

## Submissions Report

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| <b>JRPP No</b>                   | 2016WES005/PP_2016_MURRA_001                                                                                                                                                                                                                                                              |
| <b>Local Government Area</b>     | Murray River Council                                                                                                                                                                                                                                                                      |
| <b>Proposal</b>                  | Planning proposal to rezone and amend the minimum lot size for 23 lots fronting Maiden Smith Drive in the River Gums Estate from zone R5 Large Lot Residential with a 5,000m <sup>2</sup> minimum lot size to zone R2 Low Density Residential with a 3,000m <sup>2</sup> minimum lot size |
| <b>Street Address</b>            | 23 lots in River Gums Estate, Maiden Smith Drive, Moama                                                                                                                                                                                                                                   |
| <b>Applicant/Owner</b>           | Planright Surveying, Echuca                                                                                                                                                                                                                                                               |
| <b>Number of Submissions: 29</b> | 21 public submissions: 8 in objection, 10 in support, 3 from agencies                                                                                                                                                                                                                     |
| <b>Recommendation</b>            | Proceed to making of LEP                                                                                                                                                                                                                                                                  |
| <b>Report by</b>                 | Jenna McNabb, Planning Officer, Western Region                                                                                                                                                                                                                                            |

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## 1. Executive Summary

The purpose of this report is to provide a summary of the key issues raised by members of the public, the Roads and Maritime Services (RMS), Office of Environment and Heritage (OEH) and NSW Rural Fire Service (RFS). Section 2 of this report provides a summary of the exhibition submissions. Section 3 provides details of the most commonly mentioned issues, while section 4 provides details of matters that were mentioned fewer times in public submissions. Section 5 contains the recommendation.

The planning proposal is seeking to rezone and amend the minimum lot size for 23 allotments fronting Maiden Smith Drive in the River Gums Estate, Moama from zone R5 Large Lot Residential with a minimum lot size of 5,000m<sup>2</sup> to zone R2 Low Density Residential with a 3,000m<sup>2</sup> minimum lot size, as shown outlined in red in Figure 1. The subject land is partially developed for residential purposes, with 12 allotments fronting the Murray River. A large portion of undeveloped land is located behind these dwellings, having frontage to Maiden Smith Drive. At the time the planning proposal was assessed, the application applied only to 23 lots. Lots within the Maiden Smith Drive precinct have since been further subdivided, with additional lots created along Merool Lane, as shown outlined in red on the cadastre identified in Figure 2.

The subject land has an area of 37.4 hectares. The reduction in minimum lot size to 3,000m<sup>2</sup> could yield potentially 99 additional allotments in the Maiden Smith Drive precinct. It is expected that the actual lot yield will be considerably less, given the existing dwelling and settlement pattern, road pattern and infrastructure provision.



Figure 1: Aerial photo – subject land outlined in red



Figure 2: Cadastre – subject land

The Western Joint Regional Planning Panel (the Panel) was appointed as the Relevant Planning Authority (RPA) by the Minister for Planning on 17 March 2016. A conditional Gateway determination was made on 27 April 2016 in support of the proposal, which required community consultation and consultation with Council and OEH, RMS and the RFS.

The planning proposal was publicly exhibited from 13 June 2016 to 11 July 2016, in accordance with the Gateway determination.

There were 21 submissions received during the exhibition. Eight of these were objections to the proposal. There were ten in support of the proposal. Three submissions were advisory, from public authorities. No submission was received from Murray River Council. All public submissions were made by local residents or landowners.

### Recommendation

It is recommended that the proposal proceed because the proposed rezoning and amended minimum lot size is a natural extension of the existing urban area and the reduced lot size would provide for a more appropriate density consistent with the surrounding development pattern, whilst still maintaining the larger allotment sizes.

The proposal is consistent with the Council endorsed Murray Shire Land Use Strategy 2010-2030.

## **2. Summary of submissions**

The following section provides a summary of the key issues raised by members of the public and public authorities.

### **2.1 Approach to public submissions**

The majority of submissions raised multiple issues of a similar nature. Therefore, rather than addressing each submission individually, the issues raised have been grouped into categories.

