

Director:
Mark F. Langenbacher B. App. Sc. (Surv) L.S. M.I.S.

Our Ref:
Your Ref: S6572/2

Mr S Arkinstall
Director of Environmental Services
Murray River Council
PO Box 21
MATHOURA NSW 2710

19 December 2016

Dear Simon,

**Re: *Planning Proposal to Amend Murray River LEP2011
Additional Permitted Use
Floating Restaurant
Murray River at Paddle steamer Hero Mooring
Echuca/Moama***

As a result of our recent meeting with yourself and Council Administrator David Shaw which resulted in extremely positive support for the proposal, I now submit a formal Planning Proposal for consideration by Council.

The proposal is to extend the existing mooring used to berth the paddle steamer Hero in the Murray River and to then establish Oscar W's Restaurant on the extended mooring.

As you are well aware Oscar W's was an acclaimed dining venue that was situated in the historic Port of Echuca on the banks of the Murray River. The building housing the restaurant is owned by the Shire of Campaspe and due to the owner failing to keep the building up to expected health and safety standards the building and restaurant were closed.

The Licensee of Oscar W's has since then renovated and opened the American Hotel in Echuca. This venue is now solidly established and the owner wants to re-establish the Oscar W's restaurant.

The opportunity has arisen whereby the owners and operators of the paddle steamer Hero

have agreed with the owner of Oscar W's to expand the Hero mooring and to establish Oscar W's as a floating restaurant on the expanded mooring.

The paddle steamer Hero has been painstakingly restored by Gary Byford and is now the most wonderful vessel which showcases the full glory of the workmanship of days gone by.

Having these two iconic businesses operating from the same site, practically in the centre of Echuca Moama, will create an enormous tourist attraction that promises to expand on the recent renovations undertaken at the Port of Echuca historic precinct.

To allow this proposal to proceed the Murray LEP must first be amended accordingly.

The site of the mooring is zoned W2 Recreational Waterways under the Murray River LEP 2011. In this zone a restaurant is a prohibited use within the associated Land Use Table.

As the PS Hero Mooring is eminently suitable for this use it is requested Council consider this proposal which will allow "Restaurant" as a land use at this particular site only. It is not proposed, nor is it wanted to allow such use elsewhere in the W2 Zone.

The submission of a Planning Proposal to allow a restaurant is made due to the merits of the specific site.

The site is adjacent to the south bank of the Murray River and is hence accessed from Victoria. Access to the site is controlled by the Shire of Campaspe. The shire of Campaspe have also indicated their support for this proposal to proceed.

The Shire of Campaspe have provided a bitumen walking track to the gangway that connects the mooring to the bank. They have also provided underground electricity supply and underground filtered water supply to the mooring.

Car parking is available at the nearby Tourist Information Centre.

The specific site is known as Commercial mooring CL6224 which has been issued to the owners by the NSW Roads and Maritime Services (NSW RMS).

The actual position of the mooring was re-located by the Shire of Campaspe as part of their Port of Echuca Revitalisation Project (PERP). This project was a multimillion dollar program funded jointly by the Commonwealth, State and Local Governments to reinvigorate the historic Port of Echuca. Approval for the re-location of the mooring to its current position was approved by the Shire of Murray in DA 208/12.

A copy of the plan endorsed under that approval, showing the re-located mooring is included in the Planning Proposal document at attachment 10.

From that plan it can be seen that the position of the mooring is directly opposite "peg 2".

“Peg 2” refers to a peg that was placed as part of a survey to define the position of the State Border between NSW and Victoria in the vicinity of the Port of Echuca.

The survey was undertaken by the Division of Survey and Mapping Victoria and was approved jointly by the Surveyors General of NSW and Victoria. The plan relating to the survey has been registered in the Victorian Titles Office as CP111023.

A copy of the plan is attached. It can be seen that AMG co-ordinates have been allocated to peg 2. As such peg 2 is a reliable reference point from which the site can be defined. This is necessary to allow accurate mapping of the area which is subject to this proposal. A plan showing the location of the extended mooring relative to peg 2 is included with the planning proposal at item 12.

The site of the proposal will not interfere with the day to day operations of the Port of Echuca yet it is close enough to the Port to be an important adjunct to the continued commercial success of the port.

The proposal will combine two attractions that Echuca is well known for, being paddle steamers and fine dining. It will provide an enormous flow on effect to the town and will support local agriculture providers and will provide more jobs for local people.

We have obtained support for the proposal from NSW RMS, DPI (Fisheries) and Victoria Police– see attached letters and emails.

Senior Management and Planning Staff from the Shire of Campaspe have also been enthusiastic about the proposal and have indicated their support.

The NSW Office of Environment and Heritage have provided advice that the proposal to establish the restaurant on the mooring does not breach the provisions of the Murray Regional Environmental Plan 2 (MREP2) – see copy email enclosed.

This same advice has been independently provided by Planning Lawyers, Bazzani Scully and Priddle – see enclosed letter.

Formal consent of the landowner, being the NSW Department of Crown Lands, has been sought and is currently being processed. This should be available early in 2017.

At present the paddle steamer Hero is licensed to carry 78 passengers. It is proposed that the expanded pontoon and restaurant will have inside seating for 48 patrons and outdoor seating for another 32 people.

Thus the maximum number of people that could be using the paddle steamer, mooring and restaurant at any time is 150. It is envisaged that 65% of this usage will occur after 5pm.

The formal Planning Proposal and associated items are now enclosed for consideration by Council. A cheque for \$4520 is also enclosed as requested.

A full set of schematic design drawings are also enclosed for your information.

I trust this submission is in order however please do not hesitate to contact me should you require any further details.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'M. Langenbacher', with a stylized, flowing script.

Mark F Langenbacher
Licensed Surveyor

PLANNING PROPOSAL

MURRAY LEP 2011

COMMERCIAL MOORING CL6224

MURRAY RIVER

MOAMA

**ZONE W2 RECREATIONAL
WATERWAYS**

CL.2.5 ADDITIONAL PERMITTED USE

RESTAURANT

**PLANNING PROPOSAL
ADDITIONAL PERMITTED USE
COMMERCIAL MOORING CL6224
MURRAY RIVER, MOAMA NSW**

PART 1 – OBJECTIVES OR INTENDED OUTCOME

To amend the Murray LEP 2011 to allow a floating restaurant to be established on the mooring associated with the Paddle steamer Hero in the Murray River at Echuca.

PART 2 – EXPLANATION OF PROVISIONS

The proposed outcome will be achieved by:

- Introducing “Restaurant” as an additional permitted use for the PS Hero mooring into Schedule 1 of the Murray LEP 2011 via Clause 2.5. Such use is to be carried out with Development Consent.

The extent of the site affected by the proposal is shown on the plan at Attachment 3.

PART 3 – JUSTIFICATION

SECTION A – Need for the Planning Proposal

Q1. *“Is the Planning Proposal a result of any strategic study or report?”*

No. The Planning Proposal is the result of a former regionally and internationally acclaimed dining venue intending to re-establish in a new location.

