the plan making process for each planning proposal.

The project timeline forms **Part 6** of a planning proposal.

2.1 Part 1 – objectives or intended outcomes

Part 1 of the planning proposal should be a short, concise statement setting out the objectives or intended outcomes of the planning proposal. It is a statement of what is planned to be achieved, not how it is to be achieved. It should be written in such a way that it can be easily understood by the general community.

For example, the objectives or intended outcomes of a planning proposal might be:

Example 1

To enable the redevelopment of the former Acme Factory site at 3 Smith Road, Smithville, for high-density housing, except for a corridor of public open space along the river frontage.

A planning proposal relates only to an LEP amendment. It is not a development application nor does it consider specific detailed matters that should form part of a development application. It is essential therefore that a proposal addresses all relevant matters that relate to the planning controls to be amended or introduced.

An amendment to an LEP is a stand-alone component of the development process. The RPA and the community must be confident that the proposed planning controls suggested by the planning proposal are acceptable as an outcome appropriate in that location, regardless of the subsequent approval or refusal of any future development application. Sufficient information must be provided to enable an assessment of the proposal to be undertaken.

It is not necessary to identify the mechanism by which the outcomes will be achieved. For instance, in Example 1 the zone(s) the site will eventually be zoned are not stated. The final zone(s) may change as a result of consultation with agencies and public exhibition and a number of alternative zones may be suitable for achieving the desired outcome.

The objectives or intended outcomes (in conjunction with Part 2 – the Explanation of Provisions), constitute the actual ‘proposal’ and will be the basis for drafting the legal instrument (the LEP). The objectives and intended outcomes need to be specific enough to accurately reflect the desired outcome of the proposal yet flexible enough to allow for alternative ways of achieving the desired result to be considered.

Principal LEPs apply to a whole local government area (LGA) and seek to achieve a number of changes.

The objectives and intended outcomes will need to accurately reflect the full extent of those changes. For example:

Example 2

To implement a Standard Instrument LEP across the Smithville local government area that replaces but maintains the general effect of the existing LEPs applying to the land, except where:

1. *It is intended to introduce a new provision to minimise the impacts of urban stormwater on properties, native bushland and receiving waters.*
2. *It is intended to give effect to the Smithville Housing Strategy by:*
 - a. *Enabling the future redevelopment of land within a reasonable walking distance of Smithville Railway Station (as shown on the attached map) for residential flat buildings;*
 - b. *Reserving land for future acquisition by the Smithville Metro Authority for the construction of additional commuter parking at Black Street, Smithville.*
 - c. *Etc.*

As in Example 1, the details of the planning proposal are specific enough to clearly identify the intent of the proposal, yet flexible enough to enable the RPA to determine the most appropriate zones to achieve the desired outcome at a later stage of the process.

2.2 Part 2 – explanation of provisions

The explanation of provisions is a more detailed statement of how the objectives or intended outcomes are to be achieved by means of amending an existing LEP.

In the context of Example 1 and 2, the explanation of provisions might be:

Example 3

The proposed outcome will be achieved by:

- *Amending the Smithville LEP 2009 Land Zoning Map on the former Acme Factory site at 3 Smith Road, Smithville in accordance with the proposed zoning map shown at attachment 1; and*
- *Amending the Smithville LEP 2009 Height of Building Map in accordance with the proposed height map, shown at attachment 2, which indicates a maximum permissible height of 22 metres onsite; and*
- *Amending the Smithville LEP 2009 Floor Space Ratio Map in accordance with the proposed floor space ratio map, shown at attachment 3, which indicates a maximum permissible floor space ratio of 2.5:1 on the site*

In the case of a new principal LEP, the Explanation of Provisions will be more detailed even if it relates to the Standard Instrument. The Explanation of Provisions therefore should take a form similar to the one as follows:

Example 4

The proposed outcome will be achieved by:

Preparing a Standard Instrument LEP in the form shown at attachment 1 (to which the standard instrument is attached) and with accompanying maps as shown at attachment 2 (to which the proposed maps are attached).

The Standard Instrument will include the following additional local provision:

2.6B Stormwater management

- 1. The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.*
- 2. This clause applies to all land in residential, business and industrial zones.*
- 3. Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:*
 - a. is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and*
 - b. includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and*
 - c. avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.*

2.3 Part 3 – justification

The justification sets out the case for making the proposed LEP. Changes to an existing LEP can include changes to the current zones and/or development standards and controls. They can affect a single allotment of land, a whole zone, or the entire LGA.

The overarching principles that guide the preparation of planning proposals are:

- the level of justification should be proportionate to the impact the planning proposal will have
- it is not necessary to address a question (see Section 2.3(a)) if it is not considered relevant to the planning proposal. In such cases the reason why it is not relevant should be briefly explained, and
- the level of justification should be sufficient to allow a Gateway determination to be made with the confidence that the LEP can be finalised within the time-frame proposed.

As a minimum, a planning proposal must identify any environmental, social and economic impacts associated with the proposal. It is not expected that a proponent will provide comprehensive information to support a request for a planning proposal. The Gateway may include a requirement for additional information or determine that additional work on a particular aspect of the proposal is required. Detailed information completed prior to the Gateway may be unnecessary if it does not address the main concerns the Gateway identifies in its review of the proposal.

In some cases it will be necessary to undertake technical studies or carry out consultation with government agencies

to justify or clarify different aspects of a planning proposal. Generally, however these investigations will not need to be carried out before the Gateway, provided the issues giving rise to the need for the investigations and an approach for addressing the issues are identified in the planning proposal. The Gateway determination will then confirm the studies and consultation required and the timeframe for these to be completed.

The potential level of information that may be reasonable to justify a planning proposal at the Gateway determination stage is outlined in the following examples:

Example 5

Where vegetation management is an issue for a large site to be rezoned, it would be sufficient for the planning proposal to be submitted to the Gateway to identify the issue, demonstrate that preliminary analysis of the impacts has been undertaken and indicate what environmental studies would be suggested to assess and analyse the value and location of the vegetation and how the matter(s) could be addressed. Where appropriate the need to potentially enter into a voluntary planning agreement (VPA) to protect any significant species or habitat may be highlighted. It is not expected that a proponent would have undertaken the studies or prepared a draft VPA or offset agreement for the purposes of obtaining the initial Gateway determination. This is because the amount of offset or the matters to be addressed in a VPA or other agreement may vary as a consequence of further agency consultation and public exhibition.

Example 6

Overshadowing and amenity impacts may be potential issues associated with increasing the height and floor space ratio controls on a site to a planning proposal to be submitted to the Gateway. It would not be reasonable to require a proponent to provide detailed architectural design drawings of a proposed development as part of the planning proposal. The planning proposal should provide sufficient justification explaining why it is appropriate to increase the development potential of the site by amending these development standards in that location. Block/massing diagrams would be a suitable level of detail to provide with the planning proposal.

The Gateway will need to be confident that the level of information provided with the planning proposal will enable the plan making process to be completed within a reasonable time. Depending on the complexity or scale of the proposal this may require some initial investigations to be carried out prior to submitting the proposal to the Gateway.

2.3(a) Questions to consider when demonstrating the justification

Section A – Need for the planning proposal

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

The answer to this question helps explain the context of the planning proposal. If the planning proposal implements the outcomes of a strategic study or report of some kind, the nature of the study and its key findings should be briefly explained to justify the proposal. A copy of the study or report (or relevant parts) should be submitted with the planning proposal and ultimately form part of the public exhibition material.

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

Imposing or changing the controls on development is one means of giving effect to policy. But others may be equally effective, implemented quicker, and impose less of a regulatory burden.

Even when changing development controls is an appropriate means of giving effect to policy, there is still a range of options regarding how and when the new controls should be introduced. For example, it may be more efficient to implement the controls through the council's LGA wide principal Standard Instrument Local Environmental Plan (SI LEP) if this is close to finalisation rather than proceeding with a stand-alone planning proposal.

The planning proposal should demonstrate that alternative approaches to achieving the intended outcomes of the proposal have been considered. It should be evident from this assessment that the proposed approach is the best, most efficient and most time effective approach to delivering the desired outcome.

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)?*

Regional and sub-regional strategies have been prepared for many parts of NSW. The strategies include outcomes and specific actions for a range of different matters relevant to that region or sub-region. In all cases the strategies include specific housing and employment targets and identify regionally important natural resources, transport networks and social infrastructure.

When preparing a planning proposal for an area covered by a regional or sub-regional strategy, the relationship between the planning proposal and the applicable strategy must be considered in the context of those outcomes and actions including housing and employment targets. Where an outcome or action is directly relevant to the planning proposal it should be briefly described and the planning proposal should set out the reasons why the proposal is either consistent or inconsistent with the outcome or action.

Regional strategies include Sustainability Criteria that provide a framework to consider planning proposals that are not consistent with the strategy but may nonetheless have merit. This may include a proposal for rezoning a site immediately adjoining – but not included in – a future urban investigation area under the relevant strategy. In such cases, the Sustainability Criteria should be addressed in the planning proposal.

In cases where there is no regional or sub-regional strategy in place, Assessment Criteria have been identified to assist proponents in preparing information to justify a planning proposal. These criteria form the basis of the initial eligibility assessment for the pre-Gateway review process. The justification component of a planning proposal should address the following Assessment Criteria as a minimum where a regional or sub-regional strategy is not in place:

Assessment Criteria

- a. Does the proposal have strategic merit and:
 - is consistent with a relevant local strategy endorsed by the Director-General or
 - is consistent with the relevant regional strategy or Metropolitan Plan or
 - can it otherwise demonstrate strategic merit, giving consideration to the relevant section 117 Directions applying to the site and other strategic considerations (e.g. proximity to existing urban areas, public transport and infrastructure accessibility, providing jobs closer to home etc)

b. Does the proposal have site-specific merit and is it compatible with the surrounding land uses, having regard to the following:

- the natural environment (including known significant environmental values, resources or hazards) and
- the existing uses, approved uses, and likely future uses of land in the vicinity of the proposal and
- the services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.

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

Where a local strategic plan has been prepared for the LGA and endorsed by the Director-General, relevant matters must be identified and the relationship of the planning proposal to those matters should be discussed.

As is the case with strategic studies and reports, the status of council's plan is important. Is it still in draft form? Has it been adopted by the council? Has it been endorsed by the Director-General? A planning proposal that is explicitly consistent with an endorsed local strategy has a good chance of being supported. Local strategies or local strategic plans also provide the opportunity to justify or detail how environmental issues (such as those set out in section 117 Directions) can be addressed.

Q5. *Is the planning proposal consistent with applicable State Environmental Planning Policies?*

State Environmental Planning Policies (SEPPs) relevant to the planning proposal must be identified and the relationship of the planning proposal with those SEPPs must be discussed. In some instances it may be necessary to provide some preliminary advice in relation to how the proposal satisfies the requirements of the SEPP. For example, a Stage 1 contamination report may be necessary under the provisions of SEPP 55 - Remediation of Land. A proponent and/or RPA should consider whether it is appropriate to undertake this study prior to Gateway to demonstrate that the intent of the planning proposal can be achieved.

Q6. *Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?*

Section 117 of the Act enables the Minister to issue directions regarding the content of LEPs to the extent that the content must achieve or give effect to particular principles, aims, objectives or policies set out in those directions.

There is a range of section 117 Directions (Local Planning Directions) requiring certain matters to be addressed if they are affected by a proposed LEP. The directions can be found on the department's website at <http://www.planning.nsw.gov.au/planningsystem/local.asp>.

Each planning proposal must identify which, if any, section 117 Directions are relevant to the proposal, and whether the proposal is consistent with the direction. Where the planning proposal is inconsistent with any of the relevant

directions, those inconsistencies must be specifically explained and justified in the planning proposal.

Certain directions require consultation to take place with particular government agencies to demonstrate consistency with the direction's desired outcome. If such a direction is relevant to the planning proposal, this should be identified in the planning proposal in the first instance. Formal consultation with that government agency should not take place until the initial Gateway determination is issued, confirming the public authorities to be consulted. If additional information is required, sufficient detail should be provided to enable the Director-General to determine whether the inconsistency is of minor significance or whether the planning proposal can be justifiably inconsistent with the conditions of the relevant direction.

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?*

If the land affected by the planning proposal contains habitat of any sort, it will be necessary to carry out an assessment of significance in accordance with section 5A of the Act and the 'Threatened Species Assessment Guidelines', which can be found at <http://www.environment.nsw.gov.au/resources/threatenedspecies/tsaguide07393.pdf>.

The assessment of significance will determine whether there is 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.

Notwithstanding the significance of the impact, any adverse impact will trigger the requirement under section 34A of the Act for the RPA to consult on the planning proposal with the relevant government agency. If required, this consultation does not need to take place until after the issuing of the initial Gateway determination.

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

The aim of the strategic planning framework is to provide comprehensive guidance regarding the matters that will shape the growth of NSW. It is possible other likely environmental effects unique to a particular planning proposal may not be already addressed in the strategic planning framework. These matters may be identified in informal guidelines, codes or policies produced by different public authorities including local councils. These may include natural hazards such as flooding, land slip, bushfire hazard and the like.


It is important these are identified and addressed in the planning proposal. Again, if it is necessary to prepare information or undertake investigations to address an identified matter, the scope of these should be identified in the planning proposal while the actual information/investigation may be undertaken following the initial Gateway determination where appropriate.

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

The response to this question will include effects on items or places of European or Aboriginal cultural heritage not already addressed elsewhere. It may also include impacts on existing social infrastructure such as schools and hospitals and impacts on existing retail centres which may result if the planning proposal proceeds.

In the instance where a planning proposal is to proceed, the Gateway needs to be satisfied that the level of information available leads to the conclusion that the LEP can be completed within a reasonable timeframe and that identified impacts can be addressed.

As with other potential impacts, proponents are required to undertake preliminary assessments and identify the scope of issues to be addressed in any information. The Gateway will confirm the need for the information and the scope of matters to be addressed.

 **Section D – State and Commonwealth interests**

Q10. *Is there adequate public infrastructure for the planning proposal?*

Typically, this question applies to planning proposals that:

- result in residential subdivisions in excess of 150 lots
- substantial urban renewal
- infill development

- development that will result in additional demand on infrastructure (such as public transport, roads, utilities, waste management and recycling services, essential services such as health, education and emergency services).

Where applicable, the justification for the planning proposal should address whether existing infrastructure is adequate to serve or meet the needs of the proposal. Any justification should address how any shortfall in infrastructure provision is to be met. It is not expected that a proponent will identify exactly what infrastructure may be needed at the initial stage. The planning proposal should identify that there may be an expected shortfall in service provision, that studies may be required to identify the extent of that shortfall – and potential mechanisms to address any shortfall – and which agencies will be consulted as part of that process.

For planning proposals likely to place additional demands on public infrastructure, this section will be developed following consultation with the public authorities responsible for the provision of that infrastructure. Proponents may wish to have informal/ preliminary discussions with relevant agencies to inform this process prior to the initial Gateway determination. The initial Gateway determination would confirm the public authorities to be consulted.

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

One of the aims of the plan making process is to reduce the number of unnecessary referrals to government agencies. The planning proposal should nominate the state and Commonwealth agencies to be consulted and outline the particular land use issues or site conditions which have triggered the need for the referral. The proposed agency consultation will be confirmed with the Gateway determination.

The preliminary views of any state or Commonwealth agency obtained by a proponent in relation to a proposal prior to its submission to an RPA should be included in this section. This should include agreement about the scope of any additional information/ investigations that may be required by that agency subsequent to the issuing of a Gateway determination. Evidence of this pre-lodgement consultation and any agreement in relation to the progression of the planning proposal should be provided with the planning proposal. This information will also be a relevant consideration in the assessment of whether a proposed instrument qualifies for a pre-Gateway review.

2.4 Part 4 - mapping

Planning proposals should be supported by relevant and accurate mapping where appropriate. The mapping should be clear and accurately identify, at an appropriate scale, relevant aspects of the proposal including:

- the land subject to the planning proposal

- current land use zone/s applying to the land
- current development standards relating to the land (i.e. FSR, building height, minimum lot size)
- the proposed alternative zone, if a change in zone is proposed
- a map illustrating the extent of the proposed revised development standard, if a change to a development standard is proposed
- relevant maps or figures illustrating the intent of the planning proposal including:
 - » extent of a proposed heritage conservation area
 - » location of a specific heritage item
 - » proposed extent of an environmental conservation area
 - » area to which a local provision will apply.

Additional material such as aerial photographs clearly identifying the site should also be included where appropriate.

Where a council is preparing the planning proposal and already has a SI LEP in force, mapping should be carried out consistently with the requirements of *Standard technical requirements for LEP maps*. That is, the maps should be prepared using the same format template, colours, zone names etc as required under the department's guidelines. Mapping should be prepared at an appropriate scale showing the subject site and immediate area surrounding the site. Where the planning proposal is prepared by a proponent, this may not initially be possible. However, for exhibition purposes, the Gateway may determine that SI LEP compliant mapping should be prepared to ensure consistency with council's current SI LEP maps.

The Gateway may also determine that additional mapping be prepared to support the exhibition of a planning proposal. Where this is the case, this requirement will be included in the initial Gateway determination.

As the planning proposal progresses through the plan making process, it may be necessary to prepare additional mapping and supporting figures. Any additional maps should also be of a sufficient standard and quality to meet the department's mapping guideline requirements.

2.5 Part 5 – community consultation

This part of the planning proposal should outline the community consultation to be undertaken in respect of the proposal, having regard to the requirements set out in *A guide to preparing local environmental plans*. For the purpose of public notification the guide distinguishes between 'low impact' and other types of planning proposals.

If an RPA considers a greater period of public notification is required or that a public hearing should be held, it should be explained in this part of the planning proposal.

The Gateway determination will then confirm the public consultation that must be undertaken in respect of the planning proposal having regard to the details set out in the planning proposal. This part of the proposal must be revised to reflect any change to the consultation requirements specified in the determination.

The Act sets out the community consultation requirement for planning proposals and these are determined or confirmed at the Gateway. It may be premature to undertake extensive consultation with the broader community on a particular planning proposal before the Gateway. The Gateway will confirm the scope of additional information that may be required and the range of agencies to be consulted. As a result, the planning proposal may vary from the time it is initially conceived to the point where a definite proposal evolves for the site.

The community consultation should provide the full range of completed technical and background information relating to a site so interested parties/ persons can make an informed opinion if the planning proposal is approved at Gateway.

An indication of any proposed community consultation strategy is required with the planning proposal.

2.6 Part 6 – project timeline

A primary goal of the plan making process is to reduce the overall time taken to produce LEPs. The Gateway will need to be confident, should the planning proposal proceed, that the level of information provided with the planning proposal will enable the plan making process to be completed within a reasonable time. In order to meet these goals the Minister may consider taking action to finalise the LEP if the timeframes approved for the completion of the planning proposal are significantly or unreasonably delayed.

The inclusion of a project timeline with the planning proposal will provide a mechanism to monitor the progress of the planning proposal through the plan making process. It will also allow the RPA, the department and Parliamentary Counsel's Office (PCO) to more accurately manage resources to ensure there are no unexpected delays in the process.

The timeframe for the completion of the planning proposal will depend on the complexity of the matter, the nature of any additional information that may be required and the need for agency and community consultation. The following details should be provided as a minimum in the project timeline:

- anticipated commencement date (date of Gateway determination)
- anticipated timeframe for the completion of required technical information
- timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)
- commencement and completion dates for public exhibition period
- dates for public hearing (if required)
- timeframe for consideration of submissions
- timeframe for the consideration of a proposal post exhibition
- date of submission to the department to finalise the LEP
- anticipated date RPA will make the plan (if delegated)
- anticipated date RPA will forward to the department for notification.

The project timeline will be assessed by the department, and may be amended by the Gateway to provide the necessary level of confidence that the LEP will be finalised within a reasonable time.

3

What happens next?

The RPA will undertake an assessment of the planning proposal information provided and decide whether the proposal contains sufficient information to meet the requirements of the Act and this guideline. The RPA will then to decide whether or not to send the proposal to Gateway. The RPA will generally consider the matter at a council meeting and resolve to send the planning proposal to the department for consideration.

Once the planning proposal is submitted to the department the proposal is assessed before being considered by the LEP Review Panel. The Panel will make a recommendation to the Minister (or delegate) as to whether there is merit in the proposal proceeding and if so, whether any conditions should be attached to the proposal to ensure it progresses. If it is determined that a proposal should proceed, the Minister (or delegate) will issue a Gateway determination and the matter will be returned to the RPA to finalise in accordance with any conditions imposed by the Gateway.

4

Need more information?

The preparation of a planning proposal is the critical first step in the plan making process. The plan making process includes opportunities for the review of decisions to be undertaken to ensure that proposals with strategic merit can be considered in a timely manner. In certain circumstances the plan making process has been delegated to council to ensure that local planning decisions are made at the local level.

To assist understanding of the plan making system the department has prepared a Planning Circular (PS 12-006 *Delegations and independent reviews of plan making decisions*) which explains in more detail the various components of the plan making process. *A guide to preparing local environmental plans* has also been updated.

These documents may be found on department's website at www.planning.nsw.gov.au/gateway-process

If you require additional information about preparing a planning proposal or the plan making process, you should initially contact one of the department's regional teams. Contact details for these teams can be found on the department's website (www.planning.nsw.gov.au/contact-us) or by phoning the department's Information Centre on (02) 9228 6333.

ATTACHMENT 1 – INFORMATION CHECKLIST

▶ STEP 1: REQUIRED FOR ALL PROPOSALS

(under s55(a) – (e) of the EP&A Act)

- Objectives and intended outcome
- Mapping (including current and proposed zones)
- Community consultation (agencies to be consulted)
- Explanation of provisions
- Justification and process for implementation (including compliance assessment against relevant section 117 direction/s)

▶ STEP 2: MATTERS – CONSIDERED ON A CASE BY CASE BASIS

(Depending on complexity of planning proposal and nature of issues)

PLANNING MATTERS OR ISSUES	To be considered	N/A	PLANNING MATTERS OR ISSUES	To be considered	N/A
Strategic Planning Context			<ul style="list-style-type: none"> • Resources (including drinking water, minerals, oysters, agricultural lands, fisheries, mining) • Sea level rise 	<input type="checkbox"/>	<input type="checkbox"/>
• Demonstrated consistency with relevant Regional Strategy	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
• Demonstrated consistency with relevant Sub-Regional strategy	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
• Demonstrated consistency with or support for the outcomes and actions of relevant DG endorsed local strategy	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
• Demonstrated consistency with Threshold Sustainability Criteria	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Site Description/Context			Urban Design Considerations		
• Aerial photographs	<input type="checkbox"/>	<input type="checkbox"/>	• Existing site plan (buildings, vegetation, roads, etc)	<input type="checkbox"/>	<input type="checkbox"/>
• Site photos/photomontage	<input type="checkbox"/>	<input type="checkbox"/>	• Building mass/block diagram study (changes in building height and FSR)	<input type="checkbox"/>	<input type="checkbox"/>
Traffic and Transport Considerations			• Lighting impact	<input type="checkbox"/>	<input type="checkbox"/>
• Local traffic and transport	<input type="checkbox"/>	<input type="checkbox"/>	• Development yield analysis (potential yield of lots, houses, employment generation)	<input type="checkbox"/>	<input type="checkbox"/>
• TMAP	<input type="checkbox"/>	<input type="checkbox"/>	Economic Considerations		
• Public transport	<input type="checkbox"/>	<input type="checkbox"/>	• Economic impact assessment	<input type="checkbox"/>	<input type="checkbox"/>
• Cycle and pedestrian movement	<input type="checkbox"/>	<input type="checkbox"/>	• Retail centres hierarchy	<input type="checkbox"/>	<input type="checkbox"/>
Environmental Considerations			• Employment land	<input type="checkbox"/>	<input type="checkbox"/>
• Bushfire hazard	<input type="checkbox"/>	<input type="checkbox"/>	Social and Cultural Considerations		
• Acid Sulphate Soil	<input type="checkbox"/>	<input type="checkbox"/>	• Heritage impact	<input type="checkbox"/>	<input type="checkbox"/>
• Noise impact	<input type="checkbox"/>	<input type="checkbox"/>	• Aboriginal archaeology	<input type="checkbox"/>	<input type="checkbox"/>
• Flora and/or fauna	<input type="checkbox"/>	<input type="checkbox"/>	• Open space management	<input type="checkbox"/>	<input type="checkbox"/>
• Soil stability, erosion, sediment, landslip assessment, and subsidence	<input type="checkbox"/>	<input type="checkbox"/>	• European archaeology	<input type="checkbox"/>	<input type="checkbox"/>
• Water quality	<input type="checkbox"/>	<input type="checkbox"/>	• Social & cultural impacts	<input type="checkbox"/>	<input type="checkbox"/>
• Stormwater management	<input type="checkbox"/>	<input type="checkbox"/>	• Stakeholder engagement	<input type="checkbox"/>	<input type="checkbox"/>
• Flooding	<input type="checkbox"/>	<input type="checkbox"/>	Infrastructure Considerations		
• Land/site contamination (SEPP55)	<input type="checkbox"/>	<input type="checkbox"/>	• Infrastructure servicing and potential funding arrangements	<input type="checkbox"/>	<input type="checkbox"/>
			Miscellaneous/Additional Considerations		
			<i>List any additional studies</i>		



Notes

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Notes

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Appendix 10	Report 19 Ordinary Council Meeting Agenda for 16 April 2013
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Notice is hereby given that the **Ordinary Meeting** of Murray Shire Council will be held on **Tuesday 16 April 2013**, commencing at **1:00pm** in the Multi-Function Room, **Mathoura Visitor and Business Centre**, Cobb Highway, Mathoura.

A light luncheon will be provided at 12:30pm.
Your attendance is requested.