### **2.2 Submissions objecting to the proposal**

There were eight submissions against the proposal. There were consistent themes in the objections, with the retention of the larger lot size along the river front for rural character and amenity of the area mentioned by all eight public submissions against the planning proposal. Concerns in relation to losing the 'family friendly' nature of the area as a result of the proposed rezoning and reduction in minimum lot size were also prominent. Two submissions raised access and traffic issues, as well as the consistency in previous decisions by Council to not reduce the minimum lot size of the area.

The following key issues were identified in the objections, with the main reasons being (in descending order of frequency):

- reduction of the rural/large lot lifestyle and amenity of the area and protection of the riverine environment;
- increased density that is considered inappropriate for the location;
- lack of overall master planning for the area; and
- traffic and access concerns.

Figure 3 shows the reasons for public objection set out in the submissions in order of frequency mentioned.

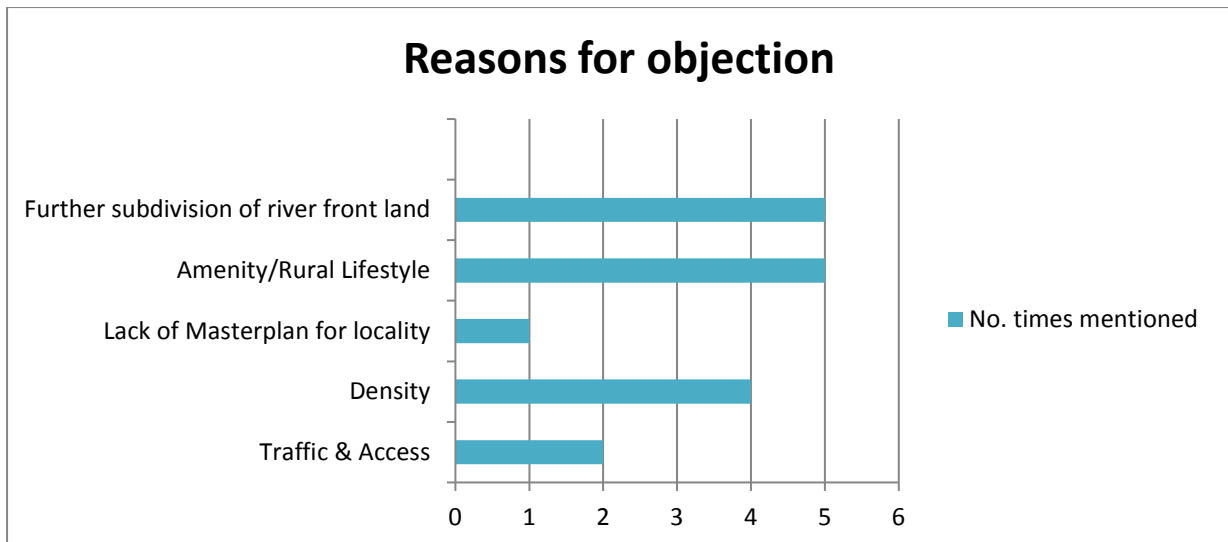


Figure 3: Reasons for objections to planning proposal (mentioned in 8 objections)

### 2.3 Submissions in support

There were ten submissions in support of the proposal and supported the opportunity for further subdivision within the area, should the landowners wish to pursue that option. As well, the minimum lot size of 3,000m<sup>2</sup> was supported as it is considered to still be in keeping with the larger lot lifestyle but does offer opportunity for subdivision if they desire. This proposed lot size is compatible with the varied allotment sizes which surround the River Gums Estate precinct and the precinct's urban location and proximity to the town centre of Moama.

In relation to the 10 submissions received in support of the planning proposal, all were similar in style and content. All submissions in favour provided the following reasons:

- proposed 3,000m<sup>2</sup> minimum lot size is still large and provides for larger lifestyle lots which integrates well with surrounding land at Merool Lane;
- land is serviced with reticulated water and sewer, and close to urban amenities;
- site is surrounded by higher density development and has become low density in nature;
- existing lot size is too small to be agriculturally productive;
- not all lots will be subdivided – proposal only provides the opportunity; and
- demand for lot size in Moama is high, with limited supply available.