The intended position of the restaurant on the mooring associated with the Paddle steamer Hero compliments/further the intended outcome of the recently completed Port of Echuca Revitalisation Plan (PERP). The PERP was a multimillion dollar program funded by the Commonwealth, State and Local Government to reinvigorate the Port of Echuca to attract more tourists.

The PERP was expected to deliver amongst other things:

- an additional 22,000 visitors annually to the Port of Echuca and;
- provide indirect economic benefit to the region.

The PERP recognised that the visitor experience must be strengthened, valued and must meet or exceed expectations.

The re-establishment of a local icon in the proposed location is seen to be a way of enhancing the visitors experience to Echuca/Moama and compliments the PERP.

A copy of the PERP is attached at item 10.

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

The Planning Proposal is to allow an additional permitted use only on a particular site.

The particular use to be permitted is deemed appropriate to the site given the location of the site and its position relative to the Port of Echuca which is an important tourist attraction.

As the site is within the Murray River it is not considered appropriate to re-zone the site from the current W2 Recreational Waterways Zone.

The Planning Proposal to allow an additional permitted use on the particular site requires less of a change to the LEP than a re-zoning and provides a more appropriate outcome.

SECTION B – Relationship to Strategic Planning Framework

Q3. *"Is the Planning Proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?"*

RIVERINA - MURRAY REGIONAL PLAN (DRAFT)

The draft Riverina – Murray Regional Plan is a blueprint for creating a sustainable future for the region with strong, resilient local communities.

The plan proposes that making a diverse and competitive economy is central to creating more jobs, strengthening the regions towns and cities and sustainably managing the agricultural resources.

A priority of the plan is to capitalise on the regions strengths in the Agribusiness sector. The plan proposes greater investment in agricultural value-adding and to make the town's cities and villages more vibrant places in which to live and work.

The plan identifies that agribusiness is a key economic sector for the region. Agribusiness includes food, beverage and other product outlets. The plan also recognises that the Murray River has great scenic beauty, a rich cultural heritage and provides enviable lifestyle and tourism opportunities.

These qualities need to be enhanced but also protected.

The Planning Proposal is consistent with the aims of the plan in that it will;

- Provide employment opportunities
- Strengthen the agri-business sector
- Diversify and strengthen the local economy

- Enhance the lifestyle in the towns of Echuca and Moama
- Attract additional tourists to the area
- Capitalise on, as well as add to, the scenic beauty of the Murray River
- Add to the character of the nearby important heritage precinct of the Port of Echuca

ASSESSMENT CRITERIA

a) Does the proposal have strategic merit?

Yes. The Planning Proposal is consistent with and further the aims of the draft Riverina – Murray Regional Plan.

b) Does the proposal have site-specific merit, having regard to the following:

- *“the natural environment (including known significant environmental values, resources or hazards)”*

The use of the expanded mooring for a restaurant will enhance and compliment the surrounding environmental values.

The mooring is close to the Echuca Wharf and surrounding heritage precinct. The restaurant has been designed to reflect the architectural forms and materials of this important tourist attraction.

The mooring is on the edge of the Murray River set against a background of River Red Gums. The colours and materials of the restaurant have been selected to integrate with the natural environment.

- *“the existing uses, approved uses, and likely future uses of land in the vicinity of the proposal”*

The nearby land on the Victorian side of the Murray River is Crown Land. It is set aside for public purposes and includes a walking and cycling track around the aquatic reserve.

The land on the opposite side of the Murray River in NSW contains two existing residences. These are separated from the river by a stand of mature River Red Gums. No further development will occur in this area as the land is subject to flooding.

Between the site of the Planning Proposal and the Port of Echuca, the Shire of Campaspe, as manager of the Port, have approval for some additional paddle steamer moorings.

The Planning Proposal is not in conflict with any of these uses.

- *“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”*

The Planning Proposal is to take place on an existing mooring that is used to berth the PS Hero. The Hero has approval to carry 78 passengers and as such the relevant infrastructure required is already in place at the mooring.

The Shire of Campaspe have installed electricity and water to the site. Sewerage is stored in stainless steel tanks below the mooring (or boat) and is collected and pumped out by a contractor on a regular basis.

Access is via the walking track that exists along the river bank.

Car parking for patrons is available at the nearby tourist information centre.

Q4. *“Is the Planning Proposal consistent with the Councils local strategy or other local strategic plan?”*

Murray River Council prepared the Strategic Land Use Plan 2010-2030 to address key planning issues affecting the Shire.

The vision statement includes that “Councils vision is for a prosperous community with a diversified economy integrated with a sustainable and productive natural resource base.”

The Council recognises that there is a rich history associated with agriculture and the river trade.

The Council also states in the Strategic Land Use Plan that “Since around 1980, tourism has become the principal economic activity in Moama. Moama features a wide range of tourist accommodation and related facilities and has experienced a boom in this type of development over the past 10 years. It is reasonable to presume that tourist activities and accommodation will continue to expand in Moama.”

“The river environments of the Shire are the principal attraction for visitors and in recent times there has been an increase in demand to accommodate them in locations adjacent to or near the water. Given the sensitivity of the riverine environment, it is essential that any development undertaken within it is done in a manner that has nil environmental impact. Activities that have potential to impact detrimentally on the environment are bank disturbance, effluent disposal and human presence.”

The Planning Proposal is consistent with the Strategic Land Use Plan in that it:

- will add to a diversified economy
- assist the local agricultural producers

- enhance the heritage precinct of the Echuca Wharf and Port
- add another tourist attraction to the local area
- provide an opportunity to enjoy the riverine environment without causing any detrimental impact

Q5. *“Is the Planning Proposal consistent with applicable State Environmental Planning Policies?”*

Yes. The Murray Regional Environmental Plan No 2 – Riverine Land is a deemed State Environmental Planning Policy (SEPP) as of 1 July 2009. This plan is applicable to the subject site.

Clause 13 of MREP2 contains a Planning Control and Consultation table that defines various types of development and the relevant controls applicable.

The Planning Proposal is to use an existing mooring for an additional purpose being a restaurant.

Item 25 of Clause 13, MREP2 is “Single mooring”. This use is permissible with Council consent and has been in place at this site for a number of years.

Item 27 of Clause 13 MREP2 is “Tourist Related Facility”. It is important to this proposal to note that the additional use of the mooring for the purposes of a restaurant does not turn the mooring into a Tourist Related Facility.

The definition of Tourist Related Facility under item 27 is “*An establishment, place or vessel which provides for either accommodation or entertainment or food or beverage and which is permanently fixed in or on the River Murray or is on land adjacent to the River Murray*”.

Given that the proposal is to use a larger pontoon than is currently being used, and that this pontoon is not permanently fixed in or on the Murray River (as it is able to be untied and towed away during time of flood or for repairs), the use remains classified as either (20) Marina (Small) or (25) Single Mooring. Both of these uses are consistent with MREP2.

This view is confirmed by the NSW Office of Environment and Heritage. A legal opinion from Bazzani Scully Priddle has also been provided to confirm these views.

(27) Tourist Related Facility is a prohibited use under MREP2 hence the opinions provided are important in establishing that the Planning Proposal is consistent with MREP2.