Greg Murdoch
General Manager

AGENDA

1. Acknowledgement of Country
2. Opening Prayer
3. Apologies
4. Advice of any Conflict of Interest Pertaining to the Meeting
5. Confirmation of Minutes of:
 - Ordinary Meeting on 19/03/13
 - Planning & Development Committee Meeting on 02/04/13
6. Business Arising from Minutes
7. Confidential Reports & Supplementary Matters
 - *Please refer over the page for a detailed listing*
8. General Manager's Report & Supplementary Matters
9. Director of Corporate Services Report & Supplementary Matters
10. Director of Engineering Services Report & Supplementary Matters
11. Director of Environmental Services Report & Supplementary Matters
12. Questions and Statements without Notice
13. Correspondence
14. Sundry Delegates Reports
15. Condolences

DEPUTATIONS

3:00pm Alastair McDonald – *Re: Director of Environmental Services Report, Clause 2*

INSPECTIONS

NIL



Partnering for a sustainable community

CLAUSE 4. CONSERVATION AREA FOR 'OLD MOAMA' WITH MURRAY LEP 2011

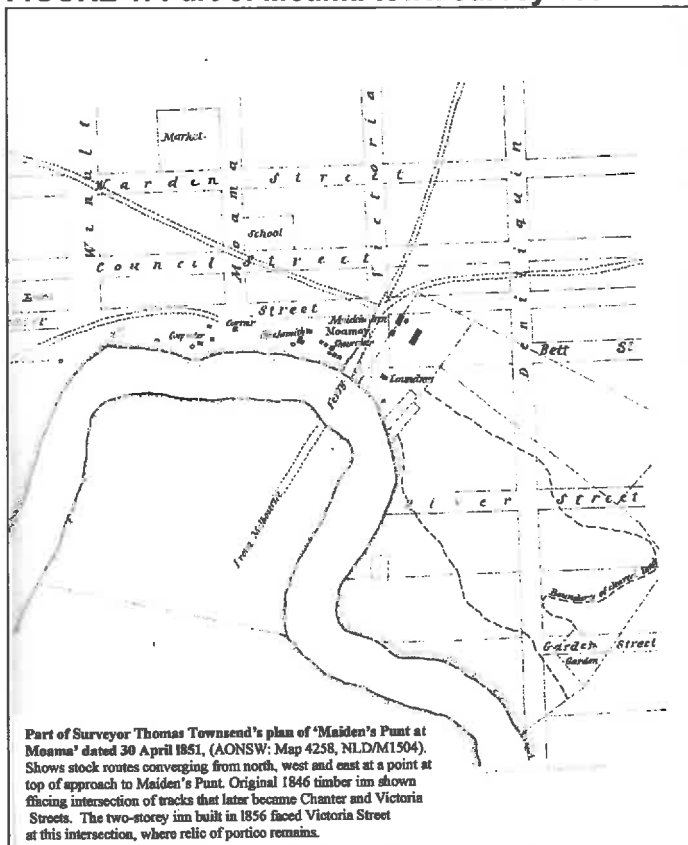
Executive Summary

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

Heritage Significance

The subject area is part of the original settlement of Moama. Land was surveyed for the township of Moama in this location in around 1850 where a small settlement grew around the location of Maidens Punt. The settlement is said to have included police barracks, post office, telegraph station, saleyards, Maidens Inn hotel, blacksmith shop, tailor, laundry, carrier, boot makers and numerous dwellings (source: Galleries of Pink Galahs). The plan below from 1851 depicts this settlement and the layout of the streets which still exist today. Floods in 1867 and 1870 severely affected the settlement and as a result, the township progressively moved to higher ground centred around the Deniliquin-Moama railway. Still remaining in this area from the Old Moama township include the old police station, old telegraph station, a cottage, pillars of the Maidens Inn hotel and bank cutting leading to Maidens Punt.

FIGURE 1: Part of Moama town survey 1851



Existing Development

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

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

Existing Heritage Controls

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

These sites are:-

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

FIGURE 2: Items of Environmental Heritage in Murray LEP 2011



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

5.10 Heritage conservation

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

(1) Objectives

The objectives of this clause are as follows:

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

(2) Requirement for consent

Development consent is required for any of the following:

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

(3) When consent not required

However, development consent under this clause is not required if:

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:
 - (i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and
 - (ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or
- (b) the development is in a cemetery or burial ground and the proposed development:
 - (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and
 - (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or
- (c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or
- (d) the development is exempt development.

(4) Effect of proposed development on heritage significance

The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

(5) Heritage assessment

The consent authority may, before granting consent to any development:

- (a) on land on which a heritage item is located, or*
- (b) on land that is within a heritage conservation area, or*
- (c) on land that is within the vicinity of land referred to in paragraph (a) or (b),*
require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

(6) Heritage conservation management plans

The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

(7) Archaeological sites

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

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

(8) Aboriginal places of heritage significance

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

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

(9) Demolition of nominated State heritage items

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

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

(10) Conservation incentives

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

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

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

Development Pressures

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

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

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

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

However, Council has received three applications for dwelling houses in the subject area on 'existing holdings' (refer to Figure 3 below). Two of these applications are for double storey dwellings and the other is for a single storey dwelling. Council is currently awaiting further information in respect to these applications. These applications have also been referred to Councils Heritage Advisor for comment.

FIGURE 3: Development Applications currently being assessed by Council

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

Proposal

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

FIGURE 4: Subject Area Proposed to be incorporated as a 'Conservation Area'**Discussion**

Conservation areas are generally used for areas/precincts which have a combined heritage significance for example, a neighbourhood or main street with heritage values. It does not provide any greater controls on 'items of environmental heritage'. A 'conservation area' triggers consideration of Clause 5.10: Heritage Conservation of Murray LEP 2011 for development of a property within the 'conservation area'.

There is merit in considering a 'conservation area' for the Old Moama area as the precinct has a combined heritage significance. The conservation area will ensure heritage is considered for all development within the area and assist in identifying the area as a heritage precinct. Council staff are proposing to undertake an initial review of the Murray LEP 2011 within the next 6-12 months and identify any errors or oversights within the current instrument and it is recommended that Council consider the proposed 'conservation area' as part of this review. Alternatively, if the potential development within the area is of significant concern to Council, then Council may consider preparing a 'planning proposal' immediately to implement 'proposal' amendment to Murray LEP 2011. It should be noted that despite there being no conservation area currently, the impact of development on heritage is still required to be considered as part of the assessment of applications for development within the vicinity of heritage items.

Recommendation

That Council consider creating a 'conservation area' within the old Moama heritage precinct as part of a review of Murray LEP 2011.

Appendix 11	Report 19 Minutes of Ordinary Council Meeting held 16 April
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**MINUTES OF THE ORDINARY MEETING
OF MURRAY SHIRE COUNCIL
HELD IN THE MULTI-FUNCTION ROOM,
MATHOURA VISITOR AND BUSINESS CENTRE
ON TUESDAY 16 APRIL 2013**

INDEX

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- CLAUSE 1. LEGAL MATTER –
LOCAL GOVERNMENT FINANCIAL SERVICES**

GENERAL MANAGER'S REPORT

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CLAUSE 2. LOCAL GOVERNMENT NSW ANNUAL CONFERENCE
**CLAUSE 3. DEXON RESOURCES No 1 PTY LTD –
MINING EXPLORATION LICENCE**
**CLAUSE 4. CODE OF CONDUCT, CONFLICT OF INTEREST AND EFFECTIVE
MEETING PROCEDURES TRAINING**
CLAUSE 5. COMMUNITY FORUMS – 2013/14 COMMUNITY STRATEGIC PLAN
CLAUSE 6. LOCAL GOVERNMENT ACTS TASKFORCE

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CLAUSE 4. BUDGET REVIEW
CLAUSE 5. TRAINING
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DIRECTOR OF ENGINEERING SERVICES REPORT

- CLAUSE 1. WORKS UPDATE**
CLAUSE 2. ECHUCA MOAMA BRIDGE CROSSING
CLAUSE 3. ROAD CLOSURE APPLICATION

DIRECTOR OF ENVIRONMENTAL SERVICES REPORT

- CLAUSE 1. DEVELOPMENT APPROVALS**
**CLAUSE 2. DEVELOPMENT APPLICATION (128/13)
ERECTION OF THREE TOWNHOUSES AND STRATA SUBDIVISION
ZONE:- R1 – GENERAL RESIDENTIAL
LOT 29, SECTION 33, DP 3155
4 KINSEY STREET, MOAMA
OWNER:- SUPREME PROMOTIONS PTY LTD
APPLICANT:- SUPREME PROMOTIONS PTY LTD**

- CLAUSE 3. DEVELOPMENT APPLICATION (241/08) – AMENDMENT SIX
TOURIST FACILITY AND COMMUNITY TITLE SUBDIVISION
LOT 17, DP 270641
PERRICOOTA ROAD, MOAMA
APPLICANT:- KSK DEVELOPMENTS PTY LTD**
- CLAUSE 4. CONSERVATION AREA FOR ‘OLD MOAMA’ WITH MURRAY LOCAL
ENVIRONMENTAL PLAN 2011**
- CLAUSE 5. DEVELOPMENT APPLICATION (037/13)
RELOCATION OF EXISTING MOORING
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MAIDEN SMITH DRIVE, MOAMA**
- CLAUSE 7. CEMETERY POLICY**
- CLAUSE 8. DEVELOPMENT APPLICATION (161/13 – LOT 15), (162/13 – LOT 5),
(163/13 – LOT 4)
CONSTRUCTION OF A SINGLE STOREY DWELLING WITH ATTACHED
GARAGE ON LOT 15, 5 AND 4
ZONE:- R1 – GENERAL RESIDENTIAL
OWNER:- RADFORD GROUP; VL CURNOW; W AND W CURNOW
APPLICANT:- DENNIS FAMILY HOMES**

DEPUTATION

DIRECTOR OF ENVIRONMENTAL SERVICES REPORT CONTINUED

- CLAUSE 2. DEVELOPMENT APPLICATION (128/13)
ERECTION OF THREE TOWNHOUSES AND STRATA SUBDIVISION
ZONE:- R1 – GENERAL RESIDENTIAL
LOT 29, SECTION 33, DP 3155
4 KINSEY STREET, MOAMA
OWNER:- SUPREME PROMOTIONS PTY LTD
APPLICANT:- SUPREME PROMOTIONS PTY LTD**

QUESTIONS AND STATEMENTS WITHOUT NOTICE

CORRESPONDENCE

- | | |
|--------------|---|
| B1/04 | LOCAL GOVERNMENT WEEKLY |
| B2/04 | AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION |
| B3/04 | THE HON SUSSAN LEY MP, MEMBER FOR FARRER |
| B4/04 | BRIDGE ARTS PROJECT ECHUCA-MOAMA |
| B5/04 | LOCAL GOVERNMENT NSW |
| B6/04 | LOCAL GOVERNMENT NSW |

SUNDRY DELEGATES REPORTS

CONDOLENCES

**MINUTES OF THE ORDINARY MEETING
OF MURRAY SHIRE COUNCIL
HELD IN THE MULTI-FUNCTION ROOM,
MATHOURA VISITOR AND BUSINESS CENTRE
ON TUESDAY 16 APRIL 2013, COMMENCING AT 1:02PM**

PRESENT

*The Mayor, Cr TE Weyrich (in the Chair)
Councillors GP Burke, GS Campbell,
IW Moon, BM Murphy and JW Pocklington*

APOLOGY

*Councillor WR Anderson
GJ Murdoch, General Manager*

IN ATTENDANCE

The following members of staff were also in attendance:

<i>PJ Higgins</i>	<i>Acting General Manager</i>
<i>LJ Robins</i>	<i>Director of Engineering Services</i>
<i>S Arkinstall</i>	<i>Director of Environmental Services</i>
<i>KA Maher</i>	<i>Executive Assistant</i>

ACKNOWLEDGEMENT OF COUNTRY

The Mayor opened the meeting with an Acknowledgement of Country.

PRAYER

The Mayor held a short appropriate prayer.

APOLOGY

- 78** **RESOLVED (Crs Pocklington/Burke)** that the apology tendered on behalf of Councillor WR Anderson be accepted and that leave of absence from the meeting be granted.

CONFLICT OF INTEREST

PJ Higgins declared an interest in Clause 2 of the Director of Engineering Services Report on Echuca Moama Bridge Crossing.

Cr TE Weyrich declared an interest in Clause 1 of the Director of Environmental Services Report on Development Approvals.

Cr GP Burke declared an interest in Clause 6 of the Director of Environmental Services Report on Purchase of Part Lot 24, DP 258661 (Public Reserve) Maiden Smith Drive, Moama, even though he does not believe he has a Conflict of Interest on this issue, he will stand out for the moment.

MINUTES OF THE ORDINARY MEETING HELD ON 19/03/13

- 79 **RESOLVED (Crs Pocklington/Murphy)** that the minutes of the Ordinary Meeting held on 19 March 2013 be confirmed as a true and correct record, subject to Cr GS Campbell's vote being recorded against the resolution number 68 of Council.

MINUTES OF THE PLANNING AND DEVELOPMENT COMMITTEE MEETING HELD ON 02/04/13

- 80 **RESOLVED (Crs Pocklington/Murphy)** that the minutes of the Planning and Development Committee Meeting held on 2 April 2013 be confirmed as a true and correct record.

BUSINESS ARISING OUT OF MINUTES**Ordinary Meeting****Director of Environmental Services Report Continued****Clause 5 – Development Application 136/13****Minute No. 68****Page 15**

Cr GS Campbell advised that she had not voted for the resolution and asked that her vote be recorded against the resolution number 68 of Council.

COMMITTEE OF THE WHOLE OF COUNCIL

- 81 **RESOLVED (Crs Campbell/Burke)** that as provided by Section 10A(2), Subsection (g) of the Local Government Act 1993, being advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege, Council move into Committee of the Whole of Council at 1:06pm.

**GENERAL MANAGER'S
CONFIDENTIAL REPORT**

**CLAUSE 1. LEGAL MATTER –
LOCAL GOVERNMENT FINANCIAL SERVICES**

RECOMMENDED (Crs Pocklington/Murphy) that Council agree to the costs agreement, as submitted by Piper Alderman.

ADOPTION

- 82** **RESOLVED (Crs Moon/Pocklington)** that Council move into Open Council at 1:20pm

The Acting General Manager, on behalf of the Mayor, advised the decisions of the Committee of the Whole of Council in Open Council.

- 83** **RESOLVED (Crs Moon/Pocklington)** that the recommendations of the Committee of the Whole of Council be adopted.

REPORTS FROM OFFICERS

GENERAL MANAGER'S REPORT

CLAUSE 1. APPEALS AND DONATIONS

Information noted.

CLAUSE 2. LOCAL GOVERNMENT NSW ANNUAL CONFERENCE

Information noted.

**CLAUSE 3. DEXON RESOURCES NO 1 PTY LTD –
MINING EXPLORATION LICENCE**

Information noted.

**CLAUSE 4. CODE OF CONDUCT, CONFLICT OF INTEREST AND EFFECTIVE
MEETING PROCEDURES TRAINING**

- 84** **RESOLVED (Crs Murphy/Pocklington)** that Council confirm the Code of Conduct, Conflict of Interest and Effective Meeting Procedures Training Forum, as contained in the report.

A division was called for:

FOR: Councillors Murphy, Pocklington and Weyrich

AGAINST: Councillors Burke, Campbell and Moon

Councillors GS Campbell and GP Burke made comments on the costs of the Code of Conduct, Conflict of Interest and Effective Meeting Procedures Training and that Council's funds would be better utilised elsewhere and suggested that this type of training could be provided in-house.

CLAUSE 5. COMMUNITY FORUMS – 2013/14 COMMUNITY STRATEGIC PLAN

- 85 **RESOLVED (Crs Pocklington/Murphy)** that Council hold Community Forums in Moama and Mathoura on Council's 2013/14 Community Strategic Plan in the week commencing 13 May 2013.

Councillor GS Campbell requested that Council include in the forums a presentation to the Moama Lions Community Village Committee on the successful completion and payment of another four units, so that the community is aware that the Moama Lions have provided 28 units for the aged within the Murray Shire community.

CLAUSE 6. LOCAL GOVERNMENT ACTS TASKFORCE

- 86 **RESOLVED (Crs Burke/Murphy)** that the General Manger coordinates an appropriate submission on the Local Government Acts Taskforce Discussion Paper.

ADOPTION

- 87 **RESOLVED (Crs Pocklington/Moon)** that subject to the foregoing resolutions, the General Manager's Report be adopted.

DIRECTOR OF CORPORATE SERVICES REPORT

CLAUSE 1. FORM 2

- 88 **RESOLVED (Crs Pocklington/Moon)** that the Statement of Balances for the month ending 31 March 2013 be adopted.

CLAUSE 2. KEY PERFORMANCE INDICATORS

Information noted.

CLAUSE 3. MONTHLY BUDGET REVIEW ITEMS

Information noted.

CLAUSE 4. BUDGET REVIEW

Information noted.

CLAUSE 5. TRAINING

Information noted.

CLAUSE 6. TAXATION

- 89 **RESOLVED (Crs Pocklington/Burke)** that the Council note that for all Commercial/Industrial Charges for Waste Management, the price will include GST from 2013/14, other than the charge for Commercial/Industrial Vacant Land.

ADOPTION

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

DIRECTOR OF ENGINEERING SERVICES REPORT**CLAUSE 1. WORKS UPDATE**

Information noted.

CLAUSE 2. ECHUCA MOAMA BRIDGE CROSSING

PJ Higgins declared an interest in this matter, as he is the Secretary of the Echuca Lawn Tennis Club, took no part in discussion, tabled a written notice to the Mayor and left the meeting.

- 91 **RESOLVED (Crs Pocklington/Burke)** that Council lobby the Federal Minister and Opposition Shadow Minister to secure funding for the Echuca Moama Bridge Crossing.

CLAUSE 3. ROAD CLOSURE APPLICATION

- 92 **RESOLVED (Crs Moon/Campbell)** that Council defer a decision on the closure of the road reserve between Lot 1, DP 588183 and Lot 1, DP 1046934 (Moama) until an on-site inspection is undertaken prior to the next meeting of Council, being Tuesday 7 May 2013.

ADOPTION

- 93 **RESOLVED (Crs Campbell/Murphy)** that subject to the foregoing resolutions, the Director of Engineering Services Report be adopted.

DIRECTOR OF ENVIRONMENTAL SERVICES REPORT

CLAUSE 1. DEVELOPMENT APPROVALS

Cr TE Weyrich declared an interest in this matter, as he is the property owner of one of the development applications that have been approved under delegated authority, took no part in discussion, tabled a written notice to the Acting General Manager and left the meeting.

In the absence of the Mayor, Councillor TE Weyrich, the Deputy Mayor, Councillor JW Pocklington, assumed the Chair at 2:11pm.

Information noted.

At this stage of the meeting, being 2:15pm, the Mayor, Councillor TE Weyrich, re-assumed the Chair.

**CLAUSE 2. DEVELOPMENT APPLICATION (128/13)
ERECTION OF THREE TOWNHOUSES AND STRATA SUBDIVISION
ZONE:- R1 – GENERAL RESIDENTIAL
LOT 29, SECTION 33, DP 3155
4 KINSEY STREET, MOAMA
OWNER:- SUPREME PROMOTIONS PTY LTD
APPLICANT:- SUPREME PROMOTIONS PTY LTD**

This Clause was discussed later in the meeting when a deputation to Council was made by Mr Alastair McDonald.

**CLAUSE 3. DEVELOPMENT APPLICATION (241/08) – AMENDMENT SIX
TOURIST FACILITY AND COMMUNITY TITLE SUBDIVISION
LOT 17, DP 270641
PERRICOOTA ROAD, MOAMA
APPLICANT:- KSK DEVELOPMENTS PTY LTD**

Information noted.

CLAUSE 4. CONSERVATION AREA FOR 'OLD MOAMA' WITH MURRAY LOCAL ENVIRONMENTAL PLAN 2011

MOTION (Crs Murphy/Pocklington) that Council consider creating a 'conservation area' within the Old Moama heritage precinct as part of a review of Murray Local Environmental Plan (LEP) 2011.

FOR: Councillors Murphy and Pocklington

AGAINST: Councillors Burke, Campbell, Moon and Weyrich

The motion was LOST.

- 94** **RESOLVED (Crs Moon/Burke)** that Council defer a decision on a 'conservation area' within the Old Moama heritage precinct as part of a review of Murray Local Environmental Plan (LEP) 2011 until an on-site inspection is undertaken of the whole area prior to the next meeting of Council, being Tuesday 7 May 2013.

FOR: Councillors Burke, Moon, Murphy, Pocklington and Weyrich

AGAINST: Councillor Campbell

**CLAUSE 5. DEVELOPMENT APPLICATION (037/13)
RELOCATION OF EXISTING MOORING
MURRAY RIVER ON VICTORIAN BANK OPPOSITE MARKER 1676
OWNER:- CROWN LAND
APPLICANT:- KENNETH & BRENDA ROBINSON**

- 95** **RESOLVED (Crs Burke/Campbell)** that:

1. Council determine the applicant's objection, made under SEPP 1 - Development Standards, to the strict compliance with the applicable development standard in Clause 10 of Murray Regional Environmental Plan No.2 - Riverine Land to be well founded in the circumstances of the case.
2. Council forward the application to the Department of Planning and Infrastructure and seek the concurrence of the Director to vary this standard in this case.

FOR: Councillors Burke, Campbell, Murphy and Weyrich

AGAINST: Councillors Moon and Pocklington

**CLAUSE 6. PURCHASE OF PART LOT 24, DP 258661 (PUBLIC RESERVE)
MAIDEN SMITH DRIVE, MOAMA**

Cr GP Burke declared an interest in this matter, while he believes he has no conflict, he prefers to stand out of this debate until the Code of Conduct investigation against him is resolved, took no part in discussion, tabled a written notice to the Acting General Manager and left the meeting.

- 96** **RESOLVED (Crs Moon/Campbell)** that:

1. Council does not offer Part Lot 24, DP 256661 (fronting Lots 6-12, DP 258661) for sale and retains it as community land;

2. Council makes arrangements to signpost the said community land as such 'public reserve' for the benefit of the community.

FOR: Councillors Campbell, Moon, Murphy, Pocklington and Weyrich

AGAINST: Nil

CLAUSE 7. CEMETERY POLICY

- 97 **RESOLVED (Crs Murphy/Pocklington)** that Council adopt the Murray Shire Council Cemetery Policy.

**CLAUSE 8. DEVELOPMENT APPLICATION (161/13 - LOT 15), (162/13 - LOT 5), (163/13 - LOT 4)
CONSTRUCTION OF A SINGLE STOREY DWELLING WITH ATTACHED GARAGE ON LOT 15, 5 AND 4
ZONE:- R1 – GENERAL RESIDENTIAL
4, 14 AND 15 GARDNER COURT, MOAMA
OWNER:- RADFORD GROUP; VL CURNOW; W AND W CURNOW
APPLICANT:- DENNIS FAMILY HOMES**

- 98 **RESOLVED (Crs Campbell/Burke)** that:

1. Approval be granted to the three single storey dwellings with attached garages; and
2. That the minimum primary setback for Murray Country Estate be set at 3.0m; and
3. The following conditions be included with the consent.

Conditions Prescribed by the Environmental Planning & Assessment Regulation 2000

(A) *Compliance with Building Code of Australia and Insurance Requirements under the Home Building Act 1989*

The work must be carried out in accordance with the requirements of the *Building Code of Australia*.

In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

Note: Reference to the *Building Code of Australia* is a reference to that Code as in force on the date the application is made for the relevant construction certificate.

(B) *Erection of Signs*

A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the PRINCIPAL CERTIFYING AUTHORITY for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

This condition does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

This condition does not apply in relation to Crown building work that is certified, in accordance with section 109R of the Act, to comply with the technical provisions of the State's building laws.

Prior to Commencement of Works

1. An application for a Construction Certificate must be submitted to, and approved by, a nominated Principal Certifying Authority prior to commencement of any building or civil works at the site.
2. Appropriate erosion and sedimentation control measures are to be installed and maintained on site for the duration of construction works.
3. Temporary water closet accommodation is to be provided onsite during construction. This facility must be located onsite so as to not create a nuisance to any adjoining properties.
4. An application is to be made to Council's Engineering Department prior to constructing hard surface driveways, footpaths or the like on or over the footpath reserve. Any works in the road reserve, including landscaping, require approval under the Roads Act.
5. Before any water/sewer, plumbing or drainage work is commenced, a Notice of Work (NoW) is to be submitted to Council 48 hours prior to works commencing. On completion of work, the licensed plumber/drainer shall apply for an inspection (inspection fees apply) and a Certificate of Compliance (CoC) is to be submitted to Council. A sewer service diagram (SSD) must also be provided to Council upon completion of the drainage works.

General

6. The development is to be carried out in accordance with the plans submitted to and stamped by Council as part of the application. Any amendments to these plans will require the approval of Council.

Lot #	Plans	BASIX
15	Job No 71323 Sheets 1 -12	470491S
5	Job No 71405 Sheets 1 -12	473635S
4	Job No 71406 Sheets 1 -11	474330S_02

7. The construction site is to be maintained in an environmentally sound manner during building works. Designated waste containment areas are

to be provided on site, and maintained so as to prevent any windblown litter escaping from the site.

8. Vehicle access to the construction site is to be restricted to a single, all-weather driveway. This access point is to be stabilized and maintained until construction onsite is completed.
9. Details of timber framing construction, including truss details, and tie-down and bracing requirements, are to be supplied to Council prior to the carrying out of a frame inspection.
10. All framework to comply with AS 1684.2 –2010 Residential Timber Framed Construction.
11. TRUSS DESIGN – prior to inspection the applicant shall provide Council with details from the manufacturer of each truss showing joint connections, member sizes and fixing details together with position on roof. *Plans to be highlighted to show which sizes, pitches, etc., are applicable to that particular job.*
12. Any damage or deterioration to any portion of the footpath and/or kerb and guttering or other Council property including road reserves, during construction shall be reinstated to its original condition at the owner's expense to the satisfaction of Council.
13. **Inspections** - When the building has reached the following stages, at least 24 hours notice is to be given to Council so that an inspection may be carried out:
 - (a) Prior to the commencement of building work, with all erosion and sedimentation control, onsite waste containment, site access, and site signage in place;
 - (b) After excavation of, and prior to the placement of any footings;
 - (c) Prior to pouring of any in-situ reinforced concrete building element;
 - (d) Prior to the covering/lining of any framework for any floor, wall, roof or other building element;
 - (e) Prior to the covering of all hot and cold water plumbing, all internal and external sewer drainage lines with water test applied;
 - (f) Prior to covering waterproofing in any wet area;
 - (g) Prior to the covering of any stormwater drainage connections;
 - (h) After building work has been completed and prior to any Occupation Certificate being issued in relation to the approval.

A fee of \$60.00 will apply for the re-inspection of any non-compliance.

In the event where the outcome of an inspection is unclear, contact Council's Building Department on (03) 5884 3400 prior to proceeding. The applicant shall satisfy themselves that each stage has been inspected by Council's Building Surveyor and found to be satisfactory, prior to proceeding with construction.

*Please note: An Occupation Certificate cannot be issued without satisfactory completion of **all** critical stage inspections.*

14. Water supply work or sewerage work that is plumbing and drainage work within the meaning of the Plumbing and Drainage Act 2011 must comply with that Act and the regulations under that Act. Any water supply work or sewerage work that is not plumbing and drainage work under that Act, and any stormwater drainage work, must comply with the Plumbing Code of Australia.
15. Where driveway access to a dwelling is proposed to be installed where utility services, including water valves, sewer manholes etc; are located, access to such services must be maintained at all times. Signposting for

the location of service valves must be reinstated adjacent to the closest side property boundary.

16. The finished floor level of the dwelling, excluding any attached Class 10a structure (such as a private garage, carport or the like), is to be a minimum of 300mm above finished ground level.
17. Roof stormwater is to be conveyed to the stormwater point provided.
18. The proposed dwelling must be provided with a subterranean termite management system conforming to Australian Standard AS3660.1 or Part 3.1.3 of the BCA.
19. Building work shall not commence on the site before 7am on weekdays and Saturdays and 8am on Sundays and public holidays. All works are to cease by 8pm on any day.
20. The land subject to this approval may have restrictive covenants applying to it. It is the responsibility of the owner and builder to ensure that covenants are adhered to. Council does not enforce or regulate covenants and therefore accepts no responsibility for checking the compliance of building design with such covenants.

Prior to Release of Occupation Certificate

21. **Occupation** - The applicant shall not allow or permit the building (or part of the building, in the case of alteration or additions) to be occupied or used, until:
 - (a) All conditions of this approval have been completed in full;
 - (b) An application for an Occupation Certificate has been completed and returned to the Principal Certifying Authority; and
 - (c) The Principal Certifying Authority has issued an Occupation Certificate.
22. Street No. **4** (Lot 15), **14** (Lot 5) and **15** (Lot 4) has been allocated to this allotment.