### 2.4 Submissions by public agencies

The Gateway determination required consultation with and received submissions from RMS, RFS and OEH. Murray River Council was also invited to make a submission, however a response has not been received. Former Murray Shire Council have provided previous submissions to the proposal objecting to the reduction in minimum lot size.

The submission from the RMS raises the following key points:

- it is anticipated that the majority of vehicular trips from the River Gums Estate will be directed east via the intersection of Perricoota Road and the Cobb Highway;
- the impact of future subdivision of the River Gums Estate and adjoining subdivisions should be considered as part of the development of the whole area;

- the future development of the River Gums Estate should demonstrate and address any potential impact on the operation of the Perricoota Road and Cobb Highway intersection and options for funding of any necessary upgrades;
- RMS encourages the integration of subdivisions with adjoining subdivisions to minimise the need to access the arterial roads network.
- options for the provision of, and integration with existing, pedestrian and cycleway networks should be considered on a strategic level as part of a larger precinct; and
- RMS does not object to the approval of the planning proposal at this time, subject to consideration of the items raised in the submission.

A copy of RMS submission is provided at [Attachment 1](#).

The RFS raised the following matters:

- only some portions of the site are identified as bush fire prone land on the Murray Shire Bush Fire Prone Land Map; and
- The RFS does not object to the planning proposal provided the following points are considered:
  - o perimeter roads to reduce the perimeter of the land which may be developed to reduce hazards may not be viable due to the existing lot configuration and minimal lot yield for each landowner. As an alternative to a perimeter road, the river foreshore reserve appears to be currently managed in a fuel reduced state, and requests that the reserve continue to do so to serve as an Asset Protection Zone for lots fronting the reserve which are mapped as bushfire prone land.
  - o lots located on the river front are unlikely to be able to meet the requirements for Asset Protection Zones as specified in Table A2.5 of Planning for bushfire Protection 2006, however, the existing development pattern is such that the future subdivision of these lots is likely to result in future dwellings being located further away from the hazard than existing dwellings.
  - o river front lots which are mapped as bush fire prone are unlikely to meet the access to and from residential land, however future subdivision of these lots would be able to meet the intent of the performance criteria for access.
  - o the RFS recommends that a reticulated water supply be provided with suitable hydrant spacing in accordance with Australian Standard AS 2419.1 2005. In addition, it is recommended, where practicable, that electrical transmission lines should be provided underground.
  - o the RFS recommends that the Mid Murray Bush Fire Management Committee be informed of the outcome of the planning proposal to ensure that any relevant considerations may be addressed or adopted into the Bush Fire Risk Management Plan.

A copy of the RFS submission is provided at [Attachment 2](#).

OEH raised the following matters in its submission:

- OEH does not object to the proposal provided the following issues are considered:
  - o as a minimum, a Due Diligence assessment to determine the proposal will harm Aboriginal objects which may occur in the area. Further assessment

- may be required, as well as consideration to lot and building envelope design, and clarify legislative requirements for future developments;
- o undertake an assessment of the significance of direct and indirect impacts on threatened species known or likely to occur in the area based on the presence of suitable habitat, including the assessment of the habitat value of the native vegetation and paddock trees within the proposal area;
- o building envelopes should be sited to avoid impacts on native vegetation including paddock trees; and
- o OEH has no objection to the proposed rezoning from a floodplain management perspective as the site is not identified as flood prone land.

A copy of the OEH submission is provided at Attachment 3.

There are no agency objections to the proposal.

### **3. Response to key issues**

The following section provides details of the key issues raised in submissions by the public, submissions received from RFS, RMS and OEH and assessment by the Department of Planning and Environment.

#### **3.1 Traffic**

##### Background information/context

Traffic congestion and access is not addressed in the planning proposal documentation.

The subject land has an area of 37.4 hectares, and the reduction in minimum lot size to 3,000m<sup>2</sup> could potentially yield 99 additional allotments in the Maiden Smith Drive precinct. It is expected that the actual lot yield will be considerably less, given the existing dwelling and settlement pattern, road layout and infrastructure provision.