Q6. *“Is the Planning Proposal consistent with applicable Ministerial Directions (S.117 directions)?”*

The Minister for Planning has issued directions under Section 117 of the *Environmental Planning and Assessment Act* which must be considered when

making Planning Proposals.

The Section 117 Directions relevant to this Planning Proposal are:

2. Environment and Heritage
2.3 Heritage Conservation
4. Hazard and Risk
4.3 Flood Prone Land
6. Local Plan Making
6.3 Site Specific Provisions

The specific objectives of each direction and the consistency with the Planning Proposal are as follows;

2.3 Heritage Conservation

The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

The site of the Planning Proposal is in the C1 Moama Historic precinct which is classified as being of State Significance in Schedule 5 Part 2 of the Murray LEP 2011.

The proposed restaurant has been architecturally designed so that it will compliment the style, colours and materials of other buildings in the heritage precinct.

The heritage precinct is a vibrant tourist attraction and the Planning Proposal will enhance the area.

4.3 Flood Prone Land

The objective of this direction are;

- a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the *Floodplain Development Manual 2005*, and
- b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

Although the Murray River is subject to flooding and the site of the Planning Proposal is within a Flood Planning Area, the provisions of this direction are not directly relevant to the Planning Proposal. The restaurant is to be located on a mooring which of course is designed to float. The mooring rises and falls as the water level in the river fluctuates. The

subject restaurant will always remain safely above the level of any flood that might occur hence the provisions of this direction are met by the proposal.

6.3 Site Specific Provisions

- 1) The objective of this directions is to discourage unnecessarily restrictive site specific planning controls.

What a relevant planning authority must do if this directions applies:

- 4) A Planning Proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:
 - a) Allow that land use to be carried out in the zone the land is situated on, or
 - b) Rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already required in the zone, or
 - c) Allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal planning instrument being amended.

Option (c) is the appropriate alternative selected in this case. The introduction of the land use into Schedule 1 of the Murray LEP will specify that it may be carried out with development consent. This requires development approval be granted for the use and such approval will contain conditions as Council deems appropriate.

The Planning Proposal is consistent with the relevant ministerial directions.

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?”*

Whilst the Planning Proposal is within the Murray River it is very unlikely to have any adverse effect on these items. This is because the proposal is on an existing mooring. The restaurant will collect all wastes in stainless steel tanks that will be regularly pumped out and discharged into the relevant sewerage system. There will be no pollution of the river as evidenced by the manner in which the mooring and PS Hero have operated for a number of years.

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

The mooring site is not affected by any environmental issues such as landslip, erosion or bushfire.

Noise from patrons may be considered an environmental issue however it is believed this will be minimal.

The venue is to be established to provide a fine food and dining experience and for patrons to enjoy the ambience of the Murray River. Loud noise is not expected to be associated with this type of venue. The planning controls to be imposed will limit the hours of operation of the venue. This will further ensure that noise should not cause a nuisance.

- Q9. *"Has the Planning Proposal adequately addressed any social and economic effects?"*

The social and economic impacts of the Planning Proposal are seen to be positive.

The proposal will add an additional venue to the popular tourist destination of Echuca/Moama. The venue will provide a dining experience that is not available anywhere else. The operators of the venue are experienced restaurateurs and hospitality professionals who will ensure the venue is operated in a socially responsible manner.

It is expected that the venue will also attract visitors in its own right thus adding economic benefit to the towns. The venue will also provide economic benefit by providing employment opportunities.

The proposal will not have any impact on items or places of Aboriginal heritage. The mooring and the associated paddle steamer are already on site and operational.

Schools and hospitals will not be affected by the proposal.

The Planning Proposal is located away from the existing retail areas of Echuca and Moama. The venue is not a retail venue and will not detract shoppers from these areas. It will more likely attract patrons who may then visit the local shops, thus value adding to the local retailers.

SECTION D – State and Commonwealth Interests

- Q10. *"Is there adequate public infrastructure for the Planning Proposal?"*

Yes. The proposal will operate from an existing commercial mooring. The Shire of Campaspe, as part of the Port of Echuca Revitalisation Plan, have provided electricity and water to the mooring. These services are already used by the PS Hero and will service the new venue.

Road access is available to the nearby Echuca/Moama visitor centre where a bitumen car park is available for use by patrons.

It is then approximately a 200m walk from the car park to the mooring. The access track is partly along a bitumen path and partly along a dirt road.

The dirt road leads from the bitumen car park and runs past the site. It then continues towards the onion patch and dry dock where it ends. This road is used by service and delivery vehicle tending the PS Hero and is suitable for the provision of services to the proposed venue.

As discussed elsewhere in this proposal, sewerage from the PS Hero is collected in stainless steel tanks and then pumped out by a contractor on a regular basis. A similar system will be used by the proposed restaurant.

Any additional upgrades required to infrastructure to service the proposed venue will be paid for by the operators.

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

The NSW Office of Environment and Heritage (OEH) were consulted some time ago with respect to this proposal.

The view of OEH is that the proposal can be considered by the Murray River Council under classification 20 of MREP2.

The proposal will be referred to OEH for comment. They will comment on biodiversity and the office advises that at this stage they consider such impacts to be minor.

The OEH will also comment on the assessment of impacts on Aboriginal objects.

The OEH also mentioned that the EPA may comment on erosion and sedimentation mitigation measures. Mitigation measures to prevent pollution of the Murray River will also be relevant.

EPA and Fisheries may also have additional requirements.

The Shire of Campaspe (Victoria) have also been consulted about this project and have indicated their support.

ATTACHMENTS

- 1. Information Checklist**
- 2. Cadastral Plan showing site and surrounds**
- 3. Aerial photograph with site highlighted**
- 4. Site Photographs**
- 5. Existing Zone Map with site highlighted**
- 6. PS Hero and Mooring**
- 7. Schematic Design - Existing and proposed plan views.**
- 8. Schematic Design – Proposed plan**
- 9. Schematic Design – North-East perspective**
- 10. Port of Echuca Revitalisation Plan**
- 11. Commercial Mooring Licence CL6224**
- 12. Site Plan**

Attachment 1 – Information checklist

STEP 1: REQUIRED FOR ALL PROPOSALS
(under s55(a) – (e) of the EP&A Act)