Upon completion of construction, this number is to be clearly and permanently displayed on the letterbox; wall of the dwelling facing the street; or on a sign posted in a prominent position along the front boundary of the allotment.
23. **Prior to the issue of a Final Occupation Certificate** a residential standard plain concrete driveway, to Council specifications, is to be constructed from the kerb to the property boundary. A separate application is to be made to Council's Engineering Department for approval to construct the driveway.
24. A durable notice of termite treatment must be permanently fixed to the building in a prominent location, such as in a meter box or the like, in accordance with Clause 3.1.3.2(b). Contents of the notice are to include: the method of termite risk management; the date of installation of the system; where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and, the installer's or manufacturer's recommendations for the scope and frequency of future inspections for termite activity.
25. A final Occupation Certificate will not be issued until all BASIX commitments as stated on the BASIX certificate provided have been completed in full and certified.
26. An application for a final Occupation Certificate must be accompanied by the BASIX Certificate applicable for the development.

27. Water meters are to be connected to the property prior to the issue of an occupation certificate.

FOR: Councillors Burke, Campbell, Moon, Murphy, Pocklington and Weyrich

AGAINST: Nil

At this stage of the meeting, being 2:55pm, the meeting adjourned to await the deputation to Council at 3:00pm.

The meeting resumed at 3:11pm.

DEPUTATION

At this stage of the meeting, being 3:11pm, Alastair McDonald made a deputation to Council regarding the Director of Environmental Services Report, Clause 2 – Development Application 128/13.

DIRECTOR OF ENVIRONMENTAL SERVICES REPORT CONTINUED

**CLAUSE 2. DEVELOPMENT APPLICATION (128/13)
ERECTION OF THREE TOWNHOUSES AND STRATA SUBDIVISION
ZONE:- R1 – GENERAL RESIDENTIAL
LOT 29, SECTION 33, DP 3155
4 KINSEY STREET, MOAMA
OWNER:- SUPREME PROMOTIONS PTY LTD
APPLICANT:- SUPREME PROMOTIONS PTY LTD**

- 99 **RESOLVED (Crs Pocklington/Murphy)** that the application for the erection of three townhouses, strata subdivision and the removal of vegetation be approved, subject to the following conditions of consent:

Conditions Prescribed by the Environmental Planning & Assessment Regulation 2000

(A) *Compliance with Building Code of Australia and Insurance Requirements under the Home Building Act 1989*

The work must be carried out in accordance with the requirements of the *Building Code of Australia*.

In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

Note: Reference to the *Building Code of Australia* is a reference to that Code as in force on the date the application is made for the relevant construction certificate.

(B) *Erection of Signs*

A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the PRINCIPAL CERTIFYING AUTHORITY for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

This condition does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

This condition does not apply in relation to Crown building work that is certified, in accordance with section 109R of the Act, to comply with the technical provisions of the State's building laws.

(C) *Notification of Home Building Act 1989 Requirements*

For the purposes of section 80A (11) of the Act, the following are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the *Home Building Act 1989*.

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

- (a) in the case of work for which a principal contractor is required to be appointed:
 - (i) the name and licence number of the principal contractor, and
 - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
- (b) in the case of work to be done by an owner-builder:
 - (i) the name of the owner-builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under this condition becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

(D) *Condition Relating to Shoring and Adequacy of Adjoining Property*

For the purposes of section 80A (11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a

building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (a) protect and support the adjoining premises from possible damage from the excavation, and
- (b) where necessary, underpin the adjoining premises to prevent any such damage.

The condition referred to above does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

Conditions to be Fulfilled Prior to the Release of the Construction Certificate

1. Details of building materials and elements, including colour schemes, are to be supplied with the construction certificate. There should be differences in the colour schemes used for the units in order to create visual articulation and variation in the streetscape.
2. Section 94 and Section 64 Water and Sewer Headworks contributions are to be paid to Council prior to the issue of a construction certificate application. As the development will result in two extra dwellings on the land contribution charges will be for these two dwellings.

Section 64:

Development	Contribution Rate (% of ET)	Contribution Amount	
		Sewer	Filtered Water
3 bedroom dwelling x 2	100%	\$2,047 x 2	(\$977 + \$1,153) x 2
Total = \$8,354		\$4,094	\$4,260

Section 94:

Development	Contribution Rate (% of ET)	Contribution Amount				
		Road Upgrade	Open Space	Community Facilities	Waste	Stormwater
3 bedroom dwelling x 2	100%	\$1,350 x 2	\$405 x 2	\$135 x 2	\$270 x 2	\$405 x 2
\$5,130		\$2,700	\$810	\$270	\$540	\$810

3. A plan indicating the method of stormwater capture and disposal on the site is to be submitted for approval from Council with any construction certificate application. This plan is also to demonstrate how stormwater will be managed on impervious external surfaces.

Prior to Commencement of Works

4. An application for a Construction Certificate must be submitted to, and approved by, a nominated Principal Certifying Authority prior to commencement of any work at the site.
5. The site is to be set out by a registered land surveyor. On completion, a survey drawing is to be submitted to show setbacks of the building from all boundaries.

NOTE: Rectification work may be necessary if building is found to encroach required setbacks.

6. Appropriate erosion and sedimentation control measures are to be installed and maintained on site for the duration of construction works.
7. Before sanitary drainage work is commenced, application is to be made to and approved by Council in accordance with section 68 (B6) "Connect a private drain or sewer with a public drain or sewer under the control of a council or with a drain or sewer which connects with such a public drain or sewer" of the *Local Government Act 1993*.
Note: Application fees apply.
8. Before any water/sewer, plumbing or drainage work is commenced, a Notice of Work (NoW) is to be submitted to Council 48 hours prior to works commencing. On completion of work, the licensed plumber/drainage shall apply for an inspection (inspection fees apply) and a Certificate of Compliance (CoC) is to be submitted to Council. A sewer service diagram (SSD) must also be provided to Council upon completion of the drainage works.
9. Temporary water closet accommodation is to be provided onsite during construction. This facility must be located onsite so as to not create a nuisance to any adjoining properties.

General

10. The development is to be carried out in accordance with the plans (ref 2012-0078C sheets DA02-06C and drawn by Ecotecture Design Group dated February 2013) and BASIX Certificates (455587M) submitted to and stamped by Council as part of the application. Any amendments to these plans will require the approval of Council.
11. The construction site is to be maintained in an environmentally sound manner during building works. Designated waste containment areas are to be provided on site, and maintained so as to prevent any windblown litter escaping from the site.
12. Vehicles are to be clean and free of debris prior to leaving the site. Deposited material may be ordered to be removed at the applicant/operator's expense.
13. Any damage or deterioration to any portion of the footpath and/or kerb and guttering or other Council property including road reserves, during construction shall be reinstated to its original condition at the owner's expense to the satisfaction of Council.
14. Water supply work or sewerage work that is plumbing and drainage work within the meaning of the Plumbing and Drainage Act 2011 must comply with that Act and the regulations under that Act. Any water supply work or sewerage work that is not plumbing and drainage work under that Act, and any stormwater drainage work, must comply with the Plumbing Code of Australia.
15. Roof waters are to be disposed of by piping to the street gutter in accordance with the submitted and approved stormwater management plan.
16. The finished floor level of the dwelling, excluding any attached Class 10a structure (such as a private garage, carport or the like), is to be a minimum of 300mm above finished ground level.

17. The proposed dwelling(s) must be provided with a subterranean termite management system conforming to Australian Standard AS3660.1 or Part 3.1.3 of the BCA.
18. Building work shall not commence on the site before 7am on weekdays and Saturdays and 8am on Sundays and public holidays. All works are to cease by 8pm on any day.

Prior to Release of Occupation Certificate

19. **Occupation** - The applicant shall not allow or permit the building (or part of the building, in the case of alteration or additions) to be occupied or used, until:
 - (a) All conditions of this approval have been completed in full;
 - (b) An application for an Occupation Certificate has been completed and returned to the Principal Certifying Authority; and
 - (c) The Principal Certifying Authority has issued an Occupation Certificate.
20. Upon completion of construction, each dwelling is to have a house number clearly and permanently displayed on the letterbox; wall of the dwelling facing the street; or on a sign posted in a prominent position along the front boundary of the allotment.
21. A final Occupation Certificate will not be issued until all BASIX commitments as stated on the BASIX certificate provided have been completed in full and certified.
22. The townhouse development is to be landscaped to in accordance with approved plans. Landscaping must be completed prior to final certification and occupation of the townhouses.
23. An application for a final Occupation Certificate must be accompanied by the BASIX Certificate applicable for the development.
24. **Prior to the issue of an occupation certificate** - Two (2) residential standard plain concrete driveways, to Council specifications, are to be constructed from the kerb to the property boundary.
A separate application is to be made to Council's Engineering Department for approval to construct the driveway prior to installation of the driveway. The kerb of any redundant driveway is to be reinstated.

Prior to Release of Subdivision Certificate

25. The submission of formal subdivision plans and application for subdivision certificate being made to Council. Note that the subdivision is a strata subdivision and it must comply with the Strata Schemes Act.
26. The provision of raw and filtered water supply to each residential lot created at the expense of the developer. Separate raw and filtered water meters are to be provided for the newly created lots.
27. All allotments are to be connected to Council's sewerage system at the expense of the developer.
28. The developer is to ensure suitable arrangements have been made for electricity connection provision to each lot.
29. The developer is to ensure suitable arrangements have been made for natural gas provision to each lot.
30. The developer is to ensure that suitable arrangements have been made for telecommunication services to each lot.

31. The subdivision certificate is not to be released prior to all applicable conditions of consent for this development being complied with to the satisfaction of Council.

FOR: Councillors Murphy, Pocklington and Weyrich

AGAINST: Councillors Burke, Campbell and Moon

ADOPTION

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

QUESTIONS AND STATEMENTS WITHOUT NOTICE

Cr Burke:

- Enquired as to where the Development Application for Cobb Haven, Moama was up to.

Director of Environmental Services advised

- Referred to the Moama Market held last Sunday (14/04) and mentioned that the operator had done a good job in ensuring that no stalls were set up on or around the War Memorial.
- Referred to the recent bitumen works at Rich River Lakes Estate, Moama, and noted the satisfactory arrangements worked out when the contractor was delayed.
- Referred to his Code of Conduct investigation and asked Council what appeal mechanisms he has available to him.

Acting General Manager to follow up and provide information to Cr Burke

- Commented on the flashing lights at Moama Anglican Grammar School and enquired about what had happened to the flashing lights on the pedestrian crossing in Meninya Street, Moama.

Director of Engineering Services advised

- 101** **RESOLVED (Crs Burke/Weyrich)** that Council write to the NSW Minister for Roads advising him of the issue and requesting that flashing lights be installed on the pedestrian crossing in Meninya Street, Moama.

- Enquired about the arrangements made for the visit to Albury on 30 April 2013 for a Fleet Management Seminar.

Acting General Manager and Director of Engineering Services advised

- Referred to an upcoming General Manager's Riverina and Murray Regional Organisation of Councils (RAMROC) Meeting and advised that he would like the opportunity to attend the session on the Independent Commission Against Corruption (ICAC).

Acting General Manager to follow up a session for the Council

Cr Campbell:

- Referred to a letter she has received from Cobb Haven (Moama) residents advising that they had not heard from Council since February 2012 in regards to the pending Development Application and requested that Council give an undertaking to address where the issue is at and tell the residents what is going on.

Director of Environmental Services advised

- Referred to a letter she had received from a ratepayer of the Shire which was received on 16/04/13 but dated 20/04/13 and referred to an enclosure which was not enclosed.

Acting General Manager to follow up

Cr Moon:

- Referred to Victorian MP Sharmon Stone's recent call to ban jet skis on the Murray River and requested that Council write a letter to the Federal and State Members of Parliament supporting her stance.

Mayor advised

Cr Murphy:

- Advised that she had recently attended the Library Conference and advised of a request for councils to become active in making submissions to the Minister and MPs regarding Library funding and requested that Council make a further submission to the Minister and MPs through Local Government NSW.

Acting General Manager to follow up

Cr Pocklington:

- Mentioned the condition of gravel road off Perricoota Road as a concern.

Director of Engineering Services advised

- Advised that three times trucks had lost their loads on bitumen at Bunnaloo.

Director of Engineering Services advised and he would also raise at the next Murray Shire Local Traffic Committee Meeting

CORRESPONDENCE**PART A**

Nil.

PART B**B1/04 LOCAL GOVERNMENT WEEKLY**

Information noted.

B2/04 AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION

Information noted.

B3/04 THE HON SUSSAN LEY MP, MEMBER FOR FARRER

Information noted.

B4/04 BRIDGE ARTS PROJECT ECHUCA-MOAMA

Information noted.

B5/04 LOCAL GOVERNMENT NSW

Information noted.

B6/04 LOCAL GOVERNMENT NSW

Information noted.

- 102 RESOLVED (Crs Moon/Pocklington)** that the correspondence be received and noted.

SUNDRY DELEGATES REPORTS

Cr Anderson reported on his attendance at the following meetings and functions:

- Ordinary Meeting
- Murray Shire Senior Citizens Day Morning Tea – Perricoota Station, Moama
- Echuca Saleyards Advisory Committee Meeting
- Murray Darling Association Meeting
- Election Funding Seminar – Murray Shire Branch Office, Moama
- Echuca Library Inspection
- Planning and Development Committee Meeting

Cr Burke reported on his attendance at the following meetings and functions:

- Ordinary Meeting
- Down Syndrome Day Afternoon Tea
- Murray Shire Senior Citizens Day Morning Tea – Perricoota Station, Moama
- Echuca Moama Business Dinner – Moama Bowling Club
- Health Issues Meeting – Murray Shire Head Office, Mathoura
- Election Funding Seminar – Murray Shire Branch Office, Moama
- Mathoura Easter Fair
- Echuca Library Inspection
- Planning and Development Committee Meeting

- Moama Cemetery Working Bee
- Signing of Memorandum of Understanding – Murray Shire Council and Yorta Yorta Nation Aboriginal Corporation
- Moama Recreation Reserve Management Committee Meeting
- Southern Cross Apartments (Moama) Wing Opening & 10th Birthday Celebrations
- Fleet Management Seminar – Albury (30/04/13)

Cr Campbell reported on her attendance at the following meetings and functions:

- Ordinary Meeting
- Murray Shire Senior Citizens Day Morning Tea – Perricoota Station, Moama
- Health Issues Meeting – Murray Shire Head Office, Mathoura
- Election Funding Seminar – Murray Shire Branch Office, Moama
- Mathoura Easter Fair
- Planning and Development Committee Meeting
- Moama Lions Community Village Committee Meeting
- Legacy Luncheon
- Mathoura Retirement Village Management Committee Meeting
- Fleet Management Seminar – Albury (30/04/13)

Cr Moon reported on his attendance at the following meetings and functions:

- Ordinary Meeting
- Planning and Development Committee Meeting

Cr Murphy reported on her attendance at the following meetings and functions:

- Ordinary Meeting
- Murray Shire Senior Citizens Day Morning Tea – Perricoota Station, Moama
- Health Issues Meeting – Murray Shire Head Office, Mathoura
- Election Funding Seminar – Murray Shire Branch Office, Moama
- Planning and Development Committee Meeting
- South West Zone Library Meeting x 2 days – Cootamundra
- Mathoura UHA Meeting
- Murray Shire Hall Management Committee Meeting
- Mathoura and District Pioneer Cemetery Management Committee Meeting

Cr Pocklington reported on his attendance at the following meetings and functions:

- Ordinary Meeting
- Murray Shire Senior Citizens Day Morning Tea – Perricoota Station, Moama

- Health Issues Meeting – Murray Shire Head Office, Mathoura
- Mathoura Easter Fair
- Duck Race – Picnic Point, Mathoura
- Planning and Development Committee Meeting
- South West Arts Meeting – Wanganella
- Yorta Yorta Nation Aboriginal Corporation/Murray Shire Council – Memorandum of Understanding Signing

The Mayor, Cr Weyrich reported on his attendance at the following meetings and functions:

- Ordinary Meeting
- Australian Citizenship Ceremony – Moama Branch Office
- Murray Shire Senior Citizens Day Morning Tea – Perricoota Station, Moama
- Health Issues Meeting – Murray Shire Head Office, Mathoura
- Planning and Development Committee Meeting
- Echuca/Moama and District Tourism Association Meeting
- Committee for Echuca Moama (C4EM) Meeting x 2
- Meeting with Ian Maddison, Mayor, Shire of Campaspe
- MDA – Echuca
- Moama and District Pre School Centre Inc Committee Meeting
- Mathoura Football Netball Club Season Opening
- Yorta Yorta Nation Aboriginal Corporation/Murray Shire Council – Memorandum of Understanding Signing
- Southern Cross Apartments (Moama) Wing Opening & 10th Birthday Celebrations

- 103 RESOLVED (Crs Pocklington/Moon)** that the reports be received and reasonable out of pocket expenses met by Council.

CONDOLENCES

- 104 RESOLVED (Crs Pocklington/Murphy)** that condolences be forwarded in accordance with names handed to the Mayor and a minutes silence was observed.

THERE BEING NO FURTHER BUSINESS THE MEETING CLOSED AT 3:54PM

**THESE MINUTES ARE SIGNED AS A TRUE RECORD OF THE MEETING HELD ON
16 APRIL 2013 IN ACCORDANCE WITH A RESOLUTION OF COUNCIL ON
21 MAY 2013.**



.....
MAYOR

Appendix 12	Report 19 The Planning and Development Committee Meeting Agenda for 7 May 2013
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The Special Meeting for Consideration of the Draft Community Strategic Plan 2013/14, Policy and Resources Committee Meeting and Planning and Development Committee Meeting of Murray Shire Council will be held on **Tuesday 7 May 2013**, commencing at **1:00pm** in the **Meeting Room, Moama Branch Office, 6 Meninya Street, Moama**.

Greg Murdoch
General Manager

AGENDA

SPECIAL DRAFT COMMUNITY STRATEGIC PLAN 2013/14

1. Acknowledgement of Country
2. Opening Prayer
3. Apologies
4. Advice of any Conflict of Interest Pertaining to the Meeting
5. Staff Report & Supplementary Matters

POLICY & RESOURCES

1. Acknowledgement of Country
2. Opening Prayer
3. Apologies
4. Advice of any Conflict of Interest Pertaining to the Meeting
5. General Manager's Report & Supplementary Matters

PLANNING & DEVELOPMENT

1. Acknowledgement of Country
2. Opening Prayer
3. Apologies
4. Advice of any Conflict of Interest Pertaining to the Meeting
5. Confidential Reports & Supplementary Matters
 - *Please refer over the page for a detailed listing*
6. General Manager's Report & Supplementary Matters
7. Director of Corporate Services Report & Supplementary Matters
8. Director of Engineering Services Report & Supplementary Matters
9. Director of Environmental Services Report & Supplementary Matters
10. Matters of Urgency

PTO



Partnering for a sustainable community

PO Box 21 Muthoura NSW 2710 Ph 03 5884 3302 Fax 03 5884 3417 admin@murray.nsw.gov.au www.murray.nsw.gov.au
Head Office 21-25 Congro St Muthoura NSW 2710 Branch Office 6 Meninya St Moama NSW 2731

DEPUTATIONS

3:00pm Mark Langenbacher, Planright
Re: Director of Environmental Services Report – Clauses 7, 8, 9, 10, 11 & 12

INSPECTIONS

9:00am **Depart from Moama Branch Office Carpark**

9:05am Conservation Area for 'Old Moama' with Murray LEP 2011
Drive Chanter Street and meet at the Old Telegraph Station with members of Friends of Old Moama

9:40am Road Closure Application Inspection - Lyons Rd between Perricoota Rd and Murray River
Greg Gunther and a representative from RRID attending

10:10am Development Application 241/08 – Amendment Six
Tourist Facility and Community Title Subdivision (Applicant: KSK Developments Pty Ltd)
Meet and discussion on site; members of the Community Association and their representatives attending

11:00am Development Application 129/13
6 Lot Rural Subdivision (Applicant: Frank Millar)
Meet and discussion on site; Applicant and Surveyor attending

**DIRECTOR ENVIRONMENTAL SERVICES REPORT
SUBMITTED TO THE PLANNING & DEVELOPMENT COMMITTEE
MEETING HELD ON TUESDAY 7th MAY 2013**

Mr Chairman and Councillors,

I wish to report as follows –

CLAUSE 1. WHITE PAPER: 'A NEW PLANNING SYSTEM FOR NSW'

The NSW Government has recently released the 'White Paper' for a new NSW planning system. The paper responds to, and builds on the issues report, the *Way Ahead for Planning in New South Wales* prepared as part of the Independent Planning System Review and the Green Paper which was released in July 2012.

The white paper is currently on public exhibition with submissions being invited until 28 June 2013.

The 'white paper' incorporates fundamental changes to the NSW planning system. The white paper aims to implement a new planning system based on the following five key elements:

- **Community participation** – Upfront community participation will become a legal right and will be backed up by a Community Participation Charter enshrined in law, which is an Australian first.
- **Infrastructure** – Delivering infrastructure alongside growth and providing a more certain and consistent way of funding infrastructure.
- **Strategic planning** – Better strategies, developed early in the process with the community, to guide the best places for growth and identify the areas to be protected from development.
- **Cultural change** – A planning system that is easy to access with timely results for customers.
- **Development assessment** – An easy-to-use system that provides certainty for everyday applications such as family homes, extensions and small businesses.

A new draft 'planning act' is also being exhibited alongside the white paper. This new 'planning act' implements the fundamental changes proposed by the white paper.

Beneath the new 'planning act', the new system will include a hierarchy of plans and policies comprising:

- **NSW Planning Policies**—these present the government's planning policy framework relating to land use and development for a range of sectors.
- **Regional Growth Plans**—these provide a high level vision and objectives and policies for each region of the state.

THIS IS PAGE NO. 1 OF THE DIRECTOR OF ENVIRONMENTAL SERVICES REPORT TO THE PLANNING AND DEVELOPMENT COMMITTEE MEETING OF MURRAY SHIRE COUNCIL HELD AT THE MURRAY SHIRE OFFICES, MOAMA, ON TUESDAY 7TH MAY 2013.

Summary

The 'existing holding' provision was inserted into the Murray LEP 1989 to provide a transition between controls relating to the erection of dwellings in the rural areas of Murray Shire, from those which had previously existed. In preparing Murray LEP 2011, Council inserted the model clause relating to the erection of dwellings in rural areas which had been drafted by the Department of Planning and Infrastructure and settled by Parliamentary Counsel. This clause included a standard definition for an 'existing holding'. Council also elected to insert a sunset period for the 'existing holding' provisions for a number of reasons explained in this report. This sunset period has now expired meaning that no further applications can be made to erect a dwelling on an 'existing holding' should the application not comply with the other provisions contained within Clause 4.2A of Murray LEP 2011. Council is still able to consider the applications made prior to the expiry of the sunset period.

Recommendation

For Council's information.

CLAUSE 4. CONSERVATION AREA FOR 'OLD MOAMA' WITH MURRAY LEP 2011**Executive Summary**

A report was presented to Council at its ordinary meeting held Tuesday, 16 April 2013 in respect to this matter where Council resolved;

that Council defer a decision on a 'conservation area' within the Old Moama heritage precinct as part of a review of Murray Local Environmental Plan (LEP) 2011 until an on-site inspection is undertaken of the whole area prior to the next meeting of Council, being Tuesday 7 May 2013.

The abovementioned site inspection was held this morning and, subsequently, the report is again presented to Council for determination.

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

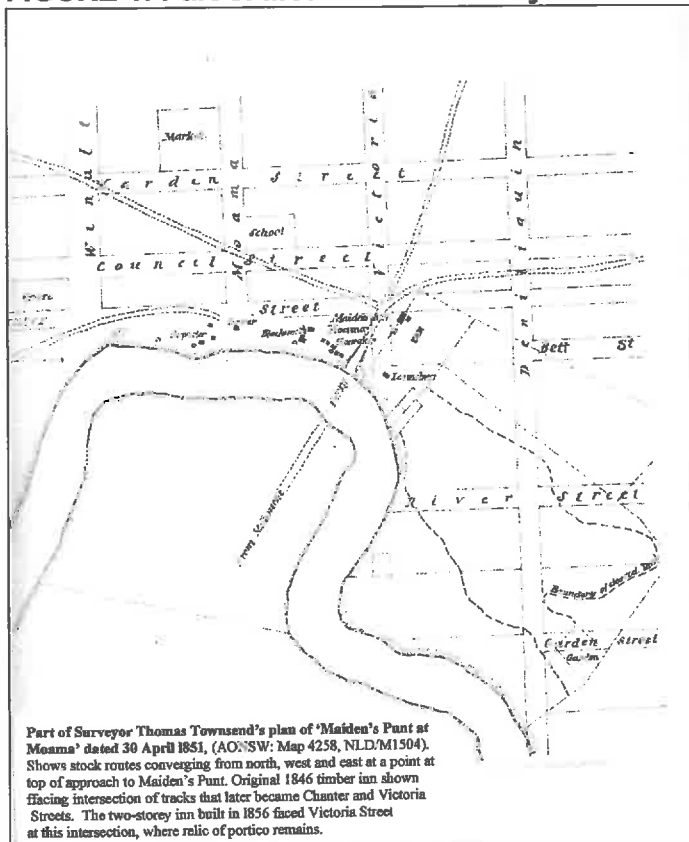
Heritage Significance

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

THIS IS PAGE NO. 7 OF THE DIRECTOR OF ENVIRONMENTAL SERVICES REPORT TO THE PLANNING AND DEVELOPMENT COMMITTEE MEETING OF MURRAY SHIRE COUNCIL HELD AT THE MURRAY SHIRE OFFICES, MOAMA, ON TUESDAY 7TH MAY 2013.

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

FIGURE 1: Part of Moama town survey 1851



Existing Development

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

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

THIS IS PAGE NO. 8 OF THE DIRECTOR OF ENVIRONMENTAL SERVICES REPORT TO THE PLANNING AND DEVELOPMENT COMMITTEE MEETING OF MURRAY SHIRE COUNCIL HELD AT THE MURRAY SHIRE OFFICES, MOAMA, ON TUESDAY 7TH MAY 2013.

Existing Heritage Controls

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

These sites are:-

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

FIGURE 2: Items of Environmental Heritage in Murray LEP 2011



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

5.10 Heritage conservation

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

(1) Objectives

The objectives of this clause are as follows:

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

(2) Requirement for consent

Development consent is required for any of the following:

- (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):
 1. a heritage item,
 2. an Aboriginal object,
 3. a building, work, relic or tree within a heritage conservation area,

THIS IS PAGE NO. 9 OF THE DIRECTOR OF ENVIRONMENTAL SERVICES REPORT TO THE PLANNING AND DEVELOPMENT COMMITTEE MEETING OF MURRAY SHIRE COUNCIL HELD AT THE MURRAY SHIRE OFFICES, MOAMA, ON TUESDAY 7TH MAY 2013.

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

(3) When consent not required

However, development consent under this clause is not required if:

- (a) *the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:*
 - (i) *is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and*
 - (ii) *would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or*
- (b) *the development is in a cemetery or burial ground and the proposed development:*
 - (i) *is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and*
 - (ii) *would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or*
- (c) *the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or*
- (d) *the development is exempt development.*

(4) Effect of proposed development on heritage significance

The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

(5) Heritage assessment

The consent authority may, before granting consent to any development:

- (a) *on land on which a heritage item is located, or*
- (b) *on land that is within a heritage conservation area, or*
- (c) *on land that is within the vicinity of land referred to in paragraph (a) or (b),*
require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

(6) Heritage conservation management plans

The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

THIS IS PAGE NO. 10 OF THE DIRECTOR OF ENVIRONMENTAL SERVICES REPORT TO THE PLANNING AND DEVELOPMENT COMMITTEE MEETING OF MURRAY SHIRE COUNCIL HELD AT THE MURRAY SHIRE OFFICES, MOAMA, ON TUESDAY 7TH MAY 2013.