The planning proposal is dealing only with the rezoning and reduction of the minimum lot size, and not the subdivision of the land as a whole development. In this regard, traffic modelling has not been undertaken for the precinct as part of the planning proposal. It is expected that the further subdivision of the land will be undertaken on an as-needs basis by the landowners and this matter can be addressed at the development application stage.

##### Issues raised in public submissions

Two public submissions focused on the additional burden that will be placed on the existing local road network by the proposed development, particularly in relation to the requirement for future additional access points from the River Gums Estate onto the Merrool Lane and Perricoota Road network.

##### Roads and Maritime Services views

The RMS submission identifies that additional traffic will be generated from the River Gums Estate, and anticipates that this traffic will be directed through the intersection of Perricoota Road and the Cobb Highway.

The RMS recommends that future development of the River Gums Estate will need to demonstrate and address any potential impact on the operation of the intersection and options for funding of any necessary upgrade.

#### Department of Planning and Environment views

Traffic management and access is not a predominant issue of the proposal, being raised only in one submission by the public, and also through an agency submission from the RMS.

The Roads and Traffic Authority “Guide to Traffic Generating Developments” (October 2002) provides that a single residential dwelling generates 9 traffic movements per day, on average. The minimum lot size reduction and rezoning of the River Gums Estate has the potential to generate approximately 99 additional allotments, generating a potential additional 891 traffic movements per day in the precinct. This is a considerable increase in traffic movements however, the reduction in minimum lot size is not directly related to an application for development on the site. Therefore, it is expected that this increase would be gradual, and possibly not to the maximum number of traffic movements, as not every land owner will pursue subdivision. The RMS have not raised an issue to the proposal on potential traffic generation grounds.

The Council will be required to undertake ongoing assessment and upgrading of the intersections as the need arises, and may in turn require intersection design and upgrade through development consent conditions or by agreement. The existing road network and lot layout also restricts additional access to Merool Lane.

The matters raised by the RMS are not regarded as an impediment to the proposal as consideration of traffic management in the future will be required on a case-by-case basis.

### **3.2 Rural Character, Amenity and additional density**

#### Background information/context

Of the objections received, the maintenance of the rural character and amenity of the precinct was the most cited reason for objection to the proposal.

Submitters are concerned that the reduction in minimum lot size will significantly increase the density of the area, and remove the ‘rural’ lifestyle of large lots and open space that are currently enjoyed by landowners.

#### Department of Planning and Environment views

The 3,000m<sup>2</sup> minimum lot size would provide for a development pattern and density that is still generally consistent with the development pattern of adjoining area. The proposed minimum lot size is still a significantly large residential allotment size, which will not detract from the established rural character and amenity.

The existing road and lot layout will also ensure that there is a restriction to the amount of lots created. The proposal does provide opportunity for increased density. It will be up to individual landowners to take the opportunity and timing of the increased density is therefore unknown.

A review of the existing Murray LEP 2011 maps has identified a number of residential developments zoned R1 General Residential and R2 Low Density residential with a minimum lot size ranging from 750m<sup>2</sup> to 1,500m<sup>2</sup> that are located further distance from Moama town centre in comparison to Maiden Smith Drive precinct.

Murray Strategic Land Use Plan (2012) (MSLUP) identifies the land as suitable for future low density residential uses. The subject land is proposed to be zoned R2 Low Density Residential with a proposed minimum lot size of 3,000m<sup>2</sup>, which is consistent with the intent of the strategy.

### **3.3 Further subdivision of riverfront land**

#### Background information/context

Five submissions raised the issue of the impact of further subdivision of land on the river front would have. The proposal does seek to reduce the minimum lot size and rezone land fronting the Murray River.

#### Issue raised in public submissions

The increased density along the riverfront will not be compatible with the existing character of the area.

#### Department of Planning and Environment views

The proposal, as submitted, does not seek to intensify development along the Murray River. Twelve of the lots (Lots 1-12) are considered to be river facing, separated from the Murray River by Lot 24, which is a public reserve managed by Council. Each of these 12 lots is already developed with an existing approved dwelling and associated structures on site. It is unlikely that these existing dwellings would be demolished to make way for the construction of multiple new dwellings.

