

## Planning Services

### Gateway Determination Report

<b>LGA</b>	Murray River
<b>RPA</b>	Murray River Council
<b>NAME</b>	Additional Permitted Use – ‘floating restaurant’
<b>NUMBER</b>	PP_MRIVE_001_00
<b>LEP TO BE AMENDED</b>	Murray Local Environmental Plan 2011
<b>ADDRESS/DESCRIPTION</b>	Crown Waterway South bank of the Murray River and adjacent to Lot 1 DP 903914
<b>RECEIVED</b>	18 August 2017
<b>FILE NO.</b>	17/11692
<b>QA NUMBER</b>	qA417389
<b>POLITICAL DONATION DISCLOSURE</b>	There are no known donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT DISCLOSURE</b>	There have been no known meetings or communications with registered lobbyists with respect to this proposal

## INTRODUCTION

### Description of Planning Proposal

The Planning Proposal seeks to amend the Murray Local Environmental Plan (LEP) 2011 to include ‘restaurant’ as an additional permitted use in Schedule 1 – Additional Permitted Uses on land known as Crown Waterway South bank of the Murray River and adjacent to Lot 1 DP903914, within the W2 – Recreational Waterways zone. The proposal intends to moor a paddle steamer (PS Hero) on the Murray River, and operate the paddle steamer as a floating restaurant for tourist purposes.

The proposed use is not permissible within the W2 Recreational Waterways zone, and an LEP amendment is required. It is not appropriate to permit Restaurants throughout the W2 zone at this time. The subject site is considered to be suitable, subject to Council development approval.

### Site Description

The paddle steamer is to be moored in the Murray River, currently zoned W2 – Recreational Waterway. The mooring is to be fixed to Crown Land on the southern bank of the Murray River, adjacent to Lot 1 DP 903914 (zoned E3 – Environmental Management).

The refurbished PS Hero is currently moored at the subject site. Additional improvements to the land include an existing gangway, and currently existing on the site is a gangway, timber pontoon and timber storage shed.

### Surrounding Area

The subject site is located on the eastern fringe of the Port of Echuca historic precinct, and is directly adjacent to the Moama Historic Precinct.

## **Summary of Recommendation**

Proceed with Condition – The Planning Proposal justifies permitting the development of a restaurant as an ‘Additional permitted use’ on the subject land. The Planning Proposal has potential to increase tourism and employment opportunities in the Murray River Local Government Area. A change to the Local Environmental Plan would be viewed as a positive change not only for the land owner but also the Shire’s local economy. This type of development will be considered in the Murray River Strategic Plan.

## **PROPOSAL**

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### **Objectives or Intended Outcomes**

The objectives clearly indicate that Council seeks to permit a floating restaurant as an additional permitted use in Schedule 1 – Additional Permitted Uses on land known as Crown Waterway South bank of the Murray River and adjacent to Lot 1 DP903914, within the W2 – Recreational Waterways zone.

### **Explanation of Provisions**

The explanation of provisions is consistent with the intended outcomes.

### **Mapping**

Adequate locality maps are included in the Planning Proposal to identify the subject land. Mapping consistent with the Departments guidelines to identify the site on an Additional Permitted Use map will be required to be prepared prior to the finalisation of the amendment.

## **NEED FOR THE PLANNING PROPOSAL**

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The Planning Proposal is required as Murray River Council has received a proposal to utilise the refurbished PS Hero moored at the site as a restaurant. The development is prohibited in the W2 Recreational Waterway zone. The objective of the proposal can only be achieved through an amendment to the Murray Local Environmental Plan 2011 via a Planning Proposal.

## **STRATEGIC ASSESSMENT**

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### **State**

Not applicable. There is no State strategic planning framework applicable to the proposal.

### **Regional / District**

*Riverina Murray Regional Plan*

The Planning Proposal addresses the draft Riverina Murray Regional Plan, however has not considered the final Riverina Murray Regional Plan (the Plan). The planning proposal will be required to be updated prior to the commencement of community consultation to address the Plan.

The proposal is broadly consistent with the Directions and Actions of the Plan. The proposal will encourage tourism (Action 7.2) and also contribute to the management of the Murray River corridor (Direction 14 and 15).

### **Local**

There is no current strategic land use plan applicable to the Murray River Local Government Area. The draft Murray Strategic Land Use Plan (MSLUP) has not been endorsed by the Department and does not address this type of development on the River Murray. Council is currently undertaking a review of the MSLUP however the review has not yet been finalised.

## **Section 117(2) Ministerial Directions**

### *2.3 Heritage Conservation*

This Direction applies as the subject land is located within the C1 Moama Historic Precinct, which is classified as being of State Significance in Schedule 5 Part 2 of the Murray LEP 2011.

The proposal is to be undertaken on an existing refurbished paddle steamer moored to the site. There are no changes proposed to the existing infrastructure on the site as part of the proposal, which includes the gangway and timber shed. The proposal is considered to be consistent with this Direction, as future developments to the site and the heritage significance will be required to be considered at the development application stage and assessed on their merits by Council. Consultation with OEH will be required.