(7) Archaeological sites

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

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

(8) Aboriginal places of heritage significance

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

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

(9) Demolition of nominated State heritage items

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

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

(10) Conservation incentives

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

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

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

Development Pressures

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

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.

THIS IS PAGE NO. 11 OF THE DIRECTOR OF ENVIRONMENTAL SERVICES REPORT TO THE PLANNING AND DEVELOPMENT COMMITTEE MEETING OF MURRAY SHIRE COUNCIL HELD AT THE MURRAY SHIRE OFFICES, MOAMA, ON TUESDAY 7TH MAY 2013.

- To provide for a limited range of development that does not have an adverse effect on those values.

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

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

However, Council has received three applications for dwelling houses in the subject area on 'existing holdings' (refer to Figure 3 below). Two of these applications are for double storey dwellings and the other is for a single storey dwelling. Council is currently awaiting further information in respect to these applications. These applications have also been referred to Councils Heritage Advisor for comment.

FIGURE 3: Development Applications currently being assessed by Council



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

THIS IS PAGE NO. 12 OF THE DIRECTOR OF ENVIRONMENTAL SERVICES REPORT TO THE PLANNING AND DEVELOPMENT COMMITTEE MEETING OF MURRAY SHIRE COUNCIL HELD AT THE MURRAY SHIRE OFFICES, MOAMA, ON TUESDAY 7TH MAY 2013.

Proposal

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

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



Discussion

Conservation areas are generally used for areas/precincts which have a combined heritage significance for example, a neighbourhood or main street with heritage values. It does not provide any greater controls on 'items of environmental heritage'. A 'conservation area' triggers consideration of Clause 5.10: Heritage Conservation of Murray LEP 2011 for development of a property within the 'conservation area'.

There is merit in considering a 'conservation area' for the Old Moama area as the precinct has a combined heritage significance. The conservation area will ensure heritage is considered for all development within the area and assist in identifying the area as a heritage precinct. Council staff are proposing to undertake an initial review of the Murray LEP 2011 within the next 6-12 months and identify any errors or oversights within the current instrument and it is recommended that Council consider the proposed 'conservation area' as part of this review. Alternatively, if the potential development within the area is of significant concern to Council, then Council may consider preparing a 'planning proposal' immediately to implement 'proposal' amendment to Murray LEP 2011.

THIS IS PAGE NO. 13 OF THE DIRECTOR OF ENVIRONMENTAL SERVICES REPORT TO THE PLANNING AND DEVELOPMENT COMMITTEE MEETING OF MURRAY SHIRE COUNCIL HELD AT THE MURRAY SHIRE OFFICES, MOAMA, ON TUESDAY 7TH MAY 2013.

It should be noted that despite there being no conservation area currently, the impact of development on heritage is still required to be considered as part of the assessment of applications for development within the vicinity of heritage items.

Recommendation

That Council consider creating a 'conservation area' within the old Moama heritage precinct as part of a review of Murray LEP 2011.

CLAUSE 5. DEVELOPMENT APPLICATION 129/13
FOR: 6 LOT RURAL SUBDIVISION
ZONE: RU1 PRIMARY PRODUCTION
PROPERTY: LOT 31, DP 1147996 AND LOT 1, DP 1170941
ADDRESS: PERRICOOTA FOREST ROAD, MOAMA
OWNER: KC, FA & JL MILLAR SUPERANNUATION FUND
APPLICANT: FRANK MILLAR

Section 1: Introduction

1.1 Background

A report was presented to Council at its Planning and Development Committee meeting held Tuesday, 2 April 2013 in respect to this application where Council was advised of the following;

It was advised that the applicant has asked that Development Application 129/13 be deferred, pending the availability of the applicants' town planning adviser.

As a result, Council resolved;

that Development Application 129/13 be deferred and that Council undertake an on-site inspection of the property.

The abovementioned site inspection was held this morning and, subsequently, the assessment report of the proposed modification to DA 241/08 is presented to Council for determination.

1.2 Executive Summary

The application seeks approval for a 6 lot subdivision of Lot 31, DP 1147996 & Lot 1, DP 1170941, Perricoota Forest Road. The same application had previously been refused by Council as part of DA 027/13 although further information has been provided in support of the proposal as part of the re-submitted application. The land has a total area of 743ha with each of the proposed lots having an area greater than 120ha. The lots are being created for the purpose of agriculture with proposed Lot 316 containing two existing cottages and the other lots having the potential to having dwellings erected on them subject to further development consent. All lots have frontage to the Murray River. Despite the lots being created for the purpose of agriculture, the subdivision layout is considered to fragment rural land. The subdivision will create four narrow skinny lots that cut through existing paddocks and across different land and soil types diminishing the useability of the productive land. A consultants report argues that the layout can encourage agriculture and will drive a more intensive agriculture on the land.

THIS IS PAGE NO. 14 OF THE DIRECTOR OF ENVIRONMENTAL SERVICES REPORT TO THE PLANNING AND DEVELOPMENT COMMITTEE MEETING OF MURRAY SHIRE COUNCIL HELD AT THE MURRAY SHIRE OFFICES, MOAMA, ON TUESDAY 7TH MAY 2013.



Simon Arkinstall
Director of Environmental Services

THIS IS PAGE NO. 181 OF THE DIRECTOR OF ENVIRONMENTAL SERVICES REPORT TO THE PLANNING AND DEVELOPMENT COMMITTEE MEETING OF MURRAY SHIRE COUNCIL HELD AT THE MURRAY SHIRE OFFICES, MOAMA, ON TUESDAY 7TH MAY 2013.

Date Recd: 13.03.13

Doc id: X Ref:

Retention Period: 2yrs

File: Eco.Dev/Ind/FOOM

Ref to: LW For: Info

Ref to: BH For: ✓

Ack'ment Letter: Sent: 13.03.13



FRIENDS OF OLD MOAMA

"Dedicated to the preservation of our heritage"

President : Mary Ledwidge Chanter Estate Winery Chanter Street Moama . NSW 2710
phone: 54800334 (w) Email: chanterestatewinery@bigpond.com
Secretary : Carolyn Rolis 101 Mitchell Street Echuca. Vic. 3564
Phone: 54823800 Email: psanmead@ozemail.com.au

Date 11.03.2013

Mr. G. Murdoch
General Manager,
Murray Shire Council,
PO Box 21,
MATHOURA. 2710.

Dear Mr. Murdoch,

The Friends of Old Moama have become increasingly concerned about proposed development within close proximity to the Old Telegraph Station in Chanter Street. As you are aware, this section of Chanter Street between Winal Street (now the levee bank) and Victoria Street encompasses the area that was the original settlement of Moama.

We understand that present changes in the zoning of the area incorporated into the LEP do provide greater restriction upon the level and type of development control that may occur, but are not convinced that the outcomes will always be considered to conserve the historical context of the area.

The Friends seek to strengthen the level of development control within the area and would expect Murray Shire to be supportive of our efforts to protect important heritage on behalf of present and future residents of Moama. It is our belief that this can best be achieved by Council giving due consideration to incorporating Old Moama as a Heritage Precinct in the LEP.

Although there are few surviving buildings and relics now, this should not be misinterpreted as a distraction from the high level of local significance the wider area encompasses. Old Moama demonstrates clearly both social and historical values. The buildings, particularly the Telegraph Station, also are of aesthetic value in the local context.

We understand that to have 'Old Moama Heritage Precinct' incorporated into the LEP, certain steps need to be taken – preparation of Statements of Significance for each of the remaining buildings and relics located within the area, together with a Statement of Significance for the Precinct. This will outline key aspects of *How, What* and *Why* the building relic or precinct is significant and provide guidance on how change is managed within the precinct. The Friends have undertaken research on most of the buildings concerned and would be happy to provide this information.

While our main reason for making this approach is as stated - greater protection from unsuitable development - we also believe there would be considerable tourism benefits from being able to 'market' this section of Chanter St. as 'Old Moama Heritage Precinct' or 'Old Moama Heritage Conservation Area'.

Few people coming to Moama today are aware of the compelling story of this once bustling centre of activity that was a fundamental - yet somewhat forgotten - part of the stock route that facilitated the movement of cattle and other livestock from southern Queensland and northern New South Wales into Victoria, through the use of Maiden's early punt. The annihilation of the settlement by the 1870 flood adds interest to the story. We believe incorporating the area as a special precinct in the LEP would enable Old Moama to be promoted to tourists, bearing in mind that in future years we look forward steamers carrying passengers able to disembark in the vicinity of Maiden's Punt Reserve.

We welcome the opportunity for further discussion on this matter.

Yours sincerely

Carolyn Rolls
Carolyn Rolls
Hon. secretary

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**MINUTES OF THE PLANNING & DEVELOPMENT COMMITTEE MEETING
OF MURRAY SHIRE COUNCIL
HELD IN THE MEETING ROOM, MOAMA BRANCH OFFICE
ON TUESDAY 7 MAY 2013**

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MATTERS OF URGENCY

**MINUTES OF THE PLANNING & DEVELOPMENT COMMITTEE MEETING
OF MURRAY SHIRE COUNCIL
HELD IN THE MEETING ROOM, MOAMA BRANCH OFFICE
ON TUESDAY 7 MAY 2013, COMMENCING AT 1:15PM**

PRESENT

*The Mayor, Cr TE Weyrich (in the Chair)
Councillors WR Anderson, GP Burke, GS Campbell,
IW Moon, BM Murphy and JW Pocklington*

IN ATTENDANCE

The following members of staff were also in attendance:

<i>GJ Murdoch</i>	<i>General Manager</i>
<i>PH Higgins</i>	<i>Director of Corporate Services</i>
<i>LJ Robins</i>	<i>Director of Engineering Services</i>
<i>S Arkinstall</i>	<i>Director of Environmental Services</i>

ACKNOWLEDGEMENT OF COUNTRY

The Mayor opened the meeting with an Acknowledgement of Country.

PRAYER

The Mayor held a short appropriate prayer.

APOLOGY

There were no apologies received from Councillors for the meeting.

CONFLICT OF INTEREST

Cr GS Campbell declared an interest in Clause 1 of the Director of Environmental Services Confidential Report on Expression of Interest – Moama Market.

Cr WR Anderson declared an interest in Clause 5 of the Director of Environmental Services Report on Development Application 129/13.

Cr GP Burke tabled a letter from his solicitor in regards to Clause 6 of the Director of Environmental Services Report on Development Application 241/08 – Amendment Six.

COMMITTEE OF THE WHOLE OF COUNCIL

PD58 **RESOLVED (Crs Anderson/Pocklington)** that as provided by Section 10A(2), Subsection (d)(iii) of the Local Government Act 1993, being commercial information of a confidential nature that would, if disclosed reveal a trade secret, Council move into Committee of the Whole of Council at 12:42pm.

**DIRECTOR OF ENGINEERING SERVICES
CONFIDENTIAL REPORT****CLAUSE 1. SCOTTS BRIDGE**

Information noted.

**DIRECTOR OF ENVIRONMENTAL SERVICES
CONFIDENTIAL REPORT****CLAUSE 1. EXPRESSION OF INTEREST – MOAMA MARKET**

Cr GS Campbell declared an interest in this matter, as she is a home owner in the street in which the Moama Market takes place, took no part in discussion, tabled a written notice to the General Manager and left the meeting.

RECOMMENDED (Crs Murphy/Moon) that Council:

1. Not accept the Expression of Interest based on the submission; and
2. Negotiate with the submission maker in relation to the Expression of Interest to ensure all outcomes anticipated by Council are achieved.

**CLAUSE 2. DEVELOPMENT APPLICATION (017/08)
SWIMMING POOL FENCE COMPLIANCE RECTIFICATION
LOT 105, DP 1063481
53 ABERDEEN WAY, MOAMA
OWNER:- RJ & WA McNish**

RECOMMENDED (Crs Pocklington/Burke) that Council contract a pool fence company to rectify the pool fence at 53 Aberdeen Way, Moama, with full cost to be borne by Council.

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

AGAINST: Councillor Campbell

ADOPTION

PD59 RESOLVED (Crs Pocklington/Murphy) that Council move into Open Council at 1:03pm.

The General Manager, on behalf of the Mayor, advised the decisions of the Committee of the Whole of Council in Open Council.

PD60 RESOLVED (Crs Pocklington/Murphy) that the recommendations of the Committee of the Whole of Council be adopted.

REPORTS FROM OFFICERS

GENERAL MANAGER'S REPORT

CLAUSE 1. NEW COUNCILLOR INDUCTION

Information noted.

**CLAUSE 2. LOCAL GOVERNMENT NSW –
SUSTAINABLE CHOICE PROGRAM**

PD61 RESOLVED (Crs Pocklington/Campbell) that Council join the Local Government NSW – Sustainable Choice Program.

CLAUSE 3. BOXING DAY TRADING

Information noted.

**CLAUSE 4. NSW PARLIAMENTARY INQUIRY –
DOWNSTREAM GAS SUPPLY AND AVAILABILITY IN NSW**

PD62 RESOLVED (Crs Murphy/Anderson) that Council support a Riverina and Murray Regional Organisation of Councils (RAMROC) submission to the NSW Parliamentary Inquiry – Downstream Gas Supply and Availability in NSW.

CLAUSE 5. INDEPENDENT LOCAL GOVERNMENT REVIEW PANEL

PD63 RESOLVED (Crs Pocklington/Murphy) that:

1. Council reaffirm its position to not support any amalgamation of Murray Shire Council.
2. Councillors and Senior Staff attend the proposed Regional Councils Workshop in Deniliquin on 15 May 2013.
3. Council encourage the local community and community organisations to attend the Regional Hearing in Deniliquin on 15 May 2013.
4. The General Manager coordinates an appropriate submission in response to the report.

**CLAUSE 6. INTERGOVERNMENTAL AGREEMENT TO GUIDE NSW STATE-
LOCAL GOVERNMENT RELATIONS ON STRATEGIC
PARTNERSHIPS**

Information noted.

**CLAUSE 7. LOCAL GOVERNMENT CODE OF CONDUCT –
REGIONAL PANEL OF CONDUCT REVIEWERS**

PD64 RESOLVED (Crs Pocklington/Anderson) that Council agree to the appointment of the Regional Panel of Conduct Reviewers as resolved by Riverina and Murray Regional Organisation of Councils and listed in the report.

**CLAUSE 8. LOCAL LAND SERVICES –
INDEPENDENT PANEL RECOMMENDATIONS**

Information noted.

ADOPTION

PD65 RESOLVED (Crs Anderson/Moon) that subject to the foregoing resolutions, the General Manager's Report be adopted.

DIRECTOR OF ENGINEERING SERVICES REPORT**CLAUSE 1. ROAD CLOSURE APPLICATION**

PD66 **RESOLVED (Crs Pocklington/Moon)** that Council not support the Lyons Road, Moama, closure application.

CLAUSE 2. DRAINAGE WORKS

Information noted/

ADOPTION

PD67 **RESOLVED (Crs Pocklington/Burke)** that subject to the foregoing resolutions, the Director of Engineering Services Report be adopted.

DIRECTOR OF ENVIRONMENTAL SERVICES REPORT**CLAUSE 1. WHITE PAPER: 'A NEW PLANNING SYSTEM FOR NSW'**

Information noted.

**CLAUSE 2. DEVELOPMENT APPLICATION (026/13)
COMMUNITY TITLE SUBDIVISION OF MANUFACTURED HOME
ESTATE
ZONE:- R1 – GENERAL RESIDENTIAL
COBB HAVEN, MOAMA
OWNER:- SWEDZAH PTY LTD, RODNEY L AND MICHELLE K
PERRY
APPLICANT:- PLANRIGHT SURVEYING PTY LTD**

Information noted.

CLAUSE 3. EXISTING HOLDING PROVISIONS WITHIN MURRAY LOCAL ENVIRONMENTAL PLAN

Information noted.

CLAUSE 4. CONSERVATION AREA FOR 'OLD MOAMA' WITH MURRAY LOCAL ENVIRONMENTAL PLAN 2011

PD68 **RESOLVED (Crs Pocklington/Anderson)** that the creation of a 'conservation area' within the 'Old Moama' heritage precinct as part of a review of Murray Local Environmental Plan (LEP) 2011 be deferred pending a more detailed report on property ownership and proposed Development Applications within the proposed area and in time with the work on the LEP.

**CLAUSE 5. DEVELOPMENT APPLICATION (129/13)
6 LOT RURAL SUBDIVISION
ZONE:- RU1 - PRIMARY PRODUCTION
LOT 31, DP 1147996 AND LOT 1, DP 1170941
PERRICOOTA FOREST ROAD, MOAMA
OWNER:- KC, FA AND JL MILLAR SUPERANNUATION FUND
APPLICANT:- FRANK MILLAR**

Cr WR Anderson declared an interest in this matter, as he is the Independent Chair of the West Cadell Irrigation Trust (paid position) and has a friendship with the applicant, took no part in discussion, tabled a written notice to the General Manager and left the meeting.

PD69 RESOLVED (Crs Moon/Campbell) that the application for a Six Lot Subdivision be refused for the following reasons:

1. The proposed subdivision is not consistent with the aims of Murray Local Environmental Plan (LEP) 2011 as it does not encourage the retention of productive rural land in agriculture.
2. The proposed subdivision is not consistent with the objectives of the RU1 Primary Production zone as it promotes the fragmentation and alienation of resource lands.
3. The proposed subdivision is inconsistent with Clause 7.5 of Murray LEP as it will result in an increase in water extraction and does not minimise this impact.
4. The proposed subdivision is inconsistent with the Rural Planning Principles outlined under the SEPP (Rural Lands) 2008 as it will result in the fragmentation of rural land and does not consider the natural or physical constraints and opportunities of the land.
5. The development is not considered to be in the public interest and is considered to be inconsistent with the 'farm subdivision assessment guidelines'.
6. The proposed subdivision will fragment productive agricultural land which is considered inconsistent with the Council's Strategic Land Use Plan (SLUP) and has the potential to have a cumulative economic impact on the locality.

FOR: Councillors Campbell, Moon, Murphy and Weyrich

AGAINST: Councillors Burke and Pocklington

**CLAUSE 6. DEVELOPMENT APPLICATION (241/08) – AMENDMENT SIX
TOURIST FACILITY AND COMMUNITY TITLE SUBDIVISION
LOT 17, DP 270641
PERRICOOTA ROAD, MOAMA
APPLICANT:- KSK DEVELOPMENTS PTY LTD**

PD70 RESOLVED (Crs Pocklington/Burke) that:

1. The s96(1A) application to modify the consent to change the following be approved:
 - a) The erection of two boat storage sheds containing 9 bays and 6 bays respectively.
 - b) Nomination of Lot 2 as the location for the Stage 1 Manager's Residence.
 - c) To make provision for a pool facility as part of Stage 1 and relocating the pool to a more central location adjoining Stage 1 units.
 - d) Renumbering of all lots in Stage 2 and reduction of units as part of Stage 2 and redefinition of the proportion of Type A, B and C units.
2. The modified development be subject to the following revised conditions as detailed below.

General

1. This development consent will operate from the date that Council provides written notice to the Applicant that the development consent has become operational.
2. This development consent will expire if:
 - (a) the "deferred commencement" matters listed in *Condition 3* of this consent are not complied with *within six (6) months of the date of this notice* in accordance with section 95(6) of the *Environmental Planning and Assessment Act 1979*; and
 - (b) the development is not substantially commenced within five (5) years of the date that Council provides written notice to the Applicant that the development consent has become operational.
3. Pursuant to section 80(3) of the *Environmental Planning and Assessment Act 1979* this is a "deferred commencement" consent in respect of the *lodgement* with Council of:
 - (a) [deleted]
 - (b) an amended overall landscaping plan in accordance with *Condition 10* of this consent;
 - (c) a rehabilitation plan for the Core Riparian Zone in accordance with *Condition 12* of this consent; and
 - (d) BASIX certificates for each BASIX affected building within the meaning of the *Environmental Planning and Assessment Act 1979* in accordance with *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*.

In deciding whether this condition has been satisfied Council will determine whether sufficient information has been lodged in accordance with the nominated conditions.

4. The development is to be carried out in accordance with the followed stamped approved plans:
 - Drawing No. 080030_USP09_13Feb13, prepared by Rich River Irrigation, except where varied by *Condition 9* of this consent where relevant;
 - 'Type A' Drawing No's. A01 & A03, dated 25 January 2008, prepared by Nicholas Murray Architects;
 - 'Type B1 & B2' Drawing No's. A01 and A02, dated 25 January 2008, prepared by Nicholas Murray Architects;
 - 'Type B3, B4 & B5' Drawing No's. A01 and A02, dated 25 January 2008, prepared by Nicholas Murray Architects;
 - 'Type C' Drawing No's. A01 & A03, dated 25 January 2008, prepared by Nicholas Murray Architects;
 - Drawing No's. TP01 and TP02, dated 5 June 2008, prepared by Nicholas Murray Architects;
 - Development & Site Plan Drawing No TP01 dated 9/07/2012 prepared by EDM Group;
 - Plans & Elevations Drawing No A03.1 dated 22/05/2012, Drawing No A03.3 dated 22/05/2012, Drawing No A03.4 dated 9/07/2012 prepared by Nicholas Murray Architects;
 - BASIX Certificates: 437123S, 437125S, 437128S, 437129S, 437131S, 437103S;
 - Site Plan, Floor Plans & Elevations Job No. 080030 Drawing No B02 pages 1 to 6 dated 08/10/2012 & 24/09/2012 (lot 6); Drawing No B03 pages 1 to 6 dated 08/10/2012 & 24/09/2012 (lot 16) prepared by EDM Group;
 - BASIX Certificates: 448539S, 273747S_02 (lots 16 & 6 only);
 - the staged development plan;
 - the landscaping plan; and
 - rehabilitation plan for the Core Riparian Zone.

If there is any inconsistency between the above, the conditions of this consent shall prevail to the extent of the inconsistency.

5. The approved development is for "tourist facilities" defined as – "an establishment providing for holiday accommodation or recreation and may include a boat shed, boat landing facilities, camping ground, caravan park, holiday cabins, hotel, house boat, marina, motel, playground, refreshment room, water sport facilities or a club used in conjunction with any such activities".

In this regard the land is only to be used for holiday accommodation purposes and no building is to be occupied by the same person or persons for more than 120 total cumulative days in a financial year (not including the managers' residence).

6. Pursuant to section 80A(5) of the *Environmental Planning and Assessment Act 1979*, to regularise the development of the land, Development Consent No. 450/06, as amended is to be surrendered in accordance with clause 97 of the *Environmental*

- Planning and Assessment Regulation 2000* within thirty (30) days from the date of this consent becoming operational.
7. The Applicant shall comply with any reasonable requirement/s of the Council arising from Council's assessment/interpretation of:
 - (a) the development consent conditions and endorsed plans;
 - (b) any reports, plans, or correspondence that are submitted to Council in accordance with this development consent; and
 - (c) the implementation of any actions or measures contained in these reports, plans, or correspondence.
 8. The Applicant shall implement all practicable measures to prevent and/or minimise any harm to the environment that may result from the construction, operation, or rehabilitation of the development.
 9. Pursuant to section 80(4) of the *Environmental Planning and Assessment Act 1979*, no building structures, including any overhanging building structures, are to be located within 60 m of the nearest high bank of the Murray River.

New Plans and Timing for Works

10. A landscaping plan (x3 colour paper copies) is to be submitted to Council for approval in accordance with *Condition 3* of this consent generally in accordance with the landscape masterplan lodged as a part of the application for this development but modified to provide for/show:
 - (a) the amended site plan and staged development plan to account for no building structures being located within 60 m of the nearest high bank of the Murray River;
 - (b) landscaping commitments arising from *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* for the total proposed development of the land;
 - (c) landscaping of the Perricoota Road boundary of the sewerage treatment plant;
 - (d) a schedule of the locations, planting density, and names of all tree, shrub, grass, and wetland/pond species and their mature widths and heights, including a schedule and plan of implementation according to development staging (staged landscaping plan);
 - (e) a schedule of the ground preparation works to be carried out prior to planting;
 - (f) detail drawings of the fences fronting Perricoota Road and other boundaries, including a schedule of construction materials and finished colours;
 - (g) the locations of all paved and impervious areas;
 - (h) the locations of all internal fencing, including that provided to protect vehicle and pedestrian access to the Core Riparian Zone (CRZ) of the Murray River as shown in *Guidelines for controlled activities: Riparian corridors* (DWE 2008) and any fencing provided around the stormwater detention ponds.Once the landscaping plan has been submitted to Council for approval it will be forwarded to the Murray Catchment Management Authority for comment. Once Council has approved

- the plan it will be endorsed and a copy returned to the Applicant and will form a part of this development consent.
11. All approved landscaping works relevant to that 'stage' of the staged landscaping plan are to be implemented by the completion of that 'stage' of the staged landscaping plan.
 12. A rehabilitation plan for the Core Riparian Zone (x 3 colour paper copies) is to be submitted to Council for approval in accordance with *Condition 3* of this consent to provide for:
 - (a) the replanting of native vegetation indigenous to the locality; and
 - (b) bank stabilisation works, in accordance with guidelines of the Murray Catchment Management Authority, including the planting of either giant rush and or Phragmites along the waters edge (average summer water level).Once the rehabilitation plan has been submitted to Council for approval it will be forwarded to the Murray Catchment Management Authority for comment. Once Council has approved the plan it will be endorsed and a copy returned to the Applicant and will form a part of this development consent.
 13. All approved rehabilitation works are to be implemented by the completion of 'stage 1' as shown on the approved staged development plan.

Prior to the Issue of a Building Construction Certificate or Prior to the Issue of Subdivision Construction Certificate

14. Prior to the issue of a subdivision construction certificate or the first building construction certificate (which ever comes first), an Environmental Management Plan (EMP) for the overall site is to be prepared generally in accordance with *Guideline for the Preparation of Environmental Management Plans* (DIPNR 2004) and is to be submitted to Council for consideration and approval (x3 colour paper copies). When approved by Council a copy of the endorsed EMP will be returned to the Applicant and will form a part of this consent. The EMP is to be prepared by a suitably qualified person and is to:
 - (a) address all environmental aspects of the development's construction and operational phases;
 - (b) recommend any systems/controls to be implemented to minimise the potential for any adverse environmental impact; and
 - (c) incorporate a programme for ongoing monitoring and review to ensure that the EMP remains contemporary with relevant environmental standards.The EMP should include but is not limited to the following:
 - soil and water management;
 - dust suppression;
 - litter control;
 - noise control;
 - waste management;

- dangerous/hazardous goods storage; and
 - emergency response and, if relevant, spill contingency.
- Council will not withhold its consent to the Environmental Management Plan provided the above-mentioned matters are reasonably addressed. The relevant aspects of the approved EMP are to be implemented during the relevant phase(s) of the development.
15. A suitably qualified environmental consultant is to be employed to supervise the implementation of the development in accordance with the relevant aspects of the approved EMP as identified at each phase of the development e.g. prior to commencement of works, construction, and post-construction/ongoing operations of the development. Details of the environmental consultant, including contact details, employed to oversee the development is to be submitted to Council with the 'Notification of Commencement' 2 days before any works are to commence on site.
 16. Prior to the issue of a subdivision construction certificate or the first building construction certificate (which ever comes first), a fresh development application is to be lodged with Council showing on a plan all the land comprising the site (the tourist facility as well as the ancillary sewerage treatment plan) in one (1) lot. Prior to the issue of the first 'interim' or 'full' building occupation certificate, the subdivision certificate for the above subdivision is to be approved by Council and registered at the Titles Office. Documentary evidence of such is to be provided to the Principle Certifying Authority and Council (if not the PCA).
 17. Prior to commencing any building construction works, the following provisions of the Environmental Planning and Assessment Act 1979 (the Act) are to be complied with:
 - (a) A construction certificate is to be obtained in accordance with Section 81A(2)(a) of the Act;
 - (b) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act; and
 - (c) Council is to be notified at least two (2) days in advance of the intention to commence building works, in accordance with Section 81A(2)(c) of the Act.
 18. Prior to commencing any subdivision construction works, the following provisions of the *Environmental Planning and Assessment Act 1979* are to be complied with:
 - (a) A construction certificate is to be obtained in accordance with Section 81A(4)(a);
 - (b) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(4)(b); and
 - (c) Council is to be notified at least two (2) days in advance of the intention to commence subdivision works, in accordance with Section 81A(4)(c).
 19. Prior to the issue of the first building construction certificate, a stormwater management plan is to be submitted to Council for

approval generally in accordance with the stormwater management plan prepared by Dalton Consulting Engineers dated August 2006 but modified and expanded to provide for *Managing Urban Stormwater: Soils & Construction* (Landcom), *Guidelines for Fresh and Marine Water Quality* (ANZECC), and *AS/NZS 3500.3:2003: Plumbing and drainage – Stormwater drainage*. Once approved the stormwater management plan will form a part of this development consent. All construction activities (building, sewerage treatment plant, and subdivision construction) are to be carried out in accordance with the approved stormwater management plan.

