

Murray LEP 2011 (Amendment 3)

Proposal Title : **Murray LEP 2011 (Amendment 3)**

Proposal Summary : **To amend clause 7.4(2) Development on river front areas to make it a development standard rather than a prohibition, and insert references to the 'Edward River' into relevant clauses and the Dictionary of the Murray LEP 2011.**

PP Number : **PP_2013_MURRA_001_00** Dop File No : **12/16648**

Planning Team Recommendation

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

S.117 directions :

- 1.2 Rural Zones**
- 1.5 Rural Lands**
- 2.1 Environment Protection Zones**
- 2.3 Heritage Conservation**
- 2.4 Recreation Vehicle Areas**
- 3.1 Residential Zones**
- 3.2 Caravan Parks and Manufactured Home Estates**
- 3.3 Home Occupations**
- 3.4 Integrating Land Use and Transport**
- 6.1 Approval and Referral Requirements**
- 6.2 Reserving Land for Public Purposes**

Additional Information : **Objective a) of the Planning Proposal to change clause 7.5 (2) 'Development on river front building areas' ('the clause') from a prohibition to a development standard should not proceed.**

Objective b) of the Planning Proposal in relation to inserting the term 'Edward River' into the relevant clauses and Dictionary of the Murray LEP 2011 should proceed subject to the following conditions:

- 1. Community consultation is not required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act"),**
- 2. Consultation is not required with any public authorities under section 56(2)(d) of the EP&A Act,**
- 3. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).**
- 4. The timeframe for completing the LEP is to be 3 months from the week following the date of the Gateway Determination.**

Supporting Reasons : **Objective a) of the Planning Proposal to change clause 7.5 (2) 'Development on river front building areas' ('the clause') from a prohibition to a development standard is not supported for the following reasons:**

*** The RPA has alternative means to address this objective other than progressing the Planning Proposal. As discussed, for example, the RPA may plan strategically and justify a reduction in the riverfront building setback for certain areas through the development of an appropriate geomorphological investigation. The RPA could then implement a 'river front building line' through a Planning Proposal and subsequently an amendment to the LEP.**

In addition, a draft Practice Note is currently being developed by the Department following the exhibition of the draft Murray Regional Strategy and consultation with Murray regional councils. The Practice Note is being prepared to address circumstances where the default riverfront building setbacks could be varied and will provide specific guidance and the mechanism for varying the default setback.

* The current model clause in the draft Murray Regional Strategy provides for the specific types of development which should be permitted in the 'river front area', where a functional dependence on the River could be established. The clause was developed intentionally in this way to prohibit other forms of development which have been carefully considered as not being appropriate in the 'river front area'. Flexibility to vary the clause on a case by case basis is not supported to ensure that the integrity of the Murray River, and its environs, together with and other major waterways are not undermined or compromised by urban development or riverine structures.

* The examples of where the RPA is seeking to vary the clause are not supported by the Department or the objectives/recommendations of the draft Murray Regional Strategy. There may be limited circumstances where it may be appropriate to vary the clause, however given its importance at a State and regional level, it is considered that a precautionary approach should be taken to this issue, and it is being recommended that the clause should not be amended to cover only limited circumstances.

* the Planning Proposal has the potential to create a precedent for the other LGAs covered by the draft Murray Regional Strategy, and its widespread amendment may undermine the integrity of the Strategy and its effectiveness.

* The implications of this Planning Proposal are considered to be of State and regional significance. As such, it is appropriate for the matter to be considered in the review of the draft Murray Regional Strategy which is currently in progress. A Discussion Paper is currently being prepared by the Department which identifies all of the issues which have arisen from the public exhibition and consultation on the draft Murray Regional Strategy and proposes a way forward for future discussion and consultation.

Panel Recommendation

Recommendation Date : **17-Jan-2013**

Gateway Recommendation : **Passed with Conditions**

Panel Recommendation : **The Planning Proposal should proceed subject to the variations as outlined by the below conditions:**

1. The proposal to amend Clause 7.4(2) is not supported because it is inconsistent with the draft Murray Regional Strategy and S117 Direction 2.1 Environment Protection Zones, as it proposes to reduce the environmental protection standards that apply to river front areas. Varying the clause in an unplanned manner is not supported to ensure that the integrity of the Murray River, and its environs, is not compromised by inappropriate development or structures. Consequently, Council is to amend the planning proposal to remove reference to amending Clause 7.4(2).

2. Prior to undertaking public exhibition, Council is to amend the planning proposal to include a project timeline, consistent with Section 2.6 Part 6 of A Guide to Preparing Planning Proposals. The project timeline is to provide a mechanism to monitor the progress of the planning proposal.

3. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:

- Office of Environment and Heritage
- Roads and Maritime Services
- Murray Catchment Management Authority
- NSW Department of Primary Industries – Fishing and Aquaculture
- NSW Office of Water
- Adjoining LGAs

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

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

(a) the planning proposal is classified as low impact as described in A Guide to Preparing LEPs (Department of Planning and Infrastructure 2012) and must be made publicly available for 14 days; and

(b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (Department of Planning and Infrastructure 2012).

5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

6. The timeframe for completing the LEP is to be 6 months from the week following the date of the Gateway determination.

Signature:

M. Selmon

Printed Name:

NEIL SELMON

Date:

30/1/2013