### *4.3 Flood Prone Land*

This Direction applies as the proposal is to be undertaken on land that is identified as flood prone, being the Murray River. The provisions of this proposal are not directly relevant to the proposal, as the additional permitted use, being a restaurant, is to be undertaken on a paddle steamer, which floats. The proposed mooring is also designed to rise and fall with the water level in the Murray River. The proposal is that the steamer is not permanent and can be moved in a flood event. No changes to the flooding provisions are proposed or required. The proposal is considered to be consistent with this Direction.

### *5.10 Implementation of Regional Plans*

The proposal has considered the draft Riverina Murray Regional Plan. The proposal is not inconsistent with this Direction. The Planning Proposal is required to be amended prior to the commencement of community consultation to address the final Riverina Murray Regional Plan.

## **State Environmental Planning Policies**

### *Murray Regional Environmental Plan. No. 2 (MREP) – Riverine Land (deemed SEPP)*

The characterisation of the proposed development under Clause 27 of the Planning Control and Consultation Table in the MREP and permissibility as a 'Tourist related facility' depends solely on whether the proposed development can be described as 'permanently fixed in or on the River Murray'. Legal advice from the proponent and the Department conclude that the proposed development is not a 'Tourist related facility' because it is capable of being moved and therefore not considered to be permanently fixed. In this regard, Clause 27 of the MREP is not applicable and is not prohibited.

A mooring is identified as being required for the proposal, and therefore compliance with Clause 25 of the Planning Control and Consultation Table in the MREP is required at the development application stage.

The proposal is consistent with the aims and objectives of the MREP, as the proposal will provide development for the benefit of the public (being a publicly accessible restaurant) which has not restricted access of the public to the River Murray.

The proposal is also considered to be consistent with the specific principles of the MREP (clause 10). As the vessel and mooring are not permanently fixed, the proposed development is consistent with the requirement for short-stay purposes. The proposal enhances public access to the River Murray, and has demonstrated an essential relationship with the river, being a refurbished paddle steamer of historical significance located adjacent to the historical Port of Echuca.

The proposal is considered to be consistent with the requirements of the MREP. Access, car parking and bank disturbance will be required to be considered by Council at the development application stage. The safety of the river and operation of the facility will also be required to be assessed by the RMS at development application stage.

## **SITE SPECIFIC ASSESSMENT**

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### **Social and Economic**

The proposed change to facilitate a restaurant on the subject land by an additional permitted use would provide an opportunity for the land owners/restaurant and paddle steamer operators to use an existing resource to generate income, effectively creating economic multipliers to other local businesses and the wider community.

### **Environmental**

The proposal is unlikely to result in adverse environmental effects as a result of the LEP amendment. Environmental impacts will be required to be considered by Council during the development application stage.

## **CONSULTATION**

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### **Community**

A 14 day period of community consultation has been proposed. It is considered the unique nature of the proposed development that a period of 28 days community consultation be undertaken.

### **Agencies**

Pre-lodgement consultation was undertaken with the Department of Planning and Environment and the Office of Environment and Heritage and Roads and Maritime Services. Consultation will be required with the Office of Environment and Heritage, Department of Primary Industries – Water and Fisheries, Crown Lands, Roads and Maritime Services, the Murray Darling Basin Authority and Campaspe Shire Council.

### **TIMEFRAME**

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A six (6) month timeframe to complete the proposal has been provided. A period of 12 months is considered adequate to complete the plan making process, given the community and agency consultation requirements.

## **DELEGATION**

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Council has requested to utilise plan making delegations. Given the minor nature of the proposal, and that the proposal is a local planning matter, it is appropriate in this instance to delegate plan making functions to Council.

## **CONCLUSION**

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The proposal is recommended to proceed with conditions. The Planning Proposal justifies permitting the development of a restaurant as an 'Additional permitted use' on the subject land. The Planning Proposal has potential to increase tourism and employment opportunities in the Murray River Local Government Area. A change to the Local Environmental Plan would be viewed as a positive change not only for the land owner but also the Shire's local economy.

Whilst it is preferred that such matter be considered in a strategic manner as part of the draft Murray Strategic Land Use Plan, however this work is not expected to be finalised until late 2018. Given the local nature of the proposal, near the tourist precinct of Echuca, an existing mooring is to be utilised and the development is not permanent, there is merit in the proposal proceeding at this time.

## **RECOMMENDATION**

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It is recommended that the delegate of the Minister for Planning determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be publicly exhibited for 14 days.
2. Consultation is required with the following public authorities:
  - Office of Environment and Heritage.
  - Department of Primary Industries – Water and Fisheries, Crown Lands
  - Murray Darling Basin Authority
  - Roads and Maritime Services
  - Campaspe Shire Council
3. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, council should be authorised to exercise delegation to make this plan.
5. The Secretary's delegate can be satisfied that the proposal is consistent with relevant s117 Directions.
6. Prior to community consultation the planning proposal is to be amended to address Section 117 Direction 5.10 - Implementation of Regional Plans. This work is to address the final Riverina Murray Regional Plan.
7. Prior to submission of the planning proposal under section 59 of the EP&A Act, the final LEP maps must be prepared and be compliant with the Department's 'Standard Technical Requirements for Spatial Datasets and Maps' 2015.



7.9.17

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8.9.17

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