20. Prior to issue of the first 'interim' or 'full' building occupancy certificate *or* the commissioning of the sewerage treatment plant (whichever comes first), the contingency for the possible need for the offsite disposal of treated wastewater from the sewerage treatment plant or the possible need for the offsite disposal of overflow from the stormwater retention ponds is to be addressed via a legal agreement between all relevant parties. The agreement is to be registered on the Titles of the relevant land. The Principle Certifying Authority and the Council (if not the PCA) is to be supplied with a full copy of this agreement.
21. The Applicant shall obtain an approval under section 68 of the *Local Government Act 1993* to carry out water supply work and sewerage work, as relevant.
22. Prior to the first building construction certificate being issued a financial contribution of \$100,000 is to be paid to Council for community services/facilities pursuant to section 94A of the *Environmental Planning and Assessment Act 1979* and clause 25K of the *Environmental Planning and Assessment Regulation 2000*. If Council is not the Principle Certifying Authority for the development, upon request Council will supply a letter for the PCA indicating that this condition has been complied with.
23. Prior to the issue of a subdivision construction certificate for each stage and a building construction certificate for each building, the relevant Building Industry Long Service Levy is to be paid in accordance with the provisions of section 34 of the *Building and Construction Industry Payments Act 1986*. This fee is payable on all projects in excess of \$25,000 in value and is calculated at the rate of 0.35% of the current value of works.
24. The approved sewerage treatment plant is to be used as an ancillary component of the approved tourist facility. The ancillary sewage treatment plant is to be established and fully commissioned to the satisfaction of Council prior to the issuing of the first 'interim' or 'full' occupation certificate for any building which has a toilet and/or greywater system. Documentary evidence of such commissioning is to be provided to the Principle Certifying Authority (and Council if not the PCA).
25. Pursuant to clause 97A of the *Environmental Planning and Assessment Regulation 2000* all BASIX commitments must be complied with.

26. Any class 1, 2 & 3 buildings, as identified in the Building Code of Australia, located within 100 m of vegetation associated with the Core Riparian Zone as identified in the landscaping plan and rehabilitation plan must be constructed to at least 'Level 1' standards under *AS3959-1999: Construction of Buildings in Bushfire-prone Areas*.
27. Detailed engineering plans and specifications relating to the work are to be submitted for consideration and approval prior to the issue of a subdivision construction certificate.
28. The Applicant consulting with the relevant electricity, gas, and telecommunications services regarding their requirements for the provision of services to building sites and the location of existing services that may be affected by proposed works, either on-site or on the adjacent public roads. Services are to be located to minimise environmental damage.
29. The provision of reticulated electricity services within the land is to be via underground supply (not including for the sewerage treatment plant).
30. Prior to the first building construction certificate being issued for the 'Type C' buildings on Lots 18-24 or 62-71 fronting Perricoota Road an acoustic report is to be prepared detailing whether or not the proposed building design given the proposed building setbacks from Perricoota Road would comply with The Environmental Criteria for Road Traffic Noise (EPA 1999). If necessary any non-complying buildings should be designed such that road traffic noise from Perricoota Road is mitigated by durable materials. Where the EPA external noise criteria would not be practically or reasonably met, the following internal noise objectives for all habitable rooms under ventilated conditions complying with the requirements of the Building Code of Australia should be complied with:-
 - All sleeping rooms: 35 dB(A) Leq(9 hr); and
 - All other habitable rooms: 45 dB(A) Leq(15 hr) and 40 dB(A) Leq(9 hr).
31. No works which require a Controlled Activity Approval under the *Water Management Act 2000* are to commence until such time as a Controlled Activity Approval has been issued by the Department of Water and Energy and until a full copy of the approval has been provided to Council and the Principle Certifying Authority (if not Council).
32. All buildings are to be constructed in accordance with the Building Code of Australia.
33. All plumbing and drainage works shall be carried out in accordance with the provisions of the NSW Code of Practice and AS 3500.
34. The Applicant shall submit to the Principal Certifying Authority a plan and written statement identifying the location of clothes drying lines installed such that they are not visible from the public domain of Perricoota Road or the Murray River.

Prior to the Issue of a Subdivision Certificate

35. A formal linen plan of subdivision and seven (7) copies must be submitted to Council for approval. Please note: The linen plan will not be released until all the above conditions of consent are carried out or commenced to Council's satisfaction. A subdivision linen plan release fee is to be paid to Council prior to the release of the linen plan.
36. Any management statement, as defined under the *Community Land Development Act 1989*, is to provide for the following:
 - (a) the land is only to be used for holiday accommodation purposes and no building is to be occupied by the same person or persons for more than 120 total cumulative days in a financial year (not including the managers' residence);
 - (b) any management of the accommodation units is only to occur through one agent;
 - (c) a register of the names of persons and dates of occupation of each building (not including the managers' residence) is to be kept in the managers' residence or reception area and maintained in an up-to-date fashion by the manager or other agent with such register to be made available for inspection by any authorised officer of Council during normal business hours;
 - (d) a copy of a summary of use for each accommodation building is to be provided to the Community Association on a yearly basis at the end of each financial year;
 - (e) the agent is required to notify the Community Association of any breach by any lot owner of the management statement requirements for length of stay as soon as practicable after the breach occurs;
 - (f) the Community Association is required to take action against any owner breaching the management statement requirements for length of stay as soon as practicable after the breach occurs;
 - (g) should the Community Association fail to be able to rectify a breach of the management statement requirements for length of stay within a six (6) month period of notifying the breaching owner, that Council is to be notified in writing of the breach;
 - (h) the ongoing cost of maintenance of the Core Riparian Zone for conservation purposes, including ongoing weed removal and replacement with appropriate native revegetation species as necessary, is to be funded by the Community Association;
 - (i) the protection and maintenance of landscaping as shown on the landscaping plan as affecting the lots bordering Perricoota Road, the eastern boundary, and the western boundary;
 - (j) the Murray Shire Council is not responsible for the provision or maintenance of any utility services;
 - (k) acknowledgment that the land is located in a rural agricultural area where adverse amenity related impacts may occur from time-to-time, including from noise, odour, heavy vehicle movements, headlight glare, spray-drift, crop-dusting, and 24-

- hour operations (or words to the same affect to the satisfaction of Council);
- (l) an Inspection and Maintenance Plan for the land's sewerage treatment system and stormwater management system, to be prepared by a suitably qualified engineer, to include:
- identification of the frequency of inspection of the sewerage treatment system and stormwater management system within the land covered by the management statement;
 - identification of the frequency and type of sewerage treatment plant water quality monitoring and specification of suitable water quality outcomes and amelioration works to be carried out in the event of unsuitable outcomes;
 - identification of categories of damage to each type of infrastructure of community land and specifying timeframes for repair based on the level impact upon the efficiency of the system;
 - identifying specifications for suitable repairs of infrastructure of community land, including identifying suitable species for replacement planting; and
 - identifying that the Community Association is responsible for the cost of works.
- (m) the written consent from Council is required to amend any of the above provisions within the management statement.
37. Prior the issue of the subdivision certificate for each stage, a full copy of the relevant management statement and a full copy of any relevant development contract is to be submitted to Council for approval. If necessary, in the instance of the approval of subdivision plans before building works commence for any lot, a full copy of concept building plans (including a scaled and dimensioned floor plan and all building elevations) for that lot are to be included in the development contract. Any such plans are to comply with the approved plans comprising this consent.
38. Prior to issue of the subdivision certificate for each stage the Applicant shall pay to Council a fee of \$1,375 in accordance with Councils Management Plan (Management Statements and Development Contracts charge).
39. Prior to issue of a subdivision certificate for each stage the Applicant shall pay to Council an inspection fee in accordance with Council's fees policy applicable at the time for the cost of providing inspections of works.
40. Prior to the issue of a subdivision certificate for each stage the following documentary evidence is to be obtained and forwarded to Council:
- (a) A Notification of Arrangement issued by the relevant electricity supplier; and
 - (b) A letter of compliance from the relevant telecommunications carrier.
41. Prior to issue of the subdivision certificate for each stage all services including road construction, sewer, water, electricity,

telephone, and stormwater drainage are to be provided and fully implemented in accordance with the relevant subdivision construction certificate.

42. Prior to the issue of a subdivision certificate for the first stage, contact is to be made with Council requesting the allocation of a Rural Property Number for the land. The road number shall be erected and displayed in a prominent location at the front of the property in the interest of public safety and the delivery of goods, parcels and emergency services.

During Construction

43. Building and subdivision construction works are restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:
 - (a) Mondays to Fridays, 7.00 am to 6.00 pm;
 - (b) Saturdays, 8.00 am to 1.00 pm; and
 - (c) No work is permitted on Sundays and Public Holidays.
44. All waste materials stored on site must be contained in a designated area, such as a waste bay or bin, to ensure that no waste material enters the stormwater system or neighbouring properties during construction works on site. The designated waste storage area is to provide at least 2 waste bays to allow for the sorting of different waste materials. The waste bays are to be fully enclosed when the site is unattended, particularly at night, and over weekends.
45. During construction work must be conducted in a manner so as not to be injurious to health and amenity by reason of noise, vibrations, smells, dust, stormwater runoff, sediment loss, placement of construction materials and wastes, rubbish, footway interference, traffic generated, hours of operation and the like.
46. Each building site area is to be cleared of all building refuse and spoil immediately after completion of related works.
47. The set-out of the proposed buildings on lots located closest to the Murray River are to be implemented by a Registered Land Surveyor. Documentary evidence of peg placement in regard to the approved building setbacks from the nearest high bank of the Murray River are to be provided to the Certifying Building Surveyor at the time of each footing/slab inspection.

During the Life of the Development

48. No vehicle access to/from the land is permitted to/from Preston Lane.
49. No plant, equipment, services, or architectural features other than those shown on the 'Type A' approved building plans are permitted above the roof level of these buildings without the prior written consent of Council.
50. All landscaping is to be maintained:
 - (a) in accordance with the approved landscaping plan;
 - (b) in a healthy state; and

- (c) in perpetuity by the existing or future owners and occupiers of the property.
- If any of the vegetation comprising the landscaping dies it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity, as the vegetation that died.
51. Access to the Murray River and its banks is to be restricted by way of permanent fencing to the locations nominated in the approved landscaping plan. These locations are the boat ramp area and the walking tracks within the Core Riparian Zone.
 52. If domestic animals are permitted at the tourist facility they must be under effective control at all times.
 53. No advertising signage is approved as a part of this development consent. Any such signage is to be the subject of a fresh development application.
 54. All backwash water or water discharged from the pool during emptying shall be discharged into the sewer system in accordance with the requirements of Australian Standard 3500 and NSW Code of Practice.
 55. The external cladding materials and colours of any building and any aboveground water tank are to be non-reflective and finished with muted colours which complement the surrounding natural environment to the satisfaction of Council.
 56. Provision must be made within the managers' building and recreational facilities area for the collection and storage of domestic garbage and other solid waste. This area must be graded and drained and screened from public view to the satisfaction of Council.
 57. All waste material not required for further on-site processing must be regularly removed from the site. All vehicles removing waste must have fully secured and contained loads so that no wastes are spilled or dust or odour is created to the satisfaction of Council.
 58. The approved development must not adversely affect the amenity of the neighbourhood in any way including:
 - (a) the appearance of any building, works or materials used;
 - (b) the parking of motor vehicles;
 - (c) the transporting of materials or goods to or from the dwelling;
 - (d) the hours of operation;
 - (e) electrical interference;
 - (f) the storage of chemicals, gasses or other hazardous materials; and
 - (g) emissions from the site.
 59. Any selling of food (food premises) onsite is to comply with the *Food Act 2003* and the NSW health regulations.
 60. Should any Aboriginal archaeological site be discovered during the proposed works, work is to cease immediately. The proponent must comply with the requirements of the *National Parks and Wildlife Act 1974*, with regard to Aboriginal relics. Under section 90 it is an offence to destroy or damage relics without the prior consent of the Director-General of the National Parks and Wildlife service. If a site is discovered the proponent should contact the

Zone Archaeologist, (National Parks and Wildlife Service,) in the Department of Environment and Climate Change.

61. The use of the building on Lot 2 as the 'managers residence' is only permitted for Stage 1 of the development. Following the issue of a subdivision certificate for Stage 2 of the development the building on Lot 2 is to cease being used as a 'managers residence' and is to revert to 'tourist accommodation' in accordance with Condition 5 of this consent.
62. The boat sheds are to be only used by the owners of each of the lots within the community association and are not to be used by any other person. Landscaping is to be established between the boat sheds and adjoining property boundary as a visual buffer and is to be maintained for the life of the development. Details of the proposed landscaping are to be provided with the application for a construction certificate and is to be completed prior to the issue of an occupation certificate.

NSW Roads and Maritime Services (RMS) Conditions

63. The following conditions of the RMS are to be complied with:
 - (a) Only one vehicular access point is permitted from the site to Perricoota Road as per the submitted plans.
 - (b) A Channelised Right Turn (CHR) and Auxiliary Left Turn (AUL) treatment is to be constructed at the junction of Perricoota Road and the proposed access road in accordance with the RMS Road Design Guide for the prevailing speed limit and as mentioned in the "Traffic Impact Assessment".
 - (c) The proposed intersection is to be located to provide for Safe Intersection Sight Distance (SISD) in either direction in accordance with the RMS Road Design Guide for the prevailing speed limit.
 - (d) A splitter island is to be constructed at the entrance driveway as indicated on the site plan to segregate ingress and egress traffic.
 - (e) The proposed access driveway is to be sealed from the edge of the carriageway shoulder to the access within the property boundary so as to prevent deterioration of the road shoulder and the tracking of gravel onto the roadway.
 - (f) The intersection of Perricoota Road and the proposed access road is to be appropriately sign posted for the safety of vehicles entering and exiting the subject site.
 - (g) The swept path of the largest vehicle entering exiting the subject site and manoeuvrability through the site is to be in accordance with current Australian Standards and to Council's satisfaction.
 - (h) All vehicles are to be able to enter and exit the subject site in a forward direction.
 - (i) Off street car parking associated with the subject development including turn path, aisle widths, and parking bay dimensions are to be in accordance with AS 2890.1-2004.

- (j) The number of car parking spaces (including visitor parking) associated with the subject development are to be to Council's satisfaction.
- (k) Consideration is to be given to implement traffic calming measures and entrance treatments within the car park to control speeding vehicles and to reduce vehicular/pedestrian conflict.
- (l) A dedicated pedestrian and bicycle share pathway shall be provided through the site separate to the internal roadways. Raised pedestrian walkways throughout the development should be considered as this enhances the visibility of the walkway and provides safety for pedestrians. Pedestrian crossing stripes are not to be placed as it resembles the pedestrian crossing on the road and creates confusion as to who has the priority.
- (m) A constructed pedestrian access is to be provided from Perricoota Road separate to the vehicle driveways co cater for all forms of pedestrian mobility.
- (n) Provision is to be made for bus bays to service both directions in accordance with Figure 3.4-1 of RMS Road Design Guide.
- (o) All activities including, loading and unloading associated with this development are to take place within the subject site.
- (p) A construction management plan to address construction activity access and parking is to be prepared to ensure that suitable provision is made on site for all construction vehicles to alleviate any need to park within, or load/unload from, the surrounding public road network.
- (q) Construction activity access to the site is to be only gained via a constructed driveway. This is to be defined by a formed driveway and appropriate fencing/bunting to deny any alternative access. The driveway and fencing/bunting are to be maintained for the duration of the works. Any temporary driveway is to be removed and any damage to the roadside verge is to be remediated to match existing.
- (r) Stormwater run-off from the subject site onto Perricoota Road as a result of the proposed development is not to exceed the existing level of run-off from the subject site. Suitable provision should be made to retard any increased storm water run-off from the site.
- (s) Any access driveway is to be designed and constructed to prevent water from proceeding onto the carriageway of Perricoota Road.
- (t) The developer is responsible for all public utility adjustment/relocation works, necessitated by the proposed works and as required by the various public utility authorities and/or their agents. All utility supplies to the proposed development site must be clear of the access. Utility Poles are to be located outside the clear zone.
- (u) Any works associated with the development shall be at no cost to the RMS.

Department of Water and Energy (DWE) Conditions

64. The following conditions of the DWE are to be complied with:

Plans, standards and guidelines

- (a) These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to Development Application (DA) 241/08 and provided by Council:
- (i) site plan, map and/or surveys; and
 - (ii) structural design and specifications.
- Any amendments or modifications to the proposed controlled activities may render the GTA invalid. If the proposed controlled activities are amended or modified, the DWE must be notified to determine if any variations to this GTA will be required.
- (b) Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the *Water Management Act 2000* from the DWE. Waterfront land for the purposes of this DA is land and material in or within 40m of the top of the bank or shore of the river identified.
- (c) The consent holder must prepare or commission the preparation of:
- (i) Rehabilitation Plan;
 - (ii) Works Schedule; and
 - (iii) Erosion and Sediment Control Plan.
- (d) All plans must be prepared by a suitably qualified person and submitted to the DWE for approval prior to any controlled activity commencing. The plans must be prepared in accordance with DWE guidelines:
- (i) Vegetation Management Plans;
 - (ii) Riparian Corridors; and
 - (iii) In-stream works.

Rehabilitation and maintenance

- (e) The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the DWE.
- (f) The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the DWE.

Reporting requirements

- (g) The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to the DWE as required.

Security deposits

- (h) The consent holder must provide a security deposit (bank guarantee or cash bond) – equal to the sum of the cost of complying with the obligations under any approval – to the DWE as and when required.

Access-ways

- (i) The consent holder must design and construct all ramps, stairs access ways, cycle paths, pedestrian paths or other non-vehicular form of access way so that they do not result in erosion, obstruction of flow, destabilisation, or damage to the bed or banks of the river or waterfront land, other than in accordance with a plan approved by the DWE.
- (j) The consent holder must not locate ramps, stairs, access ways, cycle paths, pedestrian paths or any other non-vehicular form of access way in a riparian corridor other than in accordance with a plan approved by the DWE.

Drainage and Stormwater

- (k) The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the DWE. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.

Erosion control

- (l) The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by the DWE.
- (m) The consent holder must ensure that any excavation does not result in (i) diversion of any river (ii) bed or bank instability or (iii) damage to native vegetation within the area where a controlled activity has been authorised, other, than in accordance with a plan approved by the DWE.

Excavation

- (n) The consent holder must ensure that (i) river diversion, realignment or alteration does not result from any controlled activity work and (ii) bank control or protection works maintain the existing river hydraulic and geomorphic functions, and (iii) bed control structures do not result in river degradation other than in accordance with a plan approved by the DWE.

Maintaining river

- (o) The consent holder must ensure that the surfaces of river banks are graded to enable the unobstructed flow of water and bank retaining structures result in a stable river bank in accordance with a plan approved by the DWE.

River bed and bank protection

- (p) The consent holder must establish a riparian corridor along the Murray River in accordance with a plan approved by the DWE.

Department of Primary Industries (DPI) Conditions

65. The following conditions of the DPI are to be complied with:
- (a) An environmental management plan addressing riparian zone vegetation management and rehabilitation, river bank stability, snags and aquatic vegetation at the site be prepared and approved by DPI prior to the commencement of works.
 - (b) An independent audit of the implementation of the environmental management plan be undertaken two years after the commencement of works and a copy of the audit report be supplied to DPI within one month of completion of the audit.
 - (c) Detailed plans for the construction and future management of the artificial lake (including management of fish species and aquatic plants) be provided to an approved by DPI before any construction commences.
 - (d) If any excavation or filling of the bed and banks of the River is to be undertaken either during construction or subsequently, an appropriate works permit must be obtained before any works are undertaken.
 - (e) No snags (large woody debris on the banks or in the water) are to be moved, lopped, realigned, relocated or removed either at the time of construction or in the future without consultation with DPI.
 - (f) Erosion and sediment mitigation devices are to be erected in a manner consistent with currently accepted Best Management Practice to prevent the entry of sediment into the waterway prior to any earthworks being undertaken. These are to be maintained in good working order for the whole duration of the bank works and subsequently until the site has been stabilised and the risk of erosion and sediment movement from the site is minimal.
 - (g) No riparian vegetation (including reeds, trees, shrubs and grasses on the banks or in the water but not including weeds and other alien plants) is to be damaged or removed.
 - (h) Machinery is not to enter, or work from the waterway.
 - (i) Spill kits suitable for the containment of fuel and oil spills are to be kept on site.
 - (j) The DPI is to be notified immediately if any fish kills result from the works. In such a case all works are to cease until the issue is rectified and approval is given to proceed.

Department of Environment and Conservation (DECC) Conditions (including from the Environment Protection Authority)

66. The following conditions of the DECC are to be complied with:

- (a) The proposed sewage treatment system shall be constructed such that no pollution of surface or groundwaters is permitted.
- (b) The proponent must ensure that all necessary precautions are taken to ensure that pollution of adjacent land or watercourses does not occur during the construction phase of the development. The proponent should advise Council of erosion and sediment control works that will be undertaken to minimise sediment loss. The proponent should also be make aware that under section 120 of the Protection of the Environment Operations Act, it is an offence to pollute waters. Guidelines are available that outline measures to control sediment runoff.
- (c) During construction, measures must be taken to minimise and control the emission of dust which may impact on neighbouring premises.
- (d) During construction measures must be taken to minimise noise which may impact on neighbouring premises.
- (e) On completion of works, if necessary the area should be revegetated and any loose materials removed from the site.

Rural Fire Service (RFS) Conditions

67. The following conditions of the RFS are to be complied with:
 - (a) Water, electricity, and gas are to comply with section 4.2.7 of *Planning for Bush Fire Protection 2006*. Fire hydrant spacing, sizing, and pressures shall comply with *AS 2419.1- 2005: Fire Hydrant Installations*.
 - (b) Public road access shall comply with section 4.2.7 of *Planning for Bush Fire Protection 2006*.
 - (c) Arrangements for emergency and evacuation are to comply with section 4.2.7 of *Planning for Bush Fire Protection 2006*.

Swimming Pool Conditions

68. The following is to be complied with in respect to the swimming pool:
 - a) A construction certificate is to be submitted and approved by a Certifying Authority prior to the commencement of work.
 - b) Full construction plans of the swimming pool are to be submitted prior with the application for a construction certificate.
 - c) **Inspections** - When the building has reached the following stages, at least 24 hours notice is to be given to Council so that an inspection may be carried out:
 - Prior to the commencement of building work, with all erosion and sedimentation control, onsite waste containment, site access, and site signage in place;
 - issued in relation to the approval;
 - Swimming pool base excavation, with hydrostatic valve in place;

- Erection of pool safety fencing and/or restriction of openings from the dwelling to the pool area, prior to the pool being filled;
- Swimming pool reinforcement before concrete is poured;
- Completion of works prior to swimming pool being used, with all swimming pool safety fencing in place.

A fee of \$60.00 will apply for the re-inspection of any non-compliance.

In the event where the outcome of an inspection is unclear, contact Council's Building Department on (03) 5884 3400 prior to proceeding. The applicant shall satisfy themselves that each stage has been inspected by Council's Building Surveyor and found to be satisfactory, prior to proceeding with construction.

Please note: An Occupation Certificate cannot be issued without satisfactory completion of all critical stage inspections.

- d) The Council may require the repair or replacement of any equipment or the doing of any other thing, which in its opinion, is necessary to maintain the water in a condition suitable for bathing.
- e) A child resistant barrier incorporating self-closing child resistant gates is to be installed and maintained at all times around the perimeter of the pool. The barrier/fence is to be constructed in accordance with Australian Standard 1926.1 - 2007 PRIOR TO THE POOL BEING FILLED with water.
- f) An approved CPR (Resuscitation) sign is to be prominently displayed in the vicinity of the pool at all times. The sign must be maintained in a clear and readable condition.
- g) Swimming pool waste and surface water shall comply with the following:
 - Backwashing systems must discharge into the sewerage system;
 - The surrounds of the pool area must be adequately graded from the pool to the surrounding ground surface to prevent surface water (eg rainfall) from flowing into the pool. Provisions must be made to prevent water draining to adjoining properties;
 - When emptying the pool, the water should be discharged into the sewerage system, however, approval must be gained from Council prior to emptying the pool into Council's sewer main.
- h) The pool shall be emptied in such a manner to be approved by Council and shall at no time create a nuisance or environmental degradation.
- i) The filtration and chlorination equipment shall be maintained in good condition at all times and operated in accordance with the manufacturers instructions.
- j) The filtration unit and pump shall be located and maintained so as to not cause a noise nuisance. Any pump enclosure shall comply with the provision of Australian Standard 1055.

Conditions Have Been Placed on the Consent for the Following Reasons:

- (a) To ensure the compliance with the terms of Environmental Planning Instruments.
- (b) Having regard to Council's duties of consideration under sections 79C and 80A of the *Environmental Planning and Assessment Act 1979*.
- (c) Having regard to the comments made by referral authorities and submissions received from the public.
- (d) Having regard to the circumstances of the case and the public interest.

Ancillary and Advisory Matters

Compliance

- A. It is the responsibility of the applicant to check, understand and seek assistance where needed so as to ensure full compliance with the conditions of this development consent. Please contact Council if there is any difficulty in understanding or complying with any of the above conditions.

Disability Discrimination Act 1992 (Cwlth)

- B. It is the Applicant's responsibility to ensure compliance with the requirements of the *Disability Discrimination Act 1992 (DDA)*. Note: Compliance with the Building Code of Australia may not necessarily mean compliance with the requirements of the DDA.