- | | |
|--|--|
| <ul style="list-style-type: none"> Objectives and intended outcome Mapping (including current and proposed zones) Community consultation (agencies to be consulted) | <ul style="list-style-type: none"> 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	Yes	No	Yes	No
Strategic Planning Context				
Consistent with the relevant regional plan, district plan, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment; or	☒	☐		☒
Consistent with a relevant local council strategy that has been endorsed by the Department; or	☒	☐		☒
Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls; or	☐	☒		☒
Seeking to update the current planning controls if they have not been amended in the last 5 years.	☐	☐		☒
Site Description/Context				
Aerial photographs	☒	☐		☐
Site photos/photomontage	☒	☐		☒
Traffic and Transport Considerations				
Local traffic and transport	☒	☐		☐
TMAP	☐	☒		☐
Public transport	☐	☒		☐
Cycle and pedestrian movement	☒	☐		☒
Environmental Considerations				
Bushfire hazard	☐	☒		☐
Acid Sulphate Soil	☐	☒		☒
Noise impact	☒	☐		☐
Flora and/or fauna	☒	☐		☐
Soil stability, erosion, sediment, landslip assessment, and subsidence	☐	☒		☒
Water quality	☒	☐		☐
Stormwater management	☐	☒		☒
			Flooding	☒
			Land/site contamination (SEPP55)	☒
			Resources (including drinking water, minerals, oysters, agricultural lands, fisheries, mining)	☒
			Sea level rise	☐
			Urban Design Considerations	
			Existing site plan (buildings vegetation, roads, etc)	☒
			Building mass/block diagram study (changes in building height and FSR)	☒
			Lighting impact	☐
			Development yield analysis (potential yield of lots, houses, employment generation)	☒
			Economic Considerations	
			Economic impact assessment	☒
			Retail centres hierarchy	☐
			Employment land	☐
			Social and Cultural Considerations	
			Heritage impact	☒
			Aboriginal archaeology	☐
			Open space management	☒
			European archaeology	☒
			Social & cultural impacts	☒
			Stakeholder engagement	☒
			Infrastructure Considerations	
			Infrastructure servicing and potential funding arrangements	☒
			Miscellaneous/Additional Considerations	
			List any additional studies that should be undertaken post Gateway determination	

Planning Proposal "Murray River, Moama" – Restaurant
S:\S6572\Planning Proposal\Planning Proposal.doc



4. Site Photographs



Photo Number 1
View downstream towards Echuca Wharf
from pontoon.



Photo Number 2
Western end of Timber Shed on Timber Pontoon,
with security system.



Photo Number 3
Bollard with rope work on Pontoon.



Photo Number 4
Rope fender between Paddle Steamer and Pontoon.



Photo Number 5
Northern Side of Timber Shed on Timber Pontoon,
with security system.



Photo Number 6
View upstream towards the Echuca – Moama Bridge.



Photo Number 7
Rope work on top deck of the Paddle Steamer 'Hero'.



Photo Number 8
Ceiling low level of the Paddle Steamer 'Hero'.



Photo Number 9
Rope and Bollard on the Paddle Steamer 'Hero'.



Photo Number 10
Rear entrance on the Paddle Steamer 'Hero'.



Photo Number 11
Rope work on Timber Deck of Pontoon.



Photo Number 12
Gangplank to Timber Pontoon.



Photo Number 13
Gangplank, Timber Pontoon and Eastern end
of Timber Shed.



Photo Number 14
Timber Pontoon, Eastern end of Timber Shed and
the Paddle Steamer 'Hero'.

5. Existing Zone Map with site highlighted



**Murray Local
Environmental
Plan 2011**

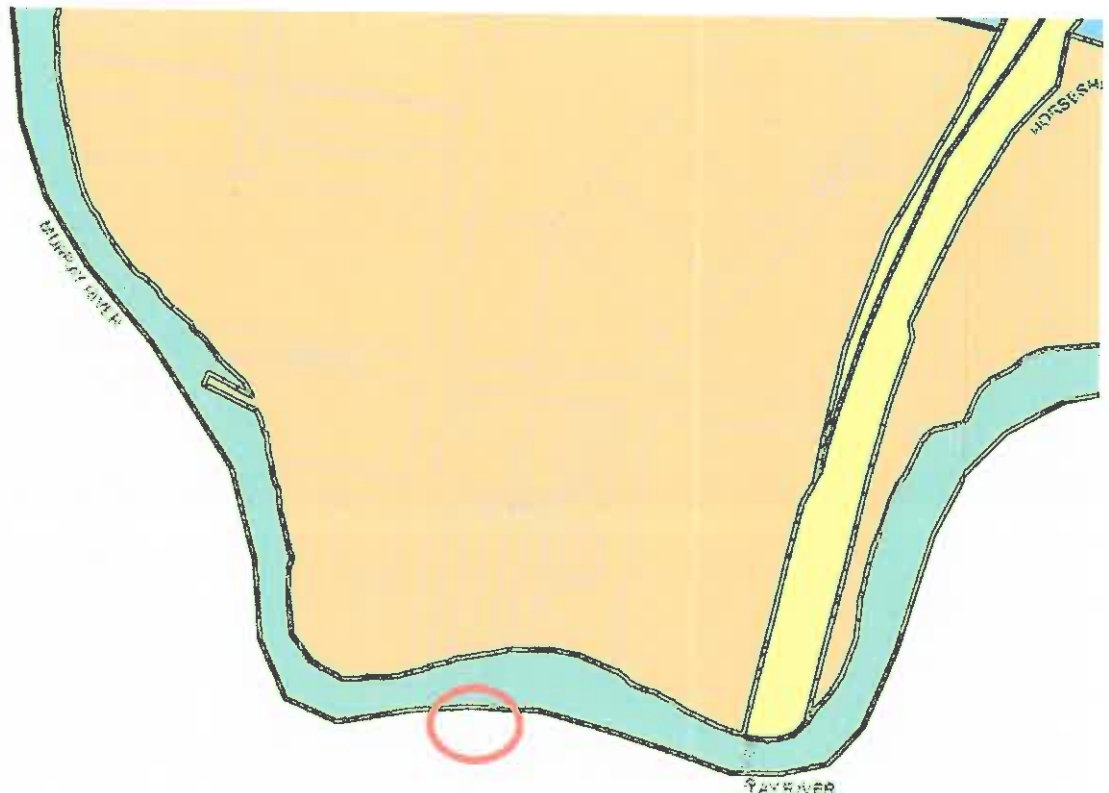
Land Zoning Map - Sheet LZN_006B

Zone

- LC Local Centre
- SC Enterprise Corridor
- EN National Parks and Nature Reserves
- E3 Environmental Management
- I1 General Industrial
- P1 General Residential
- P2 Low Density Residential
- P3 Large Lot Residential
- PR Public Recreation
- PR2 Private Recreation
- RU1 Primary Production
- RU3 Forestry
- RU5 Village
- SP1 Special Activities
- SP2 Infrastructure
- SP3 Tourist
- W1 Natural Waterways
- W2 Recreational Waterways

Cadastre

Cadastre 01/01/2004 © Land and Property Information (LPI)



Planning Proposal "Murray River, Moama" – Restaurant
S:\S6572\Planning Proposal\Planning Proposal.doc

