

Murray LEP 2011 – Amendment 5 – Rezone land from zone R5 Large Lot Residential with a minimum lot size of 5000m2 to zone R2 Low Density Residential and minimum lot size reduction to 3000m2 for 23 allotments at Maiden Smith Drive, Moama.

Proposal Title : **Murray LEP 2011 – Amendment 5 – Rezone land from zone R5 Large Lot Residential with a minimum lot size of 5000m2 to zone R2 Low Density Residential and minimum lot size reduction to 3000m2 for 23 allotments at Maiden Smith Drive, Moama.**

Proposal Summary : **Rezone land from zone R5 Large Lot Residential with a minimum lot size of 5000m2 to zone R2 Low Density Residential with a minimum lot size of 3000m2 for 23 allotments at Maiden Smith Drive, Moama.**

PP Number : **PP_2016_MURRA_001_00** Dop File No : **15/17982-1**

Proposal Details

Date Proposal Lodged with DOP : **18-Mar-2016** Date Proposal Uploaded to Public Website : **01-Apr-2016**

Proposal Assessment

Is Public Hearing Required by PAC? **No**

Agencies Requested to Consult : **Office of Environment and Heritage
NSW Rural Fire Service
Transport for NSW - Roads and
Maritime Services**

Gateway Determination

Decision Date : **27-Apr-2016** Gateway Determination : **Passed with Conditions**

Due Date of LEP : **04-May-2017**

Implementation

Implementation Start Date : **04-May-2016** Exhibition Duration : **29**

Agency consultation consistent with recommendation : **Yes**

If No, comment : **The planning proposal and supporting documents were publicly exhibited by the Western Joint Regional Planning Panel from 13 June 2016 to 11 July 2016.**

Public authorities consulted were NSW Rural Fire Service, Roads and Maritime Services and Office of Environment and Heritage. The agencies did not raise objection to the proposal.

Operational matters relating to traffic, access and threatened species were raised however these are matters for detailed consideration at the development application stage for the future subdivision of the subject land.

Agency Objections : **No**

If Yes, comment :

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Documentation consistent with Gateway :

Yes

If No, comment :

Gateway Determination

On 18 March 2016 the Department received planning proposal to amend the Murray Local Environmental Plan (LEP) 2011 to rezone land from zone R5 Large Lot Residential with a minimum lot size of 5,000m2 to zone R2 Low Density Residential with a minimum lot size of 3,000m2 for 23 allotments at Maiden Smith Drive, Moama.

A Gateway determination was issued on 27 April 2016, and the Western Joint Regional Planning Panel (the Panel) was appointed as the Relevant Planning Authority by the Minister for Planning on 17 March 2016.

The planning proposal is the result of a Pre-gateway review
PGR_2015_MURRA_001_00.

Consultation

There were 21 submissions received during the exhibition - eight (8) objections, ten (10) in support and three (advisory) submissions from public authorities. No submission was received from Murray River Council (formerly Murray Shire Council). All public submissions were made by local residents or landowners.

The submissions in objection to the proposal raised the following concerns:

- traffic and access issues to Merrool Lane and Pericoota Road,
- further subdivision of riverfront land reducing the rural residential character of the area, and
- the lack of overall master plan for the precinct.

The submissions in support provided the following reasons for support of the proposal:

- existing lot size is too small to be agriculturally productive;
- the proposed minimum lot size is still large in an urban context;
- land is serviced; and
- demand is high for proposed lot sizes in this range with limited available supply.

The Department concluded that the proposal can be supported and proceed to finalisation as the proposed rezoning and amended minimum lot size is a logical extension of the existing urban area. The reduced lot size would provide for a more appropriate density with the surrounding development pattern, whilst still maintaining the larger allotment sizes, being operational matters to be resolved at the development application stage.

The proposal is consistent with Council's Murray Strategic Land Use Plan, noting the Murray Strategic Land Use Plan has not been endorsed by the Department but forms the basis of the Murray LEP2011.