NSW Police Force Advice

- C. The following advice of NSW Police is provided:
- (a) The Applicant is advised to implement the following to ensure the safety of people:
 - (i) Enable people to be seen, to see, and to interpret their surrounds through:
 - adequate lighting;
 - clear sightlines;
 - the elimination of entrapment spots;
 - the use and design of landscaping and fencing; and
 - enable people to be able to leave an area or seek assistance when in danger, through legible design and comprehensive surveillance.
 - (ii) Enable people to be seen, to see, and to interpret their surrounds through:
 - adequate lighting;
 - clear sightlines;
 - the elimination of entrapment spots;
 - the use and design of landscaping and fencing; and
 - enable people to be able to leave an area or seek assistance when in danger, through legible design and comprehensive surveillance.
 - (b) Development should promote the security of property by:
 - (i) clearly defining ownership and legitimate use of private, public, and community space;
 - (ii) minimising access between roofs, balconies and windows of adjoining rooms/apartments;
 - (iii) avoid the use of materials which are likely to be susceptible to damage and vandalism;
 - (iv) avoid fencing and landscaping which may present a security risk by obscuring doors and windows;

- (v) surveillance cameras should be installed to run 24/7; and
- (vi) an alarm system should be installed.
- (c) As the development is intended to be used at night, the lighting should allow visibility. Pedestrian pathways, laneways and access routes in outdoor public spaces should be lit to the minimum and other inset spaces, access and egress routes and signage.
- (d) Lighting should be consistent in order to reduce contrast between shadows and illuminated areas.
- (e) Street lights should shine on pedestrian pathways and possible entrapment spaces.
- (f) Sharp blind corners should be avoided especially on stairs or in corridors where movement can be predicted. Avoid sudden changes where possible, if it reduce sightlines. Landscaping features which in their maturity could serve as screens or barriers to an unimpeded view along pathways and should be avoided.
- (g) Emergency telephone, intercoms or videos cameras should be added to movement routes. Consideration should be given to who is viewing them or if those mean to help is well-signed the ability to be seen, through reduction of isolation, improvements to the mixture and intensity of land use, and intelligent use of activity generators all contribute to feeling of safety and reduction of crime.
- (h) An alternative well lit and frequently travelled route should be indicated at the entrance to a movement route especially for use at night.

Trees and shrubs which can easily block surveillance and can create entrapment spots and reduce sightlines should be avoided. Landscaping and fencing which obscure doors and windows can present a security risk.

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

AGAINST: Councillor Moon

**CLAUSE 7. DEVELOPMENT APPLICATION (107/13)
SINGLE STOREY DWELLING WITH ATTACHED GARAGE
ZONE:- RU1 – PRIMARY PRODUCTION
LOTS 110, 113, 115, 119, 172-174, DP 751152
OLD DENILQUIN ROAD, MOAMA
OWNER:- PETER A BARBER
APPLICANT:- PLANRIGHT SURVEYING**

This Clause was discussed later in the meeting when a deputation to Council was made by Mark Langenbacher.

**CLAUSE 8. DEVELOPMENT APPLICATION (113/13)
SINGLE STOREY DWELLING WITH ATTACHED GARAGE
ZONE:- RU1 – PRIMARY PRODUCTION
LOT 101, DP 751152
OLD BARMAH ROAD, MOAMA
OWNER:- KEVIN BARBER
APPLICANT:- PLANRIGHT SURVEYING**

This Clause was discussed later in the meeting when a deputation to Council was made by Mark Langenbacher.

**CLAUSE 9. DEVELOPMENT APPLICATION (106/13)
SINGLE STOREY DWELLING WITH ATTACHED GARAGE
ZONE: RU1 – PRIMARY PRODUCTION
LOT 62, DP 751152
OLD BARMAH ROAD, MOAMA
OWNER:- PETER A BARBER
APPLICANT:- PLANRIGHT SURVEYING**

This Clause was discussed later in the meeting when a deputation to Council was made by Mark Langenbacher.

**CLAUSE 10. DEVELOPMENT APPLICATION (105/13)
SINGLE STOREY DWELLING WITH ATTACHED GARAGE
ZONE: RU1 – PRIMARY PRODUCTION
LOT 124, DP 751152
OLD BARMAH ROAD, MOAMA
OWNER:- PETER A BARBER
APPLICANT:- PLANRIGHT SURVEYING**

This Clause was discussed later in the meeting when a deputation to Council was made by Mark Langenbacher.

**CLAUSE 11. DEVELOPMENT APPLICATION (108/13)
SINGLE STOREY DWELLING WITH ATTACHED GARAGE
ZONE:- RU1 – PRIMARY PRODUCTION
LOT 128, DP 751152
OLD BARMAH ROAD, MOAMA
OWNER:- PETER A BARBER
APPLICANT:- PLANRIGHT SURVEYING**

This Clause was discussed later in the meeting when a deputation to Council was made by Mark Langenbacher.

**CLAUSE 12. DEVELOPMENT APPLICATION (093/13)
 PRIMITIVE CAMPING GROUND
 ZONE:- RU1 - PRIMARY PRODUCTION
 LOT 103, DP 751152
 RAN 256, OLD BARMAH ROAD, MOAMA
 OWNER:- BRIAN J MCCORMACK
 APPLICANT:- PLANRIGHT SURVEYING**

PD71 RESOLVED (Crs Murphy/Pocklington) that:

1. Approval be granted for the development of a primitive camping ground, except for the use of an existing building on the site as a manager's residence; and
2. The following conditions be included with the consent:

Prescribed Conditions of Consent

(A) Compliance with Building Code of Australia

For the purposes of section 80A (11) of the Act, the following condition is prescribed in relation to a development consent for development that involves any building work:

- (a) that the work must be carried out in accordance with the requirements of the *Building Code of Australia*,

In this clause, a reference to the *Building Code of Australia* is a reference to that Code as in force on the date the application is made for the relevant:

- (b) construction certificate, in every other case.

(B) Erection of Signs

A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the PRINCIPAL CERTIFYING AUTHORITY for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

This condition does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

Prior to the Issue of a Construction Certificate

1. Details are to be provided that demonstrate that the amenities block is able to withstand the force and duration of flooding in 0.5% AEP flood events.
2. Details or a plan in respect to the proposed management of stormwater are to be provided to Council with the application for a Construction Certificate.
3. A 'earthworks management plan' is to be prepared and submitted with the application for a Construction Certificate. This plan is to:
 - provide levels of the proposed pad
 - provide details in respect to the how the pad minimise impact on the floodplain
 - detail the quantity, quality and source of fill required for the padThis plan is to be approved by Council prior to the release of a Construction Certificate.
4. The developer is to identify the area designated for the camping ground on the site through the installation of tangible objects such as bollards and/or native landscaping. There is to be no camping on the land denoted as 'riverfront area' on the approved plan. Signage is to be installed stipulating areas where camping is permitted and not permitted. Details of proposed measures to identify the camping area are to be submitted and endorsed by Council with the application for a Construction Certificate. These measures are to be installed prior to the issue of a s68 Approval to Operate.
5. The applicant is to submit an emergency management plan for the development prepared to the satisfaction of Council. This emergency management plan is to include:
 - An emergency/evacuation plan for bushfire, prepared for the proposed development consistent with the NSW Rural Fire Service document '*Guidelines for the Preparation of Emergency/Evacuation Plan*
 - An emergency/evacuation plan for flood events prepared in accordance with Council's 'guide to flood emergency planning for tourist operators'. This plan is to detail how people are to be evacuated, how services will be disconnected and caravans, campervans, tents, refuse facility etc removed in the event of a flood.

Prior to Commencement of Works

6. An application for a Construction Certificate must be submitted to, and approved by, a nominated Principal Certifying Authority prior to commencement of any work at the site.

General

7. The development is to be carried out in accordance with the plans (reference no. S5635PP-2, dated Feb 2011, drawn by Planright

Surveying) submitted to and stamped by Council as part of the application, except where reference is made to a residence.

This consent is for a 'camping ground' meaning: *an area of land that has access to communal amenities and on which campervans or tents, annexes or other similar portable and lightweight temporary shelters are, or are to be, installed, erected or placed for short term use, but does not include a caravan park.*

No manufactured homes are permitted to be installed on the subject property.

This consent does not approve any building on the land to be used a residence.

Any amendments to these plans will require the approval of Council.

8. The development is to comply with the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.

- a maximum of thirty caravans, campervans and tents is permitted to use the camping ground at any one time.
- a caravan, annexe or campervan must not be allowed to be installed closer than 6 metres to any other caravan, annexe, campervan or tent.
- a tent must not be allowed to be installed closer than 6 metres to any caravan, annexe or campervan or closer than 3 metres to any other tent.
- the camping ground must be provided with a water supply, toilet and refuse disposal facilities as specified in the approved plan for the camping ground.
- the camping ground must be provided with a water supply, toilet and refuse disposal facilities as specified in the approval for the camping ground.
- unoccupied caravans, campervans and tents are not to be allowed to remain in the camping ground for more than 24 hours.
- if a fee is charged for camping, a register must be kept that contains entries concerning the same matters as are specified in clause 122 and, in addition, that specifies the size of the group (if any) with whom the person listed in the register camped.
- such fire fighting facilities as may be specified in the approval are to be provided at the primitive camping ground.
- the installation of tents, caravans, campervans and annexes is only permitted in the area of land indicated on the approved plan and are not permitted on land identified on the approved plan as being riverfront area.

9. The *applicant is to apply to Council for approval* to install and operate an on-site wastewater treatment system (s68 *Local Government Act 1993*). This system is to be a NSW Health Approved system. The location of this system is to be approved by Council. The application is to include details of the proposed system, distances from water bodies (i.e. river, farm dam), copy of the accreditation, appropriate unit sizing and details of the

absorption system. A soil capability assessment is to be submitted with the application (excluding AWTS systems). The land application system is to be located at least 100m to permanent surface waters (e.g. river) and 40m to other waters (e.g. farm dam).

10. All services to the development must be designed to withstand inundation from floodwaters and be able to be disengaged in times of flooding and capped to prevent inundation/contamination/failure.
11. The amenities block is to be constructed on an earthen pad at a height that will protect the building from flooding.
There is to be no filling of the site except for the pad approved for the amenities block as part of this consent and as detailed in the approved 'earthworks management plan'.
The camping ground is not permitted to be occupied should there be a flood event that will affect the property. All caravans, campervans and tents are to be removed from the site in such an event. Council cannot guarantee access and egress during flood events.
The proposed refuse facility is to be removed should there be a flood event that will affect the property.
12. The construction site is to be maintained in an environmentally sound manner during building works. Designated waste containment areas are to be provided on site, and maintained so as to prevent any windblown litter escaping from the site.
During construction the proponent is to undertake measures to minimise dust and noise.
13. Work shall not commence on the site before 7am on weekdays and Saturdays and 8am on Sundays and public holidays. All works are to cease by 8pm on any day.
14. The provision of any potable water is to be in accordance with 'NSW Health Private Water Supply Guidelines.'
15. The applicant is to be made aware that if any Aboriginal sites/relics/remains are discovered on site that the proponent must:
 - a) not further harm the Aboriginal object
 - b) immediately cease work at the particular location
 - c) secure the area so as to avoid further harm to Aboriginal object
 - d) notify OEH as soon as practical by telephoning 131 555, providing any details of the Aboriginal object and location
 - e) not recommence works at the particular location unless authorised in writing by the OEH

Prior to a S68 Approval to Operate

16. Prior to issue of an approval to operate the caravan park the applicant shall pay to Council an inspection fee in accordance with Council's fees policy applicable at the time for the cost of providing inspections of works.

17. The Council will not grant an approval to operate the caravan park unless it is satisfied that it complies with the conditions of consent and the requirements of Part 3, Division 3, Subdivision 9 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.

Crown Land Conditions

18. The proponent may not:
- encroach upon the adjacent and adjoining Crown land,
 - remove any vegetation from the adjacent and adjoining Crown land,
 - stockpile and materials, equipment or machinery on the adjacent and adjoining Crown land,
 - use the adjacent and adjoining Crown land as accesses,
 - direct stormwater discharges on the adjacent and adjoining Crown land,
 - use the adjacent and adjoining Crown land as an asset protection zone.

NSW Rural Fire Service (RFS) Conditions

Asset Protection Zones

19. At the commencement of building works and perpetuity the area used for the purposes of primitive camping shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

Water and Utilities

20. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

Access

21. Internal roads shall comply with section 4.2.7 of Planning for Bush Fire Protection 2006'.

Design and Construction

22. The existing building is required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture 2mm. Where applicable, this includes any sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.

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

AGAINST: Councillors Campbell and Moon

At this stage of the meeting, being 2:40pm, Cr BM Murphy left the meeting.

At this stage of the meeting, being 2:40pm, the meeting adjourned to await a deputation to Council at 3:00pm.

The meeting resumed at 3:00pm.

DEPUTATION

At this stage of the meeting, being 3:00pm, Mark Langenbacher made a deputation to Council regarding the Director of Environmental Services Report, Clause 7 (DA 107/13); Clause 8 (DA 113/03); Clause 9 (DA 106/13); Clause 10 (DA 101/13); Clause 11 (DA 108/13); and Clause 12 (DA 093/13).

DIRECTOR OF ENVIRONMENTAL SERVICES REPORT CONTINUED

**CLAUSE 7. DEVELOPMENT APPLICATION (107/13)
SINGLE STOREY DWELLING WITH ATTACHED GARAGE
ZONE:- RU1 – PRIMARY PRODUCTION
LOTS 110, 113, 115, 119, 172-174, DP 751152
OLD DENILQUIN ROAD, MOAMA
OWNER:- PETER A BARBER
APPLICANT:- PLANRIGHT SURVEYING**

PD72 RESOLVED (Crs Moon/Burke) that Development Application 107/13, for the construction of a single storey dwelling with attached garage at the property detailed above, be deferred pending a further report to Council on the issue, which includes information on existing holdings.

FOR: Councillors Anderson, Burke, Campbell, Moon, Pocklington and Weyrich

AGAINST: Nil

**CLAUSE 8. DEVELOPMENT APPLICATION (113/13)
SINGLE STOREY DWELLING WITH ATTACHED GARAGE
ZONE:- RU1 – PRIMARY PRODUCTION
LOT 101, DP 751152
OLD BARMAH ROAD, MOAMA
OWNER:- KEVIN BARBER
APPLICANT:- PLANRIGHT SURVEYING**

PD73 RESOLVED (Crs Pocklington/Campbell) that Development Application 113/13, for the construction of a single storey dwelling with attached garage at the property detailed above, be deferred pending the applicant providing Council with a flood study, in accordance with Council's planning policies, for further consideration.

FOR: Councillors Anderson, Burke, Campbell, Moon,
Pocklington and Weyrich

AGAINST: Nil

**CLAUSE 9. DEVELOPMENT APPLICATION (106/13)
SINGLE STOREY DWELLING WITH ATTACHED GARAGE
ZONE: RU1 – PRIMARY PRODUCTION
LOT 62, DP 751152
OLD BARMAH ROAD, MOAMA
OWNER:- PETER A BARBER
APPLICANT:- PLANRIGHT SURVEYING**

MOTION (Cr Pocklington) that Development Application 106/13, for the construction of a single storey dwelling with attached garage at the property detailed above, be refused for the following reasons:

1. The application is inconsistent with the considerations of Clause 7.8 Flood Planning of Murray Local Environmental Plan (LEP) 2011 as the development is not considered to be compatible with the flood hazard of the land and has the potential to result in unsustainable costs to the community as a consequence of flooding.
2. The application is inconsistent with Clause 7.3 Biodiversity Protection of Murray LEP 2011 as the application does not avoid potential impact on the biodiversity values of the land by disturbing habitat connectivity on the land.
3. The application is inconsistent with the Specific Principles relating to 'flooding' contained with Murray REP No.2 - Riverine Land due to the unacceptable flood hazard of the land and the potential cost of providing emergency services and replacing infrastructure in the event of a flood.
4. The application is inconsistent with aims and controls of Murray Development Control Plan (DCP) 2012, Chapter 11 Flood Prone

Land, as the development will effectively increase the impact of flooding and flood liability on the individual property owner, the dwelling is not considered to be 'necessary' and the development has the potential to add to cost to the community of flood events.

5. The development is considered to have the potential to cumulatively have a detrimental economic and social impact on the community as result of the costs associated with flood events.
6. The site is not considered to be suitable for the development given the flood constraints and hazard which affects the site and surrounding land.
7. The development is not considered to be in the public interest given the potential cost to the community associated with flood events.

The motion was LOST for want of a seconder.

PD74 **RESOLVED (Crs Campbell/Moon)** that Development Application 106/13, for the construction of a single storey dwelling with attached garage at the property detailed above, be approved subject to a further report being provided to Council on the conditions associated with the approval.

FOR: Councillors Burke, Campbell, Moon and Weyrich

AGAINST: Councillors Anderson and Pocklington

CLAUSE 10. DEVELOPMENT APPLICATION (105/13)
SINGLE STOREY DWELLING WITH ATTACHED GARAGE
ZONE: RU1 – PRIMARY PRODUCTION
LOT 124, DP 751152
OLD BARMAH ROAD, MOAMA
OWNER:- PETER A BARBER
APPLICANT:- PLANRIGHT SURVEYING

PD75 **RESOLVED (Crs Pocklington/Campbell)** that Development Application 105/13, for the construction of a single storey dwelling with attached garage at the property detailed above, be deferred pending the applicant providing Council with a flood study, in accordance with Council's planning policies, for further consideration.

FOR: Councillors Anderson, Burke, Campbell, Moon, Pocklington and Weyrich

AGAINST: Nil

**CLAUSE 11. DEVELOPMENT APPLICATION (108/13)
SINGLE STOREY DWELLING WITH ATTACHED GARAGE
ZONE:- RU1 – PRIMARY PRODUCTION
LOT 128, DP 751152
OLD BARMAH ROAD, MOAMA
OWNER:- PETER A BARBER
APPLICANT:- PLANRIGHT SURVEYING**

PD76 RESOLVED (Crs Campbell/Moon) that Development Application 108/13, for the construction of a single storey dwelling with attached garage at the property detailed above, be approved subject to a further report being provided to Council on the conditions associated with the approval.

FOR: Councillors Burke, Campbell, Moon and Weyrich

AGAINST: Councillors Anderson and Pocklington

ADOPTION

PD77 RESOLVED (Crs Pocklington/Anderson) that subject to the foregoing resolutions, the Director of Environmental Services Report be adopted.

MATTERS OF URGENCY

Cr Burke:

- Requested information on the smoke testing at Rich River Lakes Estate, Moama.
- Enquired if there was any issue with grey water on the river.
General Manager and Director of Engineering Services advised
- Referred to a letter from ratepayers, which was tabled at the meeting, on traffic issues and the installation of speed humps in Francis Street, Moama.

Director of Engineering Services to investigate

Cr Campbell:

- Enquired if there was any opportunity to develop a Rosemary hedge along the wall of the Moama Cenotaph.
General agreement was made for this to happen
- Advised of an instance where it took the Ambulance an hour and half to reach a patient in Moama.

General agreement was made for Council to make representations to the State Government to lobby for an Ambulance Service in Moama

- Suggested gaining funds for a multi-purpose building for Emergency Services and Council in Moama.

- Referred to Lyons Road – saplings to be removed.
- Mentioned that river levels were very low during the peak tourism period.

General Manager advised it is an issue for the Murray Darling Association but will refer it to the next Riverina and Murray Regional Organisation of Councils (RAMROC) meeting

- Requested a projector for the Meeting Room in Council's Moama Branch Office.

General Manager advised

- Requested that the lights be cleaned in Council's Moama Branch Office.
- Made comment that several conversations were taking place during the meeting, which made it difficult to hear.

Cr Moon:

- Requested signposting on Lyons Road, Preston Road and if possible the fish sign on these signs.
- Commented on the previous experience of the candidates in the Council By-Election.

Cr Murphy:

- Advised of rubbish on the road edges on the Cobb Highway north of Moama.

Director of Environmental Services to discuss with Ellwaste

THERE BEING NO FURTHER BUSINESS THE MEETING CLOSED AT 4:30PM

***THESE MINUTES ARE SIGNED AS A TRUE RECORD OF THE MEETING HELD
ON 7 MAY 2013 IN ACCORDANCE WITH A RESOLUTION OF COUNCIL ON
21 MAY 2013.***



.....
MAYOR

Appendix 14	Report 19 Ordinary Council Meeting Agenda for 21 May 2013
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Notice is hereby given that the **Ordinary Meeting** of Murray Shire Council will be held on **Tuesday 21 May 2013**, commencing at **1:00pm** in the Multi-Function Room, **Mathoura Visitor and Business Centre**, Cobb Highway, Mathoura.

Greg Murdoch
General Manager

AGENDA

1. Acknowledgement of Country
2. Opening Prayer
3. Apologies
4. Advice of any Conflict of Interest Pertaining to the Meeting
5. Confirmation of Minutes of:
 - Ordinary Meeting on 16/04/13
 - Special Meeting on 07/05/13
 - Policy & Resources Committee Meeting on 07/05/13
 - Planning & Development Committee Meeting on 07/05/13
6. Business Arising from Minutes
7. Confidential Reports & Supplementary Matters
 - *Please refer over the page for a detailed listing*
8. General Manager's Report & Supplementary Matters
9. Director of Corporate Services Report & Supplementary Matters
10. Director of Engineering Services Report & Supplementary Matters
11. Director of Environmental Services Report & Supplementary Matters
12. Questions and Statements without Notice
13. Correspondence
14. Sundry Delegates Reports
15. Condolences

DEPUTATIONS

3:00pm Alyce Fisher, South West Arts
Re: General Manager's Report, Clause 7

INSPECTIONS

NIL



Partnering for a sustainable community

**CLAUSE 6. CONSERVATION AREA FOR 'OLD MOAMA' WITHIN
MURRAY LOCAL ENVIRONMENTAL PLAN 2011**

Background

A report was presented to Council at its ordinary meeting held Tuesday, 16 April 2013 in respect to this matter where Council resolved;

"that Council defer a decision on a 'conservation area' within the Old Moama heritage precinct as part of a review of Murray Local Environmental Plan (LEP) 2011 until an on-site inspection is undertaken of the whole area prior to the next meeting of Council, being Tuesday 7 May 2013."

The abovementioned site inspection was held prior to the Planning and Development Committee meeting held Tuesday, 7 May 2013. The report was further considered at this meeting where it was resolved;

"that the creation of a 'conservation area' within the 'Old Moama' heritage precinct as part of a review of Murray Local Environmental Plan (LEP) 2011 be deferred pending a more detailed report on property ownership and proposed Development Applications within the proposed area and in time with the work on the LEP."

This information has been included in the revised report below.

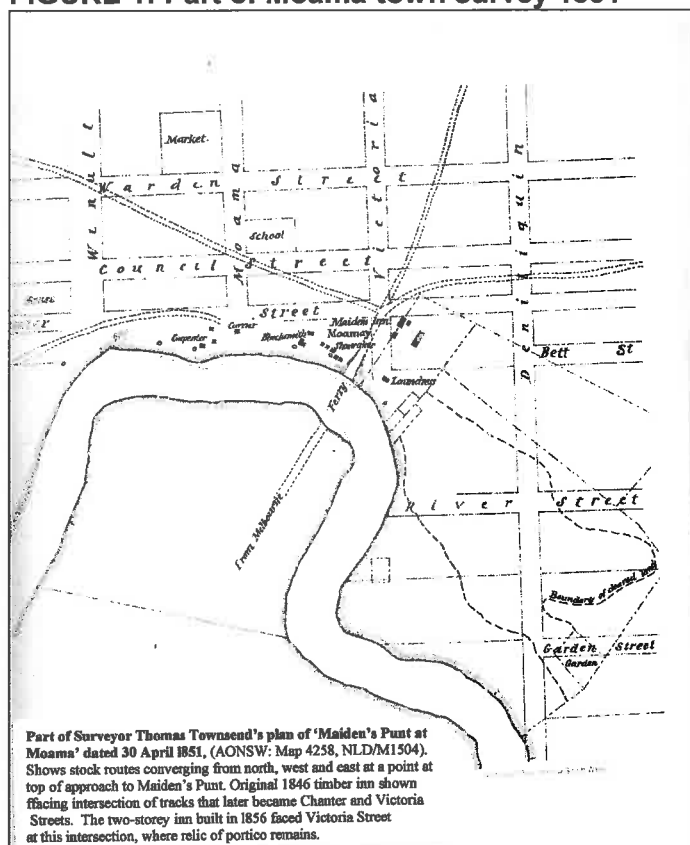
Introduction

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

Heritage Significance

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

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

FIGURE 1: Part of Moama town survey 1851

Existing Development

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

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

Existing Land Ownership

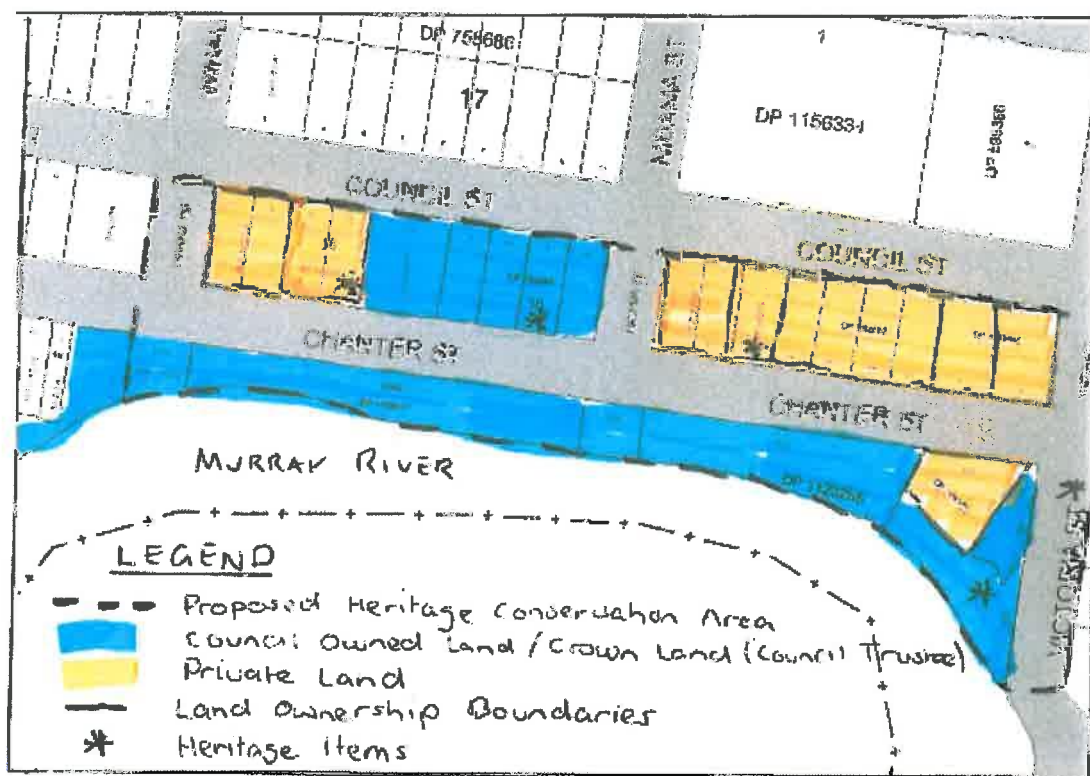
The figure below shows the existing land ownership within the proposed 'heritage conservation area'. The figure shows that a significant portion of lots within the precinct are either owned by Council or Council is the trustee of the public land. Of the private land two properties contain heritage items.

THIS IS PAGE NO. 34 OF THE DIRECTOR OF ENVIRONMENTAL SERVICES REPORT SUBMITTED TO THE ORDINARY MEETING OF MURRAY SHIRE COUNCIL HELD IN THE MULTI-FUNCTION ROOM, MATHOURA VISITOR AND BUSINESS CENTRE ON TUESDAY 21ST MAY 2013.