6. PS Hero and Mooring

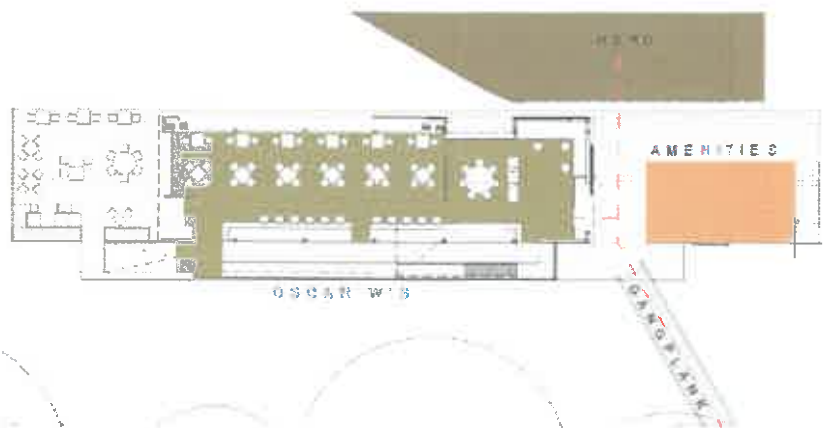


7. Schematic Design - Existing and proposed plan views.

M U R R A Y R I V E R

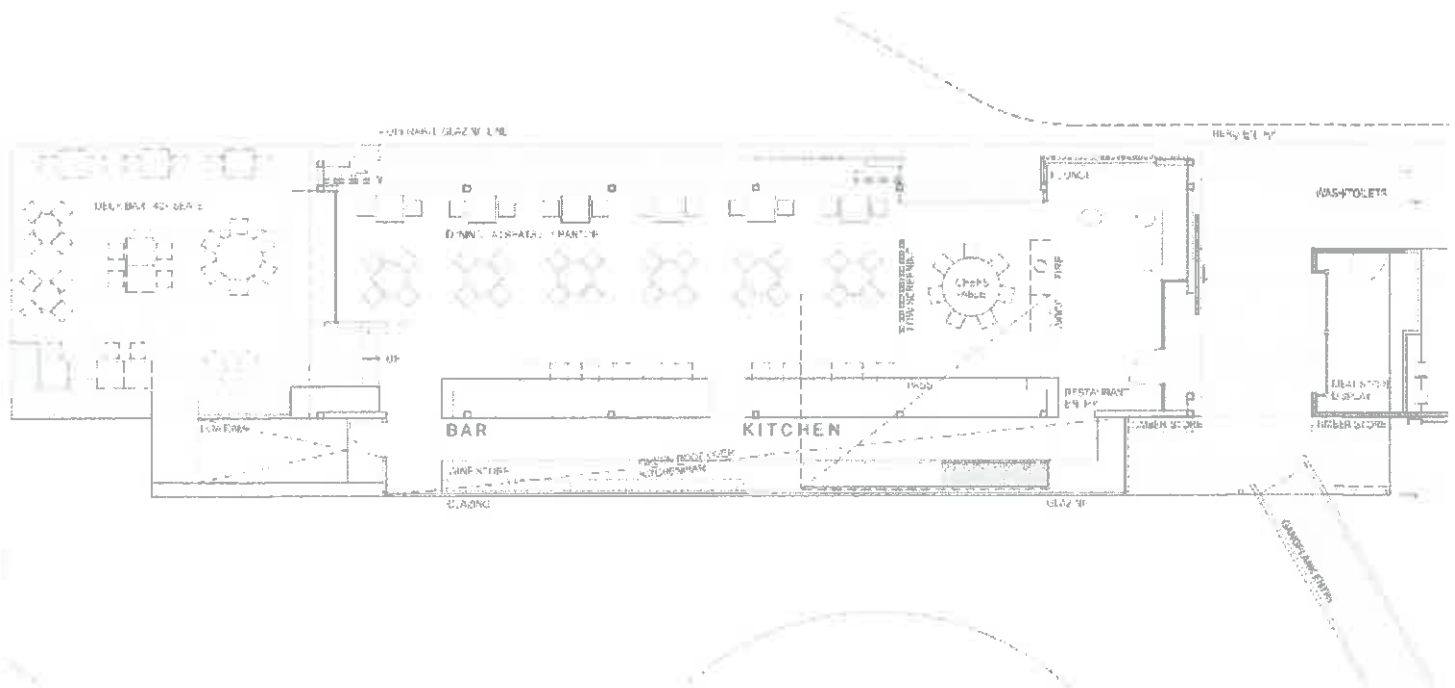


EXISTING PLAN
1:200

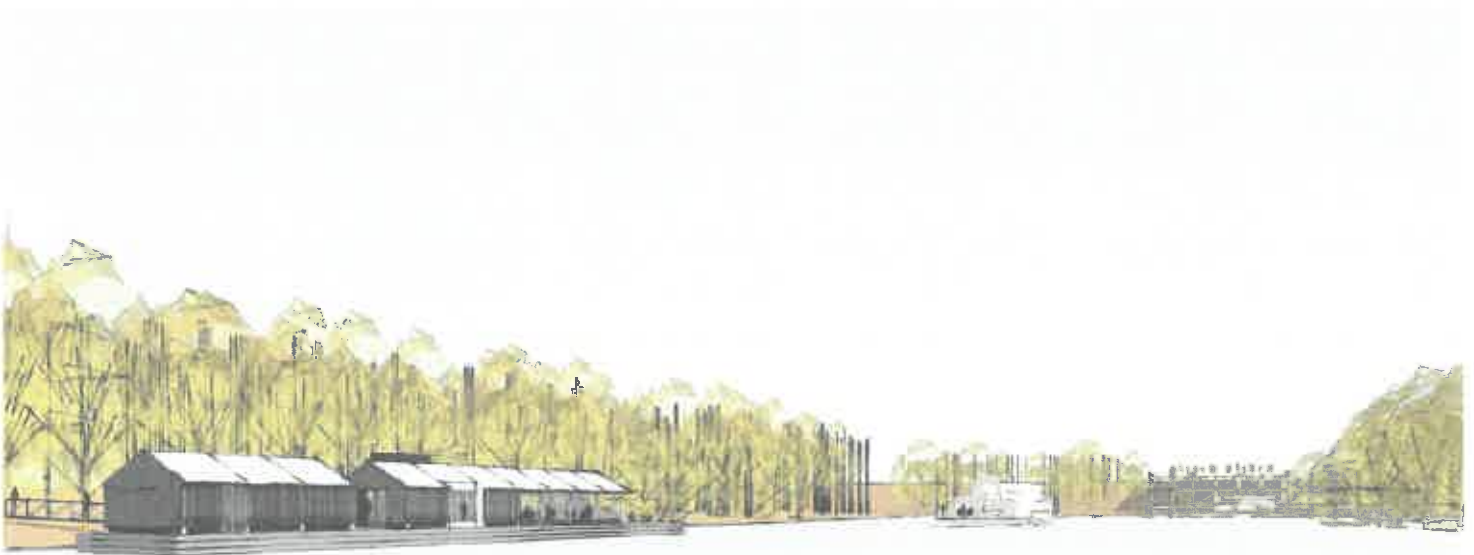


PROPOSED PLAN
1:200

8. Schematic Design – Proposed plan



9. Schematic Design – North-East perspective





11. Commercial Mooring Licence CL6224

RENEWAL

08/12/2016

MARITIME PRODUCT SERVICES
 Locked Bag 5100 CAMPERDOWN NSW 1450
 13 12 56
 Internet: www.rms.nsw.gov.au



Transport
 Roads & Maritime
 Services

COMMERCIAL MOORING LICENCE

(AN OCCUPATION LICENCE ISSUED UNDER THE MANAGEMENT OF WATER AND WATERSIDE LAND REGULATIONS N.S.W.)