Consideration and JRPP Recommendation

The JRPP met on 4 October 2016 at the Moama Sports Club to consider the submissions report provided by the Department.

The Panel agreed unanimously to support the progression of the planning proposal subject to the inclusion of a new local provision in the LEP (proposed clause 7.9), restricting any further intensification of development on land directly fronting the Murray River (Lots 1-12 DP 258661) and the Council Reserve (Lot 24 DP 258661) adjoining river front allotments in Maiden Smith Drive. The Panel also

recommended the amendment of the Urban Release Area Map (URA_006) to include Lots 1-12 DP 258661 as an urban release area.

The Panel provided a copy of its original decision to the Department on 2 November 2016. The Department sought clarification of the decision from the Panel Chair, and a revised decision was provided via email on 22 November 2016.

The Panel provided the inclusion of the proposed draft clause to prevent intensification of development along the Murray River and Council Reserve (Lot 24 DP 258661), and to permit the creation of additional lots fronting Maiden Smith Drive.

Lots 1-12 DP 258661 have direct frontage to Council Reserve (Lot 24 DP 258661) and not to the Murray River.

The original Panel recommendation dated 2 November 2016 provided that should a secondary dwelling be erected on Lots 1-12 DP 258661 at the commencement of the clause, subdivision was permitted, in a north-south direction, allowing the secondary dwelling to be excised to a separate lot fronting the Council Reserve.

The inclusion of this specific clause related directly to development on Lot 11 DP 258661 where the Panel had been advised there was a secondary dwelling constructed. Council advised that this separate building was an extension to the existing home (however, for all intents and purposes is a free standing self contained dwelling). This information was conveyed to the Panel and a revised recommendation was then provided to the Department on 22 November 2016.

The intent of the Panel is not to permit additional subdivision fronting the Murray River. The existing development pattern does not encourage additional subdivision to the river.

The Department does not support the inclusion of the proposed local provision clause 7.9 for the following reasons:

- The layout of the subdivision has not been a specific issue in relation to the proponents request, or the Department's assessment. These are operational matters for Council to consider in the assessment of a subdivision application.
- There are existing adequate provisions in the Murray LEP 2011 to protect and consider the impact of subdivision on river front areas. The provisions provide a better local planning design outcome where Council is the consent authority.
- The inclusion of the Panels recommended clause is inconsistent with section 117 Direction 6.3 Site Specific Provisions. No assessment of the Direction was provided by the Panel in relation to the clause. The insertion of the clause does not allow the proposed land use (being residential) without imposing additional requirements, creating a site specific provision. In addition, the proposed clause 7.9 was not exhibited and is considered to be a post-exhibition change.

The Pre-gateway review and planning proposal have been intended to permit subdivision in the area on merit.

Draft clause 7.9 is considered to be a development standard, and not a prohibition, that is to be enforced by the relevant planning authority, and can be varied using clause 4.6 of the Murray LEP 2011.

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For these reasons, the Department did not support the inclusion of proposed clause 7.9.

Council have reviewed the PC Opinion and have expressed concerns regarding the potential intensification of riverfront development and the lack of specific provision as proposed by the Panel to support their concerns. Whether or not proposed clause 7.9 is inserted into the Murray LEP 2011, the matter of riverfront development intensification is a local matter for Council's consideration, as the draft clause is considered to be a development standard which is able to be varied.

The Panel Secretariat have also reviewed the PC Opinion and noted the Department's decision.

Section 117 Directions

The planning proposal was assessed as consistent with relevant section 117 Directions at the Gateway stage. There have been no changes to the proposal since the Gateway determination which has resulted in an inconsistency with the section 117 Directions.

State Environmental Planning Policies

The planning proposal was assessed as consistent with relevant SEPPs at the Gateway stage. There have been no changes to the proposal since the Gateway determination which has resulted in an inconsistency with the SEPPs.

LEP Assessment

Date Received from RPA : **22-Nov-2016**

LEP Determination

Date Publish Notification

Date sent to Parliamentary Council to Draft LEP : **09-Mar-2017**

Determination Date :

Determination Decision :

Notification Date :