These items are the River Captains Cottage and the Old Gaol. The Rivers Captain Cottage property contains a dwelling currently used as an office by the Moama Local Aboriginal Land Council although it is foreseeable that the land containing the cottage will be transferred to Council. The Old Gaol is currently used as a private residence.

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

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



Existing Heritage Controls

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

These sites are:-

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

FIGURE 2: Items of Environmental Heritage in Murray LEP 2011

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

5.10 Heritage conservation

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

(1) Objectives

The objectives of this clause are as follows:

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

(2) Requirement for consent

Development consent is required for any of the following:

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

1. on which a heritage item is located or that is within a heritage conservation area, or
2. on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

(3) When consent not required

However, development consent under this clause is not required if:

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:
 - (i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and
 - (ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or
- (b) the development is in a cemetery or burial ground and the proposed development:
 - (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and
 - (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or
- (c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or
- (d) the development is exempt development.

(4) Effect of proposed development on heritage significance

The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

(5) Heritage assessment

The consent authority may, before granting consent to any development:

- (a) on land on which a heritage item is located, or
- (b) on land that is within a heritage conservation area, or
- (c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

(6) Heritage conservation management plans

The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

(7) Archaeological sites

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

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

(8) Aboriginal places of heritage significance

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

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

(9) Demolition of nominated State heritage items

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

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

(10) Conservation incentives

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

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

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

Development Pressures

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

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

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

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

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

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

FIGURE 3: Development Applications currently being assessed by Council



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

Proposal

The Friends of Old Moama have requested Murray Shire to consider amending Murray LEP 2011 and creating a 'conservation area' encompassing the heritage precinct of 'Old Moama'. The conservation area would be incorporated into the Murray LEP 2011 and would recognise the heritage significance of the area. The Friends of Old Moama believe that this will strengthen the level of development control and provide greater protection from unsuitable development.

THIS IS PAGE NO. 39 OF THE DIRECTOR OF ENVIRONMENTAL SERVICES REPORT SUBMITTED TO THE ORDINARY MEETING OF MURRAY SHIRE COUNCIL HELD IN THE MULTI-FUNCTION ROOM, MATHOURA VISITOR AND BUSINESS CENTRE ON TUESDAY 21ST MAY 2013.

The proposed area would incorporate land located along Chanter Street between Winall Street and Victoria Street which encompasses the area which was part of the original settlement of Moama. This area is indicated below in Figure 4.

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



Discussion

Conservation areas are generally used for areas/precincts which have a combined heritage significance for example, a neighbourhood or main street with heritage values. It does not provide any greater controls on 'items of environmental heritage'. A 'conservation area' triggers consideration of Clause 5.10: Heritage Conservation of Murray LEP 2011 for development of a property within the 'conservation area'.

There is merit in considering a 'conservation area' for the Old Moama area as the precinct has a combined heritage significance. The conservation area will ensure heritage is considered for all development within the area and assist in identifying the area as a heritage precinct. Council staff are proposing to undertake an initial review of the Murray LEP 2011 within the next 6-12 months and identify any errors or oversights within the current instrument and it is recommended that Council consider the proposed 'conservation area' as part of this review. Alternatively, if the potential development within the area is of significant concern to Council, then Council may consider preparing a 'planning proposal' immediately to implement 'proposal' amendment to Murray LEP 2011.

It should be noted that despite there being no conservation area currently, the impact of development on heritage is still required to be considered as part of the assessment of applications for development within the vicinity of heritage items.

Recommendation

That Council consider creating a 'conservation area' within the old Moama heritage precinct as part of a review of Murray LEP 2011.

Date Recd: 13.03.13

Doc id: X Ref:

Retention Period: 2yrs

File: Eco.Dev/Ind/FOOM

Ref to: LW For: Info

Ref to: BH For: ✓

Ack'ment Letter: Sent: 13.03.13

FRIENDS OF OLD MOAMA

"Dedicated to the preservation of our heritage"

President : Mary Ledwidge Chanter Estate Winery Chanter Street Moama . NSW 2710
phone: 54800334 (w) Email: chanterestategwinery@bigpond.com

Secretary : Carolyn Rolls 101 Mitchell Street Echuca. Vic. 3564
Phone: 54823800 Email: psammesd@ozemail.com.au

Date 11.03.2013

Mr. G. Murdoch
General Manager,
Murray Shire Council,
PO Box 21,
MATHOURA. 2710.

Dear Mr. Murdoch,

The Friends of Old Moama have become increasingly concerned about proposed development within close proximity to the Old Telegraph Station in Chanter Street. As you are aware, this section of Chanter Street between Winall Street (now the levee bank) and Victoria Street encompasses the area that was the original settlement of Moama.

We understand that present changes in the zoning of the area incorporated into the LEP do provide greater restriction upon the level and type of development control that may occur, but are not convinced that the outcomes will always be considered to conserve the historical context of the area.

The Friends seek to strengthen the level of development control within the area and would expect Murray Shire to be supportive of our efforts to protect important heritage on behalf of present and future residents of Moama. It is our belief that this can best be achieved by Council giving due consideration to incorporating Old Moama as a Heritage Precinct in the LEP.

Although there are few surviving buildings and relics now, this should not be misinterpreted as a distraction from the high level of local significance the wider area encompasses. Old Moama demonstrates clearly both social and historical values. The buildings, particularly the Telegraph Station, also are of aesthetic value in the local context.

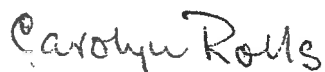
We understand that to have 'Old Moama Heritage Precinct' incorporated into the LEP, certain steps need to be taken – preparation of Statements of Significance for each of the remaining buildings and relics located within the area, together with a Statement of Significance for the Precinct. This will outline key aspects of *How*, *What* and *Why* the building relic or precinct is significant and provide guidance on how change is managed within the precinct. The Friends have undertaken research on most of the buildings concerned and would be happy to provide this information.

While our main reason for making this approach is as stated - greater protection from unsuitable development - we also believe there would be considerable tourism benefits from being able to 'market' this section of Chanter St. as 'Old Moama Heritage Precinct' or 'Old Moama Heritage Conservation Area'.

Few people coming to Moama today are aware of the compelling story of this once bustling centre of activity that was a fundamental - yet somewhat forgotten - part of the stock route that facilitated the movement of cattle and other livestock from southern Queensland and northern New South Wales into Victoria, through the use of Maiden's early punt. The annihilation of the settlement by the 1870 flood adds interest to the story. We believe incorporating the area as a special precinct in the LEP would enable Old Moama to be promoted to tourists, bearing in mind that in future years we look forward steamers carrying passengers able to disembark in the vicinity of Maiden's Punt Reserve.

We welcome the opportunity for further discussion on this matter.

Yours sincerely



**Carolyn Rolls
Hon. secretary**

Appendix 15	Report 19 Minutes for Ordinary Council Meeting held 21 May 2013
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**MINUTES OF THE ORDINARY MEETING
OF MURRAY SHIRE COUNCIL
HELD IN THE MULTI-FUNCTION ROOM,
MATHOURA VISITOR AND BUSINESS CENTRE
ON TUESDAY 21 MAY 2013**

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 B2/05 AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION
 B3/05 THE HON SUSSAN LEY MP, MEMBER FOR FARRER

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CONDOLENCES

**MINUTES OF THE ORDINARY MEETING
OF MURRAY SHIRE COUNCIL
HELD IN THE MULTI-FUNCTION ROOM,
MATHOURA VISITOR AND BUSINESS CENTRE
ON TUESDAY 21 MAY 2013, COMMENCING AT 1:01PM**

PRESENT

*The Mayor, Cr TE Weyrich (in the Chair)
Councillors WR Anderson, CR Bilkey, GP Burke,
GS Campbell, IW Moon, BM Murphy and JW Pocklington*

APOLOGY

*Councillor GT Mackenzie
GJ Murdoch, General Manager
LJ Robins, Director of Engineering Services
S Arkinstall, Director of Environmental Services*

IN ATTENDANCE

The following members of staff were also in attendance:

<i>PJ Higgins</i>	<i>Acting General Manager</i>
<i>F Groenewald</i>	<i>Acting Director of Engineering Services</i>
<i>G Bulmer</i>	<i>Acting Director of Environmental Services</i>
<i>KA Maher</i>	<i>Executive Assistant</i>

ACKNOWLEDGEMENT OF COUNTRY

The Mayor opened the meeting with an Acknowledgement of Country.

PRAYER

The Mayor held a short appropriate prayer.

At this stage of the meeting, the Mayor, Councillor TE Weyrich, offered a welcome to the Council to newly elected Councillor CR Bilkey.

APOLOGY

- 105 **RESOLVED (Crs Moon/Murphy)** that the apology tendered on behalf of Councillor GT Mackenzie be accepted and that leave of absence from the meeting be granted.

CONFLICT OF INTEREST

There were no Councillors or Staff who declared an interest in any matter within the meeting.

MINUTES OF THE ORDINARY MEETING HELD ON 16/04/13

- 106 **RESOLVED (Crs Pocklington/Moon)** that the minutes of the Ordinary Meeting held on 16 April 2013 be confirmed as a true and correct record.

MINUTES OF THE SPECIAL MEETING HELD ON 07/05/13

- 107 **RESOLVED (Crs Pocklington/Moon)** that the minutes of the Special Meeting held on 7 May 2013 be confirmed as a true and correct record.

MINUTES OF THE POLICY AND RESOURCES COMMITTEE MEETING HELD ON 07/05/13

- 108 **RESOLVED (Crs Moon/Campbell)** that the minutes of the Policy and Resources Committee Meeting held on 7 May 2013 be confirmed as a true and correct record.

MINUTES OF THE PLANNING AND DEVELOPMENT COMMITTEE MEETING HELD ON 07/05/13

- 109 **RESOLVED (Crs Pocklington/Moon)** that the minutes of the Planning and Development Committee Meeting held on 7 May 2013 be confirmed as a true and correct record.

BUSINESS ARISING OUT OF MINUTES**Ordinary Meeting****Questions and Statements Without Notice****Cr Burke****Page 19**

Cr GP Burke referred to his Questions and Statements Without Notice in regards to the Code of Conduct investigation against him and advised that the Acting General Manager was to follow up and provide information to him, as yet he has not received any advice.

Acting General Manager advised that certain information was provided to him by email

Planning and Development Committee Meeting

Cr WR Anderson drew to the attention that the footer on the Planning and Development Committee Meeting Minutes read Tuesday 5 May 2013 instead of Tuesday 7 May 2013.

Acting General Manager advised that this would be rectified

COMMITTEE OF THE WHOLE OF COUNCIL

- 110** **RESOLVED (Crs Anderson/Burke)** that as provided by Section 10A(2), Subsection (g) of the Local Government Act 1993, being advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege, Council move into Committee of the Whole of Council at 1:07pm.

DIRECTOR OF ENVIRONMENTAL SERVICES
CONFIDENTIAL REPORT**CLAUSE 1. KSK DEVELOPMENTS PTY LTD**
PERRICOOTA WATERS, PERRICOOTA ROAD, MOAMA

Information noted.

GENERAL BUSINESS

- 111** **RESOLVED (Crs Moon/Campbell)** that Councillors meet half an hour prior to the next meeting of Council, being the Planning and Development Committee Meeting on Tuesday 4 June 2013, to conduct a workshop.

ADOPTION

- 112** **RESOLVED (Crs Pocklington/Burke)** that Council move into Open Council at 1:30pm

The Acting General Manager, on behalf of the Mayor, advised the decisions of the Committee of the Whole of Council in Open Council.

- 113** **RESOLVED (Crs Pocklington/Burke)** that the recommendations of the Committee of the Whole of Council be adopted.

REPORTS FROM OFFICERS**GENERAL MANAGER'S REPORT****CLAUSE 1. APPEALS AND DONATIONS**

Information noted.

CLAUSE 2. MURRAY SHIRE COUNCIL BY-ELECTION

Information noted.

CLAUSE 3. COUNCILLOR'S DECLARATION OF OFFICE

- 114 **RESOLVED (Crs Murphy/Burke)** that the newly elected Councillors, as a result of the Murray Shire By-Election, make a Declaration of Office.

CLAUSE 4. DISCLOSURES BY COUNCILLORS AFTER A BY-ELECTION

- 115 **RESOLVED (Crs Murphy/Pocklington)** that all new Councillors complete the Disclosures by Councillors and Designated Persons Return (Pecuniary Interest Return) and forward it to the Director of Corporate Services as soon as possible.

CLAUSE 5. MURRAY SHIRE COUNCIL SAFE DRIVING POLICY

- 116 **RESOLVED (Crs Anderson/Pocklington)** that the new Councillors acknowledge the Murray Shire Council Safe Driving Policy and return the Acknowledgement Form to the Director of Corporate Services; and Council's staff ensure that all Councillors personal motor vehicle insurance and driver's licence is up to date for the 2013/14 period.

CLAUSE 6. COUNCILLOR'S FACSIMILE/ANSWERING MACHINES

- 117 **RESOLVED (Crs Campbell/Murphy)** that new Councillors who wish to have a Facsimile/Answering Machine or printer for use during their term of office advise the Director of Corporate Services prior to the Ordinary Meeting of Council on 21 May 2013.

CLAUSE 7. SOUTH WEST ARTS

Information noted.

CLAUSE 8. COMMUNITY FORUMS – MATHOURA AND MOAMA

- 118 **RESOLVED (Crs Murphy/Pocklington)** that the information be noted and collated for consideration when the Draft Community Strategic Plan 2013/14 is adopted.

Cr GS Campbell referred to the issue that came out of the Mathoura Community Forum regarding the acoustics in the Multi-Function Room of the Mathoura Visitor and Business Centre and suggested that Council act on rectifying the problem as soon as possible.

- 119 **FURTHER RESOLVED (Crs Murphy/Pocklington)** that the Acting Director of Environmental Services report to Council on the outcomes of the Consultant's report that has been received by Council at the next Meeting of Council.

CLAUSE 9. INDEPENDENT LOCAL GOVERNMENT REVIEW PANEL (ILGRP)

- 120 **RESOLVED (Crs Pocklington/Murphy)** that the information from the Regional Councils Workshops be utilised when Council makes its submission to the Independent Local Government Review Panel.
- 121 **RESOLVED (Crs Pocklington/Campbell)** that Council, through the Riverina and Murray Regional Organisation of Councils (RAMROC) and F Division of the Shires Association of NSW, pursue all candidates in the next State Election to make it policy of no forced amalgamations.

CLAUSE 10. COUNCILLOR BADGES

- 122 **RESOLVED (Crs Murphy/Moon)** that the preferred option for the issuing of the new Councillor name badges be Option 3, being Councillors and partners and Senior Staff and partners.

CLAUSE 11. CONSTITUTIONAL RECOGNITION OF LOCAL GOVERNMENT

- 123 **RESOLVED (Crs Murphy/Bilkey)** that Council continue to support the Constitutional Recognition of Local Government.

Councillors GS Campbell and IW Moon recorded their vote against this resolution.

**CLAUSE 12. DEVELOPMENT APPLICATION (026/13)
COMMUNITY TITLE SUBDIVISION
COBB HAVEN, 6 BOYES STREET, MOAMA**

Information noted.

**GENERAL MANAGER'S
SUPPLEMENTARY (VERBAL) REPORT****CLAUSE 1. AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION (ALGA)**

The Acting General Manager advised Council that advice had been received from the Australian Local Government Association (ALGA) that the National General Assembly will be held on 16-19 June 2013 in Canberra. It is usual practice that the Mayor attends on behalf of Council.

- 124 **RESOLVED (Crs Pocklington/Murphy)** that the Mayor, or his representative, represents Council at the National General Assembly to be held on 16-19 June 2013 in Canberra.

ADOPTION

- 125 **RESOLVED (Crs Burke/Pocklington)** that subject to the foregoing resolutions, the General Manager's Reports be adopted.

DIRECTOR OF CORPORATE SERVICES REPORT**CLAUSE 1. FORM 2**

- 126 **RESOLVED (Crs Moon/Bilkey)** that the Statement of Balances for the month ending 30 April 2013 be adopted.

CLAUSE 2. KEY PERFORMANCE INDICATORS

Information noted.

CLAUSE 3. MONTHLY BUDGET REVIEW ITEMS

Information noted.

CLAUSE 4. BUDGET REVIEW

- 127 **RESOLVED (Crs Burke/Moon)** that the Budget Review alterations, incorporated in the Draft Community Strategic Plan 2013/14, be approved by Council.

CLAUSE 5. RATING

- 128 **RESOLVED (Crs Pocklington/Murphy)** that the points outlined in the report be treated as a submission to the Draft Community Strategic Plan 2013/14.

- 129 **FURTHER RESOLVED (Crs Moon/Burke)** that the agreement that Council made with the deputation of rural ratepayers at the rural ratepayers meeting held on Monday 13 May 2013 be met, whereby the Director of Corporate Services provide Council with rating Options on Council's rating structure for 2013/14, specifically Farmland rates.

**DIRECTOR OF CORPORATE SERVICES
SUPPLEMENTARY (VERBAL) REPORT****CLAUSE 1. FINANCIAL ASSISTANCE GRANTS**

The Director of Corporate Services advised Council that Council would receive two (2) instalments of the Financial Assistance Grants (FAGS) early, which will result in next year showing an operating deficit.

CLAUSE 2. MOAMA ECHUCA COMMUNITY BOTANIC GARDENS

The Director of Corporate Services tabled a letter of resignation from Councillor GS Campbell as a delegate to the Friends of Moama Echuca Botanic Gardens Inc.

The issue of Council appointed delegates will be discussed at Council's June Planning and Development Committee Meeting.

ADOPTION

- 130 **RESOLVED (Crs Pocklington/Campbell)** that subject to the foregoing resolutions, the Director of Corporate Services Reports be adopted.

At this stage of the meeting, being 2:34pm, the Director of Corporate Services left the meeting to work on Council's rating options for 2013/14, to enable it to be presented to this meeting.

DIRECTOR OF ENGINEERING SERVICES REPORT**CLAUSE 1. WORKS UPDATE**

Information noted.

**CLAUSE 2. MURRAY SHIRE COUNCIL POLICY DOCUMENT –
CLAUSE 26. WATER**

- 131 **RESOLVED (Crs Pocklington/Bilkey)** that Council adopt the amended Clause 26. Water in Council's Policy document.

At this stage of the meeting, being 2:37pm, Councillor BM Murphy excused herself from the meeting.

ADOPTION

- 132 **RESOLVED (Crs Moon/Pocklington)** that subject to the foregoing resolutions, the Director of Engineering Services Report be adopted.

DIRECTOR OF ENVIRONMENTAL SERVICES REPORT**CLAUSE 1. DEVELOPMENT APPROVALS**

Information noted.

CLAUSE 2. MOAMA CEMETERY PLAN OF MANAGEMENT

- 133 **RESOLVED (Crs Burke/Pocklington)** that Council adopt the Moama Cemetery Plan of Management dated December 2012.

**CLAUSE 3. DEVELOPMENT APPLICATION (106/13)
 SINGLE STOREY DWELLING WITH ATTACHED GARAGE
 ZONE:- RU1 – PRIMARY PRODUCTION
 LOT 62, DP 751152
 OLD BARMAH ROAD, MOAMA
 OWNER:- BARBEROSA PTY LTD
 APPLICANT:- PLANRIGHT SURVEYING PTY LTD**

134 RESOLVED (Crs Burke/Moon) that Council consent to Development Application 106/13, subject to the following conditions:

Conditions Prescribed by the Environmental Planning & Assessment Regulation 2000

(A) Compliance with Building Code of Australia and Insurance Requirements under the Home Building Act 1989

The work must be carried out in accordance with the requirements of the *Building Code of Australia*.

In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

Note: Reference to the *Building Code of Australia* is a reference to that Code as in force on the date the application is made for the relevant construction certificate.

(B) Erection of Signs

A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the PRINCIPAL CERTIFYING AUTHORITY for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

This condition does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

(C) Notification of Home Building Act 1989 Requirements

For the purposes of section 80A (11) of the Act, the following are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the *Home Building Act 1989*.

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

- (a) in the case of work for which a principal contractor is required to be appointed:
 - (i) the name and licence number of the principal contractor, and
 - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
- (b) in the case of work to be done by an owner-builder:
 - (i) the name of the owner-builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under this condition becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

This condition does not apply in relation to Crown building work that is certified, in accordance with section 109R of the Act, to comply with the technical provisions of the State's building laws.

Prior to the Commencement of Works

1. An application for a *Construction Certificate* must be submitted to, and approved by, a nominated Certifying Authority prior to commencement of any work at the site.
2. Temporary water closet accommodation is to be provided onsite during construction. This facility must be located onsite so as to not create a nuisance to any adjoining properties.
3. Before any water/sewer, plumbing or drainage work is commenced, a Notice of Work (NoW) is to be submitted to Council 48 hours prior to works commencing. On completion of work, the licensed plumber / drainer shall apply for an inspection (inspection fees apply) and a Certificate of Compliance (CoC) is to be submitted to Council. A sewer service diagram (SSD) must also be provided to Council upon completion of the drainage works.
4. An individual Rural Address Number is to be assigned to the dwelling, the fee required for the sign, post & installation is \$50 and payable to Council prior to the commencement of works.

Prior to the Issue of a Construction Certificate

5. The payment of Section 94a in accordance with Council's policy prior to the issue of a Construction Certificate.
Section 94a charges are 1% of the cost of the development which equates to \$2000.00
6. A stormwater management plan is to be prepared and submitted with the application for a Construction Certificate.
7. The dwelling is to be constructed from materials that blend in with the natural riverine environment. Details of materials, finishes and colour schemes are to be submitted to Council at the time application is made for a construction certificate.

General

8. The development is to be carried out in accordance with the plans (numbered S5945PP-D, sheets 1-6, dated 3/12/12 and BASIX Certificate 459801S submitted to and stamped by Council as part of the application. Any amendments to these plans will require the approval of Council.
9. Appropriate erosion and sedimentation control measures are to be installed and maintained on site for the duration of construction works.
10. The construction site is to be maintained in an environmentally sound manner during building works. Designated waste containment areas are to be provided on site, and maintained so as to prevent any windblown litter escaping from the site.
11. Vehicle access to the construction site is to be restricted to a single, all-weather driveway. This access point is to be stabilized and maintained until construction onsite is completed.
12. The dwelling is to be sited to avoid adverse impact on existing native vegetation. There is to be no clearing of native vegetation other than that approved by the Murray Catchment Management Authority or in accordance with the provisions of the Native Vegetation Act 2003.
13. The applicant is to be made aware that if any Aboriginal sites/relics/remains are discovered on site that the proponent must:
 - o not further harm the Aboriginal object
 - o immediately cease work at the particular location
 - o secure the area so as to avoid further harm to Aboriginal object
 - o notify OEH as soon as practical by telephoning 131 555, providing any details of the Aboriginal object and location
 - o not recommence works at the particular location unless authorised in writing by the OEH
14. The proposed dwelling must be provided with a subterranean termite management system conforming to Australian Standard AS3660.1 or Part 3.1.3 of the BCA.
15. Water supply work or sewerage work that is plumbing and drainage work within the meaning of the Plumbing and Drainage Act 2011 must comply with that Act and the regulations under that Act. Any water supply work or sewerage work that is not plumbing and drainage work under that Act, and any stormwater drainage work, must comply with the Plumbing Code of Australia.
16. A minimum of 20,000 litres of stored rainwater shall be provided for domestic purposes unless the site is serviced by the Council water main.
17. The floor level of the dwelling must be, at a minimum, the height of the Flood Planning Level which is RL 96.33m AHD. A licensed surveyor is to verify the floor height of the dwelling.

Construction of class 1 building is to be in accordance with ABCB standard for Construction of Buildings in Flood Hazard Areas.

Advice to Applicant: During and following flood events there is no guarantee of access and egress to the subject property.
18. Building work shall not commence on the site before 7am on weekdays and Saturdays and 8am on Sundays and public holidays. All works are to cease by 8pm on any day.
19. A new driveway access is to be constructed in accordance with Council's requirements for rural road access is to be provided to service the new dwelling. A separate *application* is to be made to Council's

Engineering Department for approval to construct or upgrade any driveway access from Old Barmah Road prior to the commencement of works in the Old Barmah Road reserve.

20. The access road into the property and the dwelling may not be raised higher than 150mm from natural ground level.
21. The applicant is to apply to Council for approval to install and operate an on-site wastewater treatment system (Section C5 & C6 of Local Government Act 1993). This system is to be a NSW Health Approved system. The location of this system is to be approved by Council. The application is to include details of the proposed system, distances from water bodies (i.e. river, farm dam), copy of the accreditation, appropriate unit sizing and details of the absorption system. A soil capability assessment is to be submitted with the application. The land application system is to be located at least 100m to permanent surface waters (e.g. river) and 40m to other waters (e.g. farm dam).

Advice to Applicant: Council policy has changed with respect to the mandatory installation of floor wastes in wet areas. Council now enforces the provisions of the BCA which states that floor wastes are *not required* but if they are installed the floor must be graded and drained to the floor waste in accordance with AS 3740-2010.

Prior to Release of Occupation Certificate

22. **Occupation** - The applicant shall not allow or permit the building (or part of the building, in the case of alteration or additions) to be occupied or used, until:
 - (a) All conditions of this approval have been completed in full;
 - (b) An application for an Occupation Certificate has been completed and returned to the Principal Certifying Authority; and
 - (c) The Principal Certifying Authority has issued an Occupation Certificate.
23. A final Occupation Certificate will not be issued until all BASIX commitments as stated on the BASIX certificate provided have been completed in full and certified.
24. An application for a final Occupation Certificate must be accompanied by the BASIX Certificate applicable for the development.

Bushfire Protection Conditions

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building.

25. At the commencement of building works and in perpetuity an Asset Protection Zone (APZ) is to be maintained for a distance of 50 metres in all directions around the proposed dwelling as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

26. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.
- In recognition that no reticulated water supply exists, a 20,000 litre water supply tank (concrete or metal) fitted with a 65mm metal Storz outlet and a gate or ball valve, or a minimum 5hp or 3kW petrol or diesel powered pump with a Storz fitting and mounted to pump from the Murray River shall be provided for fire fighting purposes. A hardened ground surface for truck access is to be supplied up to and within 4 metres of the water source.
 - Reticulated or bottled gas is to be installed and maintained in accordance with Australian Standard AS/NZS 1596:2002: 'The storage and handling of LP gas and the requirements of relevant authorities. Metal piping is to be used.
 - Gas cylinders kept close to the building shall have release valves directed away from the building. Connections to and from gas cylinders are to be metal. Polymer sheathed flexible gas supply lines to gas meters adjacent to building are not to be used.

Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack.

27. Roof guttering and valleys are to be screened to prevent the build up of flammable material. Any materials used shall have a Flammability Index of no greater than 5 when tested in accordance with Australian Standard AS1 530.2-1 993 'Methods for Fire Tests on Building Materials, Components and Structures - Test for Flammability of Materials'.
28. New construction (dwelling and garage) shall comply with Australian Standard AS3959-2009 "Construction of buildings in bush fire-prone areas" BAL-12.5.
Section A3.7 of PBP 2006 Addendum: Appendix 3 also applies.

Landscaping

29. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

FOR: Councillors Anderson, Bilkey, Burke, Campbell, Moon and Weyrich

AGAINST: Councillor Pocklington

At this stage of the meeting, being 2:40pm, Councillor BM Murphy returned to the meeting.