1-4235516025
RENEWAL No.

Belinda Byford
 Riverina Development Pty Ltd
 27 Welsford St
 SHEPPARTON VIC 3630

LOCATION ECHUCA

COMMERCIAL LICENCE No.

CL6224

IMPORTANT:

- IF YOU CHOOSE THE QUARTERLY PAYMENT OPTION FOR YOUR INITIAL PAYMENT AND FURTHER PAYMENTS MUST BE BY QUARTERLY INSTALMENTS.
- IF PAYMENT IS NOT RECEIVED BY THE PAY BY DATE YOUR LICENCE MAY BE CANCELLED AND WILL NOT BE REISSUED UNTIL A REINSTATEMENT FEE IS PAID.

EXPIRY DATE	FEE PAYABLE	PAY BY DATE	RECEIPT No.
8/5/2017	\$0.00 *	08/05/2017	
			BANK DETAILS
			TELLER'S STAMP & INITIALS
			DATE PAID
			AMOUNT PAID

NUMBER OF SITES: 1

For instalments, the first instalment can only be made at a RMS office, by BPAY or by mail

\$
\$
\$
\$

Standard Conditions: Please be aware and comply with all conditions contained in the enclosed 'Commercial Mooring Licence' leaflet.

SPECIAL CONDITIONS:

DO NOT DETACH. FULL FORM TO BE RETURNED WITH PAYMENT



ABN 33 007 457 141

RMS ABN 76 236 371 088

PAYMENT METHODS FOR CL6224



INTERNET: www.licence.nsw.gov.au
 and follow payment instructions.



TELEPHONE: Call 13 12 36 anytime
 to pay by Visa or MasterCard.



BPAY: Biller Code: 126409
 Customer Reference Number



MAIL: Forward this certificate to the address
 on the top of this notice. Payment may be
 made by cheque, money order or credit card
 (see overleaf).



IN PERSON: Present this certificate at any
 Registry or Maritime Service Centre, Westpac
 Branch or Government Access Centre.

Contact your Financial Institution by Internet
 or telephone to make this payment directly
 from your nominated account. When prompted
 enter the Biller Code and your Customer
 Reference Number.

142355160250

Signature of Licensee

TELLER'S STAMP
& INITIALS

CREDIT

DATE PAID

Teller use

\$100
 \$50
 \$20
 \$10
 \$5

Notes

Coins

Cheques (see reverse)

For Credit: ROADS AND MARITIME SERVICES

User Code

003-886

Total \$



Directors:

Mark F. Langenbacher
Jeremiah Johnson
Michael McCarrey
Brendon Boyd

B. App. Sc. (Surv) L.S. M.I.S.
 B. Eng Tech (Civil), T.M.I.E. Aust
 O.M.I.E. Aust
 T.M.I.E. Aust

Correspondence: PO Box 586
Echuca Vic 3564

Our Ref: S6572/3
Your Ref:

Mr C O'Brien
 Town Planner
 Murray River Council
 PO Box 21
 MATHOURA NSW 2710

27 March 2017

Dear Chris

Re: Additional Information
Planning Proposal for Restaurant
Murray River, Echuca, Vic

In reply to your request for additional information to assist Council in determining the above mentioned application, I wish to provide the following details;

- "Assessment demonstrating compliance with the W2 Recreational Waterways Zone of the Murray LEP 2011."

Under the Murray LEP 2011, the objectives of Zone W2 Recreational Waterways are as follows;

- To protect the ecological, scenic and recreation values of recreational waterways.
- To allow for water-based recreation and related uses.
- To provide for sustainable fishing industries and recreational fishing.

The Planning Proposal put before Council is to permit the existing mooring associated with the Paddlesteamer Hero to be used for the additional purpose of "a restaurant".

This will require the existing mooring to be extended and new structures to be erected on the mooring deck.



HARLAND AND LANGENBACHER PTY. LTD. T/AS PLANRIGHT SURVEYING
 A.C.N. 006 996 078 A.B.N. 62 006 996 078

ECHUCA Ph: (03) 5482 1699
 21 Nish Street, Echuca Vic 3564
 Email: mlangenbacher@planright.net.au
 TATURA Ph: (03) 5824 1322
 139 Hogan Street, Tatura Vic 3616
 Email: jjohnson@planright.com.au
 Email: bboyd@planright.com.au
 KILMORE Ph: (03) 5782 2238
 24a Sydney Street, Kilmore Vic 3764
 Email: mmccarey@planright.com.au

As the mooring already exists it is without question that the mooring satisfies the objectives of the W2 Zone Recreational Waterways. Any extension to the mooring will not change its compliance with the objectives of the W2 Zone.

There is a timber shed existing on the mooring that is built in a rustic style to compliment the nearby Port of Echuca. The additional building required for the restaurant is proposed to be constructed from similar rustic materials to compliment the historic nature of the area.

The mooring is associated with the Paddlesteamer Hero which is licensed to carry 80 persons, usually 5 crew and 75 patrons. The Hero is licensed to serve alcohol to the guests. Food is prepared by external caterers although a commercial kitchen is on board.

The planning proposal to allow the mooring to be used for the secondary purpose of a restaurant is seen as being a logical extension to the usage of the Paddlesteamer Hero.

Permitting the extended mooring to also be used as a restaurant will not compromise the zone objectives.

- *"To protect the ecological, scenic and recreational values of recreational waterways."*

The proposed extended mooring will have no different impact on the ecology of the Murray River to that of the existing mooring.

The extended mooring will require one additional building to allow for the restaurant. The additional building will be in the same style as the existing shed on the mooring and as such it will blend in with the existing scenery along the river.

The use of the Murray River for recreational purposes will not be affected by the Planning Proposal. People will still be able to go fishing, boating, walking as they do now.

The proposed restaurant on the mooring is seen as being an additional way in which people can enjoy their recreational time on the waterway.

- *"To allow for water-based recreation and related uses."*

The mooring is already associated with water based uses. This will be enhanced if it can also be used as a restaurant as is proposed.

- *“To provide for sustainable fishing industries and recreational fishing.”*

Neither of these uses will be affected by the planning proposal.

Under Section 3 of Zone W2 Recreational Waterways, a mooring is included in the list of land uses that can be undertaken with consent viz;

3 *Permitted with consent*

“Aquaculture; Boat building and repair facilities; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Charter and tourism boating facilities; Environmental facilities; Environmental protection works; Floor mitigation work; Heliports; Information and education facilities; Jetties; Kiosks; Marinas; Mooring pens; Moorings; Recreation areas; Recreation facilities (outdoor); Roads; Water recreation structures; Water supply systems; Wharf or boating facilities”

Land uses that are prohibited in the zone are listed in Section 4 as follows;

4 *Prohibited*

“Industries; Multi dwelling housing; Residential flat buildings; Seniors housing; Warehouse or distribution centres; Any other development not specified in item 2 or 3”

It is noted that as a “restaurant” is not listed in the either Section 2 or Section 3 of the zone, it must be treated as prohibited.