Existing planning controls apply to the river to limit intensification along the river – clause 7.5 of the Murray LEP 2011 aims to protect and maintain the Murray River through development setbacks of 40m from the top of the bank. This means no development can be set further forward than 40m to the river. Currently the dwelling house located closest to the river is setback 42m.

The proposal does not propose to intensify development along the river, as any future subdivision and development would front Maiden Smith Drive and would not have any increased direct impact on the existing amenity of the Murray River. The proposal will enable subdivision of each river facing allotment to create 1 additional lot, by subdividing a portion of the land fronting Maiden Smith Drive, creating a 'battle axe' type arrangement. Should any subdivision be permissible from Maiden Smith Drive to the Murray River (i.e. running north to south) no further development would be permitted, it would simply be the subdivision of an existing dwelling into two lots. For example, a current detached dual occupancy may be enabled to become a detached dwelling via modification. However this scenario would not still not result in further intensification of lots facing the Murray River.

### **3.4 Masterplan**

#### Background information/context

One submission raised the lack of an overall master plan of development for the River Gums Estate.

#### Issue raised in public submissions

The lack of overall master plan for the area will result in ad-hoc development throughout the area, which will not include proper consideration of constraints and opportunities of the area. The submitter is not in favour of a subdivision plan that will lead to a number of 'small courts' or cul de sacs.

#### Department of Planning and Environment view

The River Gums Estate does not have an overall master plan for development.

Due to the site being held in multiple ownerships, the choice to further subdivide will be the decision of the land owner – particularly for the river facing lots. In the case of the river facing lots, a 'battle axe' arrangement would be likely.

The remainder of the area is made up of larger allotments that could be subdivided into multiple allotments, and a subdivision design would be required to be submitted to and assessed by Council. The view that the cul de sac subdivision pattern would be detrimental to the streetscape of Maiden Smith Drive and the River Gums Estate is subjective and is not a consideration for merit of the proposal – it is a local development outcome that can be determined at the development assessment stage. Furthermore, the current siting of existing dwellings may likely restrict this type of development, given land size and access considerations, which may not practically enable development of some sites.

### **4. Summary**

The planning proposal was placed on public exhibition for 28 days. A total of 21 submissions were received. Eight of these were objections to the proposal. There were ten in support of the proposal. Three submissions were advisory, from public authorities. No submission was received from Murray River Council.

The submissions in objection did not raise points which would prohibit the proposal from progressing on substantial planning grounds. Responses from the RFS, RMS and OEH did not raise any objections to the proposal, subject to local planning considerations which will be required to be considered at the development application stage. For this reason, it is not recommended that a public hearing be held.

The Murray Strategic Land Use Plan 2010-2030 identifies the subject land as suitable for urban development, and the subject land is surrounded by land zoned R1 General Residential and significantly higher density (i.e. lower minimum lot size). The subject land is also within close proximity to the Moama town centre.

The proposed rezoning and amended minimum lot size is a natural extension of the existing urban area and the reduced lot size would provide for a more appropriate density and use of infrastructure without adversely impacting the Murray River. It is for these reasons that it is considered appropriate the planning proposal proceed.

## 5. Recommendation

That the Western Joint Regional Planning Panel, as the relevant planning authority:

- **notes** the key issues raised in the submissions from the public, Office of Environment and Heritage, Rural Fire Service and Roads and Maritime Services; and
- **notes** the Department of Planning and Environment position that the proposal should proceed to finalisation as the proposed rezoning and amended minimum lot size is a natural extension of the existing urban area and the reduced lot size would provide for a more appropriate density consistent with the surrounding development pattern, whilst still maintaining the larger allotment sizes, with operational design matters to be resolved at the development application stage.

**Endorsed by:**



8.8.16

**Director Regions, Western**

**Stephen Murray**  
**Executive Director, Regions**

**Marcus Ray**  
**Deputy Secretary**  
**Planning Services**

Attachments:

- Attachment 1: Roads and Maritime Services submission dated 28 June 2016  
Attachment 2: Rural Fire Service submission dated 12 July 2016  
Attachment 3: Office of Environment and Heritage submission dated 12 July 2016