**CLAUSE 4. DEVELOPMENT APPLICATION (108/13)
 SINGLE STOREY DWELLING WITH ATTACHED GARAGE
 ZONE:- RU1 – PRIMARY PRODUCTION
 LOT 128, DP 751152
 OLD BARMAH ROAD, MOAMA
 OWNER:- PETER ANTHONY BARBER
 APPLICANT:- PLANRIGHT SURVEYING PTY LTD**

135 RESOLVED (Crs Campbell/Moon) that Council consent to Development Application 108/13, subject to the following conditions:

Conditions Prescribed by the Environmental Planning & Assessment Regulation 2000

(A) Compliance with Building Code of Australia and Insurance Requirements under the Home Building Act 1989

The work must be carried out in accordance with the requirements of the *Building Code of Australia*.

In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

Note: Reference to the *Building Code of Australia* is a reference to that Code as in force on the date the application is made for the relevant construction certificate.

(B) Erection of Signs

A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the PRINCIPAL CERTIFYING AUTHORITY for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

This condition does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

(C) Notification of Home Building Act 1989 Requirements

For the purposes of section 80A (11) of the Act, the following are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the *Home Building Act 1989*.

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

- (a) in the case of work for which a principal contractor is required to be appointed:
 - (i) the name and licence number of the principal contractor, and
 - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
- (b) in the case of work to be done by an owner-builder:
 - (i) the name of the owner-builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under this condition becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

This condition does not apply in relation to Crown building work that is certified, in accordance with section 109R of the Act, to comply with the technical provisions of the State's building laws.

Prior to the Commencement of Works

1. An application for a *Construction Certificate* must be submitted to, and approved by, a nominated Certifying Authority prior to commencement of any work at the site.
2. Temporary water closet accommodation is to be provided onsite during construction. This facility must be located onsite so as to not create a nuisance to any adjoining properties.
3. Before any water/sewer, plumbing or drainage work is commenced, a Notice of Work (NoW) is to be submitted to Council 48 hours prior to works commencing. On completion of work, the licensed plumber / drainer shall apply for an inspection (inspection fees apply) and a Certificate of Compliance (CoC) is to be submitted to Council. A sewer service diagram (SSD) must also be provided to Council upon completion of the drainage works.
4. An individual Rural Address Number is to be assigned to the dwelling, the fee required for the sign, post & installation is \$50 and payable to Council prior to the commencement of works.

Prior to the Issue of a Construction Certificate

5. The payment of Section 94a in accordance with Council's policy prior to the issue of a Construction Certificate.
Section 94a charges are 1% of the cost of the development which equates to \$2000.00
6. A stormwater management plan is to be prepared and submitted with the application for a Construction Certificate.
7. The dwelling is to be constructed from materials that blend in with the natural riverine environment. Details of materials, finishes and colour schemes are to be submitted to Council at the time application is made for a construction certificate.
8. The developer is to fund the re-sheeting of Old Barmah Road to the proposed access for the dwelling in accordance with the requirements

of Council's Engineering Department. Details of the proposed works are to be provided and endorsed by Council prior to the issue of a Construction Certificate application. These works are to be completed at the expense of the developer prior to the issue of an Occupation Certificate.

General

9. The development is to be carried out in accordance with the plans (numbered S5945PP-A, sheets 1-6, dated 5/12/12 and BASIX Certificate 459762S submitted to and stamped by Council as part of the application. Any amendments to these plans will require the approval of Council.
10. Appropriate erosion and sedimentation control measures are to be installed and maintained on site for the duration of construction works.
11. The construction site is to be maintained in an environmentally sound manner during building works. Designated waste containment areas are to be provided on site, and maintained so as to prevent any windblown litter escaping from the site.
12. Vehicle access to the construction site is to be restricted to a single, all-weather driveway. This access point is to be stabilized and maintained until construction onsite is completed.
13. There is to be no clearing of native vegetation other than that approved by the Murray Catchment Management Authority or in accordance with the provisions of the Native Vegetation Act 2003.
14. The applicant is to be made aware that if any Aboriginal sites/relics/remains are discovered on site that the proponent must:
 - o not further harm the Aboriginal object
 - o immediately cease work at the particular location
 - o secure the area so as to avoid further harm to Aboriginal object
 - o notify OEH as soon as practical by telephoning 131 555, providing any details of the Aboriginal object and location
 - o not recommence works at the particular location unless authorised in writing by the OEH
15. The proposed dwelling must be provided with a subterranean termite management system conforming to Australian Standard AS3660.1 or Part 3.1.3 of the BCA.
16. Water supply work or sewerage work that is plumbing and drainage work within the meaning of the Plumbing and Drainage Act 2011 must comply with that Act and the regulations under that Act. Any water supply work or sewerage work that is not plumbing and drainage work under that Act, and any stormwater drainage work, must comply with the Plumbing Code of Australia.
17. A minimum of 20,000 litres of stored rainwater shall be provided for domestic purposes unless the site is serviced by the Council water main.
18. The floor level of the dwelling must be, at a minimum, the height of the Flood Planning Level which is RL 96.33m AHD. A licensed surveyor is to verify the floor height of the dwelling.

Construction of class 1 building is to be in accordance with ABCB standard for Construction of Buildings in Flood Hazard Areas.

Advice to Applicant: During and following flood events there is no guarantee of access and egress to the subject property.

19. Building work shall not commence on the site before 7am on weekdays and Saturdays and 8am on Sundays and public holidays. All works are to cease by 8pm on any day.
20. A new driveway access is to be constructed in accordance with Council's requirements for rural road access is to be provided to service the new dwelling. A separate *application* is to be made to Council's Engineering Department for approval to construct or upgrade any driveway access from Old Barmah Road prior to the commencement of works in the Old Barmah Road reserve.
21. The access road into the property and the dwelling may not be raised higher than 150mm from natural ground level.
22. The applicant is to apply to Council for approval to install and operate an on-site wastewater treatment system (Section C5 & C6 of Local Government Act 1993). This system is to be a NSW Health Approved system. The location of this system is to be approved by Council. The application is to include details of the proposed system, distances from water bodies (i.e. river, farm dam), copy of the accreditation, appropriate unit sizing and details of the absorption system. A soil capability assessment is to be submitted with the application. The land application system is to be located at least 100m to permanent surface waters (e.g. river) and 40m to other waters (e.g. farm dam).
Advice to Applicant: Council policy has changed with respect to the mandatory installation of floor wastes in wet areas. Council now enforces the provisions of the BCA which states that floor wastes are *not required* but if they are installed the floor must be graded and drained to the floor waste in accordance with AS 3740-2010.

Prior to Release of Occupation Certificate

23. **Occupation** - The applicant shall not allow or permit the building (or part of the building, in the case of alteration or additions) to be occupied or used, until:
 - (a) All conditions of this approval have been completed in full;
 - (b) An application for an Occupation Certificate has been completed and returned to the Principal Certifying Authority; and
 - (c) The Principal Certifying Authority has issued an Occupation Certificate.
24. A final Occupation Certificate will not be issued until all BASIX commitments as stated on the BASIX certificate provided have been completed in full and certified.
25. An application for a final Occupation Certificate must be accompanied by the BASIX Certificate applicable for the development.

Bushfire Protection Conditions

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building.

26. At the commencement of building works and in perpetuity an Asset Protection Zone (APZ) is to be maintained for a distance of 50 metres in

all directions around the proposed dwelling as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

Landscaping

27. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

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

AGAINST: Councillors Pocklington

**CLAUSE 5. DEVELOPMENT APPLICATION (059/13) – MODIFICATION 1
DEMOLITION OF EXISTING GARAGE AND ERECTION OF A DOUBLE
STOREY TOWNHOUSE, CARPORT, 2 LOT TORRENS SUBDIVISION
ZONE:- R1 – GENERAL RESIDENTIAL
LOT 8, DP 512830
14 FRANCIS STREET, MOAMA
OWNER:- NICHOLAS BURLS
APPLICANT:- DENHAM DESIGN**

136 RESOLVED (Crs Campbell/Anderson) that Council grant approval to the modification, and the following conditions are imposed:

Conditions Prescribed by the Environmental Planning & Assessment Regulation 2000

(A) *Compliance with Building Code of Australia and Insurance Requirements under the Home Building Act 1989*

The work must be carried out in accordance with the requirements of the *Building Code of Australia*.

In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

Note: Reference to the *Building Code of Australia* is a reference to that Code as in force on the date the application is made for the relevant construction certificate.

(B) *Erection of Signs*

A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the PRINCIPAL CERTIFYING AUTHORITY for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and

(c) stating that unauthorised entry to the work site is prohibited. Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

This condition does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

(C) *Notification of Home Building Act 1989 Requirements*

For the purposes of section 80A (11) of the Act, the following are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the *Home Building Act 1989*.

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

- (a) in the case of work for which a principal contractor is required to be appointed:
 - (i) the name and licence number of the principal contractor, and
 - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
- (b) in the case of work to be done by an owner-builder:
 - (i) the name of the owner-builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under this condition becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

(D) *Condition Relating to Shoring and Adequacy of Adjoining Property*

For the purposes of section 80A (11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (a) protect and support the adjoining premises from possible damage from the excavation, and
- (b) where necessary, underpin the adjoining premises to prevent any such damage.

The condition referred to above does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

Conditions to be Fulfilled Prior to the Release of the Construction Certificate

1. The payment of Section 94 and Section 64 Water and Sewer Headworks contributions in accordance with Council's policy at the time of lodging a construction certificate application.

Section 64 charges are:

Development	Contribution Rate (% of ET)	Contribution Amount	
		Sewer	Filtered Water
Conventional Dwelling x 1	100%	\$2,047 x 1	(\$977 + \$1,153) x 1
Total = \$4,177		\$2,047	\$2,130

Section 94 charges are:

Development	Contribution Rate (% of ET)	Contribution Amount				
		Road Upgrade	Open Space	Community Facilities	Waste	Stormwater
Conventional Dwelling x 1	90%	\$1,350 x 1	\$405 x 1	\$135 x 1	\$270 x 1	\$405 x 1
Total = \$2,365		\$1,350	\$405	\$135	\$270	\$405

2. A landscaping plan prepared in accordance with section 2.3 of Murray Development Control Plan 2012 is to be submitted with the application for a construction certificate application. All landscaping must be completed in accordance with the approved plan prior to final certification and occupation of the units.
3. A plan indicating the method of stormwater capture and disposal on the site is to be submitted for approval from Council with the application for a construction certificate application.

Prior to Commencement of Works

4. An application for a Construction Certificate must be submitted to, and approved by, a nominated Principal Certifying Authority prior to commencement of any building work or subdivision work at the site.
5. The site is to be set out by a registered land surveyor. On completion, a survey drawing is to be submitted to show setbacks of the building from all boundaries. Please note that rectification work may be necessary if the building is found to encroach required setbacks.
NOTE: Rectification work may be necessary if building is found to encroach required setbacks.
6. Before any water/sewer, plumbing or drainage work is commenced, application is to be made to Council for a water/sewer permit. On completion of work, the licensed plumber/drainer shall apply for an inspection which will be carried out concurrently with the final building inspection prior to occupation.
7. Temporary water closet accommodation is to be provided onsite during construction. This facility must be located onsite so as to not create a nuisance to any adjoining properties.

8. Appropriate erosion and sedimentation control measures are to be installed and maintained on site for the duration of construction works.

General

9. The development is to be carried out in accordance with the plans (prepared by Denham Design, referenced Dd1247 sheet numbers 1-6,) and BASIX Certificate 383199S_02 submitted to and stamped by Council as part of the application. Any amendments to these plans will require the approval of Council.
10. Vehicles are to be clean and free of debris prior to leaving the site. Deposited material may be ordered to be removed at the applicant/operator's expense.
11. The construction site is to be maintained in an environmentally sound manner during building works. Designated waste containment areas are to be provided on site, and maintained so as to prevent any windblown litter escaping from the site.
12. The proposed retaining wall to be constructed on proposed Lot 2 is to be constructed in accordance with the exempt provisions under Part 2 Subdivision 15 of SEPP (exempt and Complying Development Codes) 2008 or subject to further Council consent.
13. Any damage or deterioration to any portion of the footpath and/or kerb and guttering or other Council property including road reserves, during construction shall be reinstated to its original condition at the owner's expense to the satisfaction of Council.
14. Water supply work or sewerage work that is plumbing and drainage work within the meaning of the Plumbing and Drainage Act 2011 must comply with that Act and the regulations under that Act. Any water supply work or sewerage work that is not plumbing and drainage work under that Act, and any stormwater drainage work, must comply with the Plumbing Code of Australia.
15. Roof waters are to be disposed of stormwater point provided in accordance with the approved plan.
16. The finished floor level of the dwelling, excluding any attached Class 10a structure (such as a private garage, carport or the like), is to be a minimum of 300mm above finished ground level.
17. The proposed dwelling must be provided with a subterranean termite management system conforming to Australian Standard AS3660.1 or Part 3.1.3 of the BCA.
18. Building work shall not commence on the site before 7am on weekdays and Saturdays and 8am on Sundays and public holidays. All works are to cease by 8pm on any day.
19. No part of the carport is to be enclosed without formal Council approval.

Prior to Release of Occupation Certificate

20. **Occupation** - The applicant shall not allow or permit the building (or part of the building, in the case of alteration or additions) to be occupied or used, until:
 - (a) All conditions of this approval have been completed in full;
 - (b) An application for an Occupation Certificate has been completed and returned to the Principal Certifying Authority; and

- (c) The Principal Certifying Authority has issued an Occupation Certificate.
21. Upon completion of construction, each dwelling is to have a house number clearly and permanently displayed on the letterbox; wall of the dwelling facing the street; or on a sign posted in a prominent position along the front boundary of the allotment.
 22. A durable notice of termite treatment must be permanently fixed to the building in a prominent location, such as in a meter box or the like, in accordance with Clause 3.1.3.2(b). Contents of the notice are to include: the method of termite risk management; the date of installation of the system; where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and, the installer's or manufacturer's recommendations for the scope and frequency of future inspections for termite activity.
 23. A final Occupation Certificate will not be issued until all BASIX commitments as stated on the BASIX certificate provided have been completed in full and certified.
 24. Landscaping must be completed in accordance with the approved plan prior to final certification and occupation of the townhouses.
 25. An application for a final Occupation Certificate must be accompanied by the BASIX Certificate applicable for the development.
 26. *Prior to the issue of an occupation certificate* one (1) residential standard plain concrete driveway, to Council specifications, is to be constructed from the kerb to the property boundary of proposed Lot 1. This residential driveway must not impact upon the existing fire hydrant. Separate application is to be made to Council's Engineering Department for approval to construct the driveway

Prior to Release of Subdivision Certificate

27. The submission of formal subdivision plans and application for subdivision certificate being made to Council. Easements are to be shown over all services.
28. The developer is to connect lot 1 to Council's raw and filtered water supply system. Separate raw and filtered water meters are to be provided for each lot.
29. The developer is to connect lot 1 Council's sewerage system. It is recommended that no building be erected over sewer lines, and therefore that the sewer connection to proposed Lot 1 be located along the northern boundary.
30. The developer is to ensure electricity is available to proposed lot 1. The developer is to consult with the relevant electricity provider to obtain a letter of compliance stating the suitable arrangements have been made for electricity to each lot.
31. The developer is to ensure natural gas is available to proposed lot 1. The developer is to consult with the relevant natural gas provider to obtain a letter of compliance stating the suitable arrangements have been made for natural gas provision to each lot.
32. The developer is to ensure that separate telecommunication connection is available to proposed lot 1. The developer is to consult with the relevant telecommunications carrier to obtain a letter of compliance

stating the suitable arrangements have been made for underground telecommunication services to each lot.

33. Works as executed plans of all services are to be provided to Council in both hard and electronic format.

Condition for Demolition

34. Demolition is to be carried out in accordance with the provisions of AS 2601-1991 – *Demolition of Structures*. Prior to the commencement of work, a letter is to be submitted to Council advising who is going to be carrying out the demolition, what materials are being removed and where it is intended to dispose of the materials.

Should demolition involve the removal of materials containing asbestos:

- A “Disposal of Asbestos” form is to be obtained from Council, completed and returned to Council for approval.
- The material is to be removed by an asbestos removal contractor with an AS1 Licence for friable asbestos, or an AS2 Licence for bonded asbestos, issued by WorkCover NSW.
- Warning signs should be erected to discourage people from entering the site.
- Access to the immediate site should be limited to those involved in the clean-up. They are required to wear appropriate personal protective equipment (ie suitable respirator or dust mask and disposable coveralls). At completion, all personal protective equipment is to be disposed of as asbestos waste.
- The site is to be kept damp at all times, particularly while debris is being removed.

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

AGAINST: Nil

CLAUSE 6. CONSERVATION AREA FOR ‘OLD MOAMA’ WITHIN MURRAY LOCAL ENVIRONMENTAL PLAN (LEP) 2011

MOTION (Crs Pocklington/Murphy) that Council create a ‘conservation area’ within the ‘Old Moama’ heritage precinct as part of the review of the Murray Local Environmental Plan (LEP) 2011.

General discussion took place in regards to this issue, particularly in view of establishing a clearly defined boundary of the conservation area.

- 137** **RESOLVED (Crs Pocklington/Murphy)** that Council consider creating a ‘conservation area’ within the ‘Old Moama’ heritage precinct as part of the review of the Murray Local Environmental Plan (LEP) 2011.

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

AGAINST: Councillors Campbell and Moon

At this stage of the meeting, being 3:00pm, the meeting adjourned before the deputation to Council.

The meeting resumed at 3:20pm.

DEPUTATION

At this stage of the meeting, being 3:20pm, Alyce Fisher of South West Arts made a deputation to Council regarding the General Manager's Report, Clause 7 – South West Arts.

DIRECTOR OF ENVIRONMENTAL SERVICES REPORT CONTINUED

CLAUSE 7. DELEGATED AUTHORITY FOR THE ASSESSMENT OF DEVELOPMENT APPLICATIONS POLICY

- 138** **RESOLVED (Crs Pocklington/Murphy)** that Council adopt the Murray Shire Council Delegated Authority for the Assessment of Development Applications Policy, with no alterations.

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

AGAINST: Councillor Campbell

ADOPTION

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

QUESTIONS AND STATEMENTS WITHOUT NOTICE

Cr Burke:

- Advised that he had received a letter regarding Maiden Smith Drive, Moama (due to his Code of Conduct investigation).
- Advised that he had received a letter from Mr Jack Baker regarding the wall at the Moama and Echuca Community Botanic Gardens.

- Advised that the issue of access to the Riverpark Drive Reserve in Moama is a very contentious issue at the moment and that further issues with this matter may arise.

General discussion between the Council took place regarding this issue

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RESOLVED (Crs Burke/Campbell) that the Acting Director of Environmental Services report to the next meeting of Council on the Riverpark Drive Reserve; and Councillors undertake an on-site inspection of the Riverpark Drive Reserve prior to the next meeting of Council being the Planning and Development Committee Meeting to be held on Tuesday 4 June 2013.

- Thanked the Director of Engineering Services for organising the return of the flashing lights on the pedestrian crossing in Meninya Street, Moama.
- Advised that a resident in Francis Street, Moama, had advised him that he is very happy with the Council decision to install a speed hump in Francis Street and asked for thanks to be passed onto the Council.

Cr Campbell:

- Referred to the Community Forum held in Mathoura in respect of the issue of C4EM (Committee for Echuca Moama) and requested advice on when the Mayor had notified the Council on the activities and events of C4EM.

Mayor advised that any information from C4EM Meetings are reported to Council in the General Manager's Reports

- Advised that she had heard on the ABC that the NSW Government has \$570K available for CCTV.
- Referred to the presentation made to the Moama Lions Club at the Community Forum held in Moama and stated that she was not advised of this presentation even though she is Council's delegate to the group.

Cr Moon:

- Referred to the Councillor's clothing allowance and advised that he had made enquiries at a local clothing shop regarding suit jackets and that they had offered a discount on buying 5 or more jackets.
- Referred to the medium strip that goes up the middle of Maiden Street, Moama, (opposite the Police Station) and enquired, as there are tappings available in the medium strip, why wasn't it kept green.

Acting Director of Environmental Services to investigate

Cr Murphy:

- Commented that as the Council is made up of 6 new Councillors (2 being very recent) were they fully aware of the extent of the Shire and suggested that a tour be undertaken to familiarise all Councillors with the northern part of the Shire in the near future.

Acting Director of Engineering Services to organise a tour

- Referred to the Councillor's clothing allowance and advised that many years ago Councillors and Senior Staff were issued with Murray Shire

ties (for the men) and scarves (for the women), and that maybe this option could be investigated again.

Cr Pocklington:

- Advised that the Caldwell Rest Stop needed water.

Cr Weyrich:

- Referred to the rural ratepayers meeting held on Monday 13 May 2013 and advised that they requested Council be more public in relation to fruit fly.

General discussion took place on the issue and it was suggested that Council organise a public meeting with the relevant authority in the future

- Advised that Kangaroos on the roadsides at night and early in the mornings are a current risk to road users and advised that he would be doing a story in the Riverine Herald about the issue in the very near future.

At this stage of the meeting, being 4:15pm, the Director of Corporate Services returned to the meeting to present Council's rating options for 2013/14 to the Council.

**DIRECTOR OF CORPORATE SERVICES REPORT
CONTINUED**

CLAUSE 5. RATING

The Director of Corporate Services presented the Council with Council's rating options for 2013/14.

- 141 RESOLVED (Crs Pocklington/Bilkey)** that Council note the reported options and take no further action at this stage which will mean that Option 2 is the option that remains in the Draft Community Strategic Plan 2013/14.

CORRESPONDENCE

PART A

Nil.

PART B

B1/05 LOCAL GOVERNMENT NSW WEEKLY

Information noted.

B2/05 AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION

Information noted.

B3/05 THE HON SUSSAN LEY MP, MEMBER FOR FARRER

Information noted.

The Mayor referred to this piece of correspondence and the recent announcement from Telstra that a new tower will be built for the Southern 80 Ski Race in Echuca, but not at Bunnaloo. The Mayor believes that this is poor form on Telstra's behalf.

142 **RESOLVED (CrS Weyrich/Burke)** that Council write to Telstra expressing Council's disappointment that a tower can be built for a two day event such as the Southern 80 but not to service the rural area of Bunnaloo on a permanent basis is unfair.

143 **RESOLVED (CrS Pocklington/Moon)** that the correspondence be received and noted.

SUNDRY DELEGATES REPORTS

Cr Anderson reported on his attendance at the following meetings and functions:

- Southern Cross Apartments (Moama) Wing Opening & 10th Birthday Celebrations
- ANZAC Day Dawn and 9am Services – Moama
- Backroads Trail Meeting
- Draft Community Strategic Plan Workshop for Councillors – Moama
- Special Meeting
- Policy and Resources Committee Meeting
- Planning and Development Committee Meeting
- Community Forum – Mathoura
- Community Forum – Moama

Cr Bilkey reported on his attendance at the following meetings and functions:

- Regional Councils Workshop (LG Review) – Deniliquin
- Community Forum – Moama
- Councillor Induction Workshop – Moama

Cr Burke reported on his attendance at the following meetings and functions:

- Ordinary Meeting
- Friends of Old Moama Open Day
- Sustainable Fleet Management Meeting – Mathoura

- Moama Public School ANZAC Day Service
- ANZAC Day Dawn and 9am Services – Moama
- Sustainable Fleet Management Forum – Albury
- Riverina and Murray Regional Organisation of Councils (RAMROC) Meeting – Jerilderie
- Moama Cemetery Working Bee
- Draft Community Strategic Plan Workshop for Councillors – Moama
- Special Meeting
- Policy and Resources Committee Meeting
- Planning and Development Committee Meeting
- Murray Shire Council By-Election Candidates Forum – Rich River Golf Club, Moama
- Rural Ratepayers Meeting – Moama
- Community Forum – Mathoura
- Regional Councils Workshop (LG Review) – Deniliquin
- Community Forum – Moama
- Councillor Induction Workshop – Moama

Cr Campbell reported on her attendance at the following meetings and functions:

- Ordinary Meeting
- Murray Regional Tourism Board Meeting
- ANZAC Day Dawn Service – Moama
- Riverina and Murray Regional Organisation of Councils (RAMROC) Meeting – Jerilderie
- Special Meeting
- Policy and Resources Committee Meeting
- Planning and Development Committee Meeting
- Rural Ratepayers Meeting – Moama
- Community Forum – Mathoura
- Community Forum – Moama

Cr Moon reported on his attendance at the following meetings and functions:

- Ordinary Meeting
- Special Meeting
- Policy and Resources Committee Meeting
- Planning and Development Committee Meeting

Cr Murphy reported on her attendance at the following meetings and functions:

- Ordinary Meeting
- Procurement Meeting – Mathoura
- Mathoura Recreation Reserve Management Committee Meeting
- ANZAC Day Dawn and 11am Services; and Lunch – Mathoura
- Meet with Council's Executive Assistant re new Councillor name badges

- Draft Community Strategic Plan Workshop for Councillors – Moama
- Special Meeting
- Policy and Resources Committee Meeting
- Planning and Development Committee Meeting
- Community Forum – Mathoura
- Meeting with Staff re Mathoura Recreation Reserve works
- Regional Councils Workshop (LG Review) – Deniliquin

Cr Pocklington reported on his attendance at the following meetings and functions:

- Ordinary Meeting
- KPFFWP – Bunnaloo
- ANZAC Day Service – Moama
- Edward River Education Fund Dinner – Deniliquin
- Riverina and Murray Regional Organisation of Councils (RAMROC) Meeting – Jerilderie
- Peppin Heritage Centre 25th Anniversary – Deniliquin
- Draft Community Strategic Plan Workshop for Councillors – Moama
- Special Meeting
- Policy and Resources Committee Meeting
- Planning and Development Committee Meeting
- South West Arts Meeting – Mathoura
- Murray Shire Home and Community Care (HACC) Driver's Induction – Moama
- Rural Ratepayers Meeting – Moama
- Community Forum – Mathoura
- Regional Councils Workshop (LG Review) – Deniliquin
- Community Forum – Moama
- Councillor Induction Workshop – Moama

The Mayor, Cr Weyrich reported on his attendance at the following meetings and functions:

- Ordinary Meeting
- Community Policing Meeting
- C4EM Meeting – Echuca
- C4EM Infrastructure Meeting – Echuca
- ANZAC Day Service – Mathoura
- Riverina and Murray Regional Organisation of Councils (RAMROC) Meeting – Jerilderie
- Echuca Moama Tourism Meeting – Echuca
- Draft Community Strategic Plan Workshop for Councillors – Moama
- Special Meeting
- Policy and Resources Committee Meeting
- Planning and Development Committee Meeting
- Olympians Civic Function – Deniliquin
- Moama/Echuca Riverwatch/Users Group
- Rural Ratepayers Meeting – Moama

- Community Forum – Mathoura
- Regional Councils Workshop (LG Review) and Community Forum – Deniliquin
- Community Forum – Moama

144 **RESOLVED (Crs Pocklington/Anderson)** that the reports be received and reasonable out of pocket expenses met by Council.

CONDOLENCES

145 **RESOLVED (Crs Murphy/Weyrich)** that condolences be forwarded in accordance with names handed to the Mayor and a minutes silence was observed.

THERE BEING NO FURTHER BUSINESS THE MEETING CLOSED AT 4:40PM

**THESE MINUTES ARE SIGNED AS A TRUE RECORD OF THE MEETING HELD ON
21 MAY 2013 IN ACCORDANCE WITH A RESOLUTION OF COUNCIL ON
18 JUNE 2013.**



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MAYOR