After meeting with Senior Council Managerial Staff and the Administrator it was agreed that this application would need to be submitted as a Planning Proposal that would allow the use of the mooring as a restaurant, at this site only, via inclusion in Schedule 1 of the Murray LEP.

This is to be achieved via clause 2.5 of the LEP and such use will require Development Consent.

- Assessment against Murray REP2 Riverine Land

(Whilst Council staff agrees that the subject development does not meet the description of a '*tourist related facility*' as outlined in clause 13, please provide assessment against all relevant clauses of this deemed SEPP.)

The Murray Regional Environmental Plan No. 2 – Riverine Land consists of 3 parts.

Part 1 Introduction

Part 2 Planning Principles, and

Part 3 Planning Requirements and Consultation

Part 1 includes clauses 1-7 as follows;

1. Name of plan.
2. Aims of the plan.
3. Objectives of the plan.
4. Where the plan applies.
5. How this plan affects other plans.
6. Definitions.
7. Notes.

These clauses are general in nature and other than clause 4 which states that the plan does apply to this site, do not require any further comment.

Part 2 includes clauses 8, 9 & 10 as follows;

8. When planning principles should be applied.
9. General principles.
10. Specific principles.

Comment on these clauses with respect to the Planning Proposal is relevant in the following instances;

8. When planning principles should be applied.

This part applies when:

- (a) N.A.
- (b) A consent Authority determines a development application, or
- (c) N.A.

9. General Principles.

When this part applies, the following must be taken into account;

- (a) the aims, objectives and planning principles of this plan.
- (b) any relevant River Management Plan.
- (c) any likely effect of the proposed plan or development on adjacent and downstream local government areas.
- (d) the cumulative impact of the proposed development on the River Murray.

Comment on these principles as relevant to the planning proposal submitted to the Council are as follows;

Aims:

- (a) *“To conserve and enhance the riverine Environment of the River Murray for the benefits of all users.”*

The proposal to expand an existing mooring and to use it for the additional purpose of a restaurant does not contravene the aims of Murray REP 2.

Objectives:

- (a) *“To ensure that appropriate consideration is given to development with the potential to adversely affect the Riverine Environment of the Murray River.”*

The planning proposal will be undertaken with due consideration of the environment. Suitable systems for the containment of any waste products are already in place. These will be expanded as deemed necessary so that no risk of damage to the environment will occur.

- (b) *“To establish a consistent and coordinated approach to environmental planning and assessment along the Murray River.”*

The Planning Proposal will be considered by the local Council under its LEP. The decision making process will be supported by comments sought from the NSW Office of Environment and Heritage, Department of Primary Industries, Roads and Maritime Services, Department of Lands and NSW Department of Planning.

- (c) *“To conserve and promote the better management of the natural and cultural heritage values of the riverine environment of the River Murray.”*

The planning proposal will not impact on either the natural or cultural heritage values of the Murray River.

10. Specific Principles.

Access

- *“The waterway and much of the foreshore of the River Murray is a public resource. Alienation or obstruction of this resource by or for private purposes should not be supported.”*

The existing mooring does not obstruct the waterway, nor will the expanded mooring.

Access to the existing mooring is via a walking track across Crown Land from the nearby car park at the Visitor Information Centre.

The walking track has been constructed by the Shire of Campaspe and is open to the public. There is no obstruction of the foreshore of the Murray.

- *“Development along the main channel of the River Murray should be for public purposes. Moorings in the main channel should be for the purposes of short stay occupation only.”*

The mooring has already been approved by RMS and the Shire of Campaspe as well as the NSW Department of Crown Lands. No additional mooring is proposed.

- *“Human and stock access to the River Murray should be managed to minimise the adverse impacts of uncontrolled access on the stability of the bank and vegetation growth.”*

There is no stock access available to the mooring nor is such access proposed. Human access is via walking tracks and vehicular tracks through Crown Land adjacent to the Echuca Aquatic Reserve. The Shire of Campaspe manages the area on behalf of the Department of Crown Lands.

Bank Disturbance

- *“Disturbance to the shape of the bank and riparian vegetation should be kept to a minimum in any development of riverfront land.”*

The planning proposal to use the existing mooring for the additional purpose of restaurant does not require any disturbance of the bank or riparian vegetation. The existing access to the mooring will be maintained without modification.

Flooding

- *“Where land is subject to inundation by floodwater:*
 - (a) the benefits to riverine ecosystems of periodic flooding,*
 - (b) the hazard risks involved in developing that land,*
 - (c) the redistributive effect of the proposed development on floodwater,*
 - (d) the availability of other suitable land in the locality not liable to flooding,*
 - (e) the availability of flood free access for essential facilities and services,*
 - (f) the pollution threat represented by any development in the event of a flood,*
 - (g) the cumulative effect of the proposed development on the behaviour of floodwater, and*
 - (h) the cost of providing emergency services and replacing infrastructure in the event of a flood.*

The proposed restaurant is to be located on an existing mooring. The mooring of course is designed to float on the water and will rise and fall accordingly with the water level in the river.

The restaurant will not be directly affected by flooding. Access to the mooring can be affected by flood water, if it is necessary patrons can be transported to the restaurant by the paddlesteamer Hero via the Echuca Wharf.

The mooring/restaurant will have no impact on the natural cycle of flooding within the river.

There is no risk of pollution in the time of a flood as all waste is stored in tanks underneath the mooring. The tanks are pumped out on as needs basis.

The level of floodwater is not affected by the mooring, it floats on the water.

Emergency services will not be required in times of a flood as the mooring is designed to float as the water level rises and falls.

Infrastructure such as water and electricity are already connected to the mooring via underground pipes and cables hence these services are not affected by floodwater.

- *“Flood mitigation works constructed to protect new urban development should be designed and maintained to meet the technical specifications of the Department of Water Resources.”*

Not applicable.

Land degradation

- *“Development should seek to avoid land degradation processes such as erosion, native vegetation decline, pollution of ground or surface water, groundwater accession, salination and soil acidity, and adverse effects on the quality of terrestrial and aquatic habitats.”*

Not applicable. The proposal is for an additional permitted use on an existing floating mooring. None of these issues are relevant.

Landscape

- *“Measures should be taken to protect and enhance the riverine landscape by maintaining native vegetation along the riverbank and adjacent land, rehabilitating degraded sites and stabilizing and revegetating riverbanks with appropriate species.”*

The proposal to permit an additional use on an existing mooring will not impact on the landscape. No vegetation will be removed. The status quo will remain.

River related uses

- *“Only development which has a demonstrated, essential relationship with the river Murray should be located in or on land adjacent to the River Murray. Other development should be set well back from the bank of the River Murray.”*

The mooring for the Paddlesteamer Hero has an essential relationship with the Murray River. The proposal to use the mooring for a secondary purpose has no impact on the Murray River and is in accordance with the aims and objectives of this plan.

- *“Development which would intensify the use of riverside land should provide public access to the foreshore.”*

The mooring and paddlesteamer are private property however access is available by the public.

Public access to riverside land adjacent to the mooring is available and unencumbered.

Settlement

- *“New or expanding settlements (including rural-residential subdivision, tourism and recreational development) should be located:*

(a) on flood free land,

(b) close to existing services and facilities, and

(c) on land that does not compromise the potential of prime crop and pasture land to produce food or fibre.

Not applicable.

Water quality

- *“All decisions affecting the use or management of riverine land should seek to reduce pollution caused by salts and nutrients entering the River Murray and otherwise improve the quality of water in the River Murray.*

All wastes from the Hero and its associated mooring are self contained and do not impact on the river. The same system of waste capture, storage and containment will be used for the restaurant. There will be no impact to water quality by the planning proposal.

Wetlands

- *“Wetlands are a natural resource which have ecological, recreational, economic, flood storage and nutrient and pollutant filtering values.*

Land use and management decisions affecting wetlands should:

- (a) provide for a hydrological regime appropriate for the maintenance or restoration of the productive capacity of the wetland,*
- (b) consider the potential impact of surrounding land uses and incorporate measures such as a vegetated buffer which mitigate against any adverse effects,*
- (c) control human and animal access, and*
- (d) conserve native plants and animals.*

Not applicable.

PART 3 includes clauses 11-14 as follows;

- 11. Consultation – who consults and procedure for consultation.
- 12. General provisions for consultation.
- 13. Planning Control and Consultation Table.
- 14. Building setbacks – special provisions.

Clauses 11 and 12 detail essentially administrative processes.

I have consulted with the following Departments and Authorities in formulating the Planning Proposal and only positive comments have been obtained.

Murray River Council	David Shaw (Administrator) Simon Arkinstall (Manager Environmental Services)
Shire of Campaspe	Keith Oberin (Economic & Community Development General Manager) Andrew Fletcher (Manager Planning & Building)
NSW DPI (Fisheries)	Peter Heath (District Fisheries Officer Riverina District)

NSW RMS	Deon Voyer (Manager Operations South, Boating Operations Branch)
NSW Department of Primary Industries (Lands)	Steve Pearson (Senior Natural Resource Management Officer)
NSW OEH	Tobi Edmonds (Conservation Planning Officer)

13. Planning Control and Consultation Table

1. ARTIFICIAL LAKE

Definition:

"A constructed water body such as an artificial wetland, but does not include dams of less than 1 hectare in surface area used for agricultural purposes or land flood irrigation for agriculture."

Not applicable.

2. AQUACULTURE

Definition:

"The farming of aquatic organisms including fish, molluscs, crustaceans and aquatic plants for commercial purposes and which requires intervention in the rearing process to enhance production, whether or not undertaken in a natural or an artificially created body of water."

Not applicable.

3. BANK AND/OR BED WORK

Definition:

"Works which relate to the excavation, dredging or alteration to the alignment or shape of the bank or bed of the River Murray (including construction of weirs and floodgates, boat ramps and bank stabilisation works)."

Not applicable.

4. BOAT INDUSTRY FACILITY

Definition:

“Buildings, structures or facilities used for the construction, maintenance, repair, temporary storage or sale of boats and other vessels, but does not include a large or small marina.”

Not applicable.

5. CANAL DEVELOPMENT

Definition:

“The construction of an artificial navigable waterway.”

Not applicable.

6. CARAVAN PARK/CAMPING GROUND

Definition:

“Use of land for caravans or other moveable dwellings requiring an approval under Part 1 of Chapter 7 of the Local Government Act 1993.”

Not applicable.

7. CHEMICAL, FUEL OR FERTILISER STORAGE ON FLOOD LIABLE LAND

Definition:

“Flood liable land used for chemical, fuel and fertiliser storage.”

Not applicable.

8. DESNAGGING OPERATIONS (INCLUDING SNAG MAINTENANCE)

Definition:

"Any work to move or remove either trees or woody debris from the water of the River Murray, other than work which is part of an MDBC approved program."

Not applicable.

9. DESTRUCTION OF NATIVE VEGETATION

Definition:

"The clearing, logging, removal or damaging of any species of trees and shrubs that are indigenous to the River Murray floodplain and that are on land shown on the map as native vegetation."

Not applicable.

10. FLOOD CONTROL WORKS

Definition:

"Works which change the natural or existing condition or topography of land (such as the construction or alteration of levees, channels and mounds) and which are likely to affect the hydrology of the River Murray system."

Not applicable.

11. HAZARDOUS OR OFFENSIVE, OR POTENTIALLY HAZARDOUS OR OFFENSIVE, INDUSTRIES

Definition:

"Use of land for a hazardous or offensive (or a potentially hazardous or offensive) industry."

Not applicable.

12. HAZARDOUS OR OFFENSIVE STORAGE ESTABLISHMENT

Definition:

"Use of land for a hazardous or offensive storage establishment."

Not applicable.

13. HOUSEBOAT OPERATIONS

Definition:

"Commercial operation of a vessel for use as a residence."

Not applicable.

14. INDUSTRY

Definition:

"The manufacturing, assembling, altering, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, processing or adapting of any goods or articles for commercial purposes (other than development referred to elsewhere in this Table)."

Not applicable.

15. INTENSIVE LIVESTOCK KEEPING

Definition:

"Use of land for holding cattle, sheep, goats, poultry or other livestock for the purpose of nurturing by a feeding method other than natural grazing, including;

- (a) feed lots,*
- (b) piggeries, and*
- (c) poultry farms,*

But not an animal boarding or training establishment or land used for the keeping of livestock or poultry intended solely for personal consumption or enjoyment by the owner or occupier of the land, and intensive hand feeding of livestock as a result of drought, flood, bushfire or other natural disaster."

Not applicable.

16. LANDFILL

Definition:

"Sites used for the collection and disposal of industrial, trade or human waste (other than development referred to elsewhere in this Table)."

Not applicable.

17. MAINTENACE DREDGING

Definition:

The winning or removal of extractive material from the bed of the River Murray by or for a public authority for the purpose of obtaining sufficient width and depth in the waterway to enable the waterway to continue to function:

- (a) as a channel for the escape or passage of water, or*
- (b) as a safe navigation route for travel or transport by water,*

but does not include bank or bed works.

Not applicable.

18. MANUFACTURED HOME ESTATES

Definition:

"Use of land for manufactured homes requiring an approval under Part 1 of Chapter 7 of the Local Government Act 1993."

Not applicable.

19. MARINA (LARGE)

Definition:

"A pontoon, jetty, pier or the like, capable of providing berths for 10 or more boats used for pleasure or recreation, and extends to any support facilities such as:

- (a) any associated slipways or facilities for the repair, maintenance and fueling of, or the provision of accessories and parts for, boats, and*
- (b) any associated facilities for the storage or provision of food."*

Not applicable.

20. MARINA (SMALL)

Definition:

"A pontoon, jetty, pier or other structure or apparatus used or intended to be used to provide berths for boats, and extends to any support facilities on the adjoining area of land, but not development defined as a marina (large)."

Not applicable.

21. PUBLIC UTILITY UNDERTAKING

Definition:

"Any of the following undertakings carried on by or for a public authority that is likely to significantly affect the environment:

rail, road or water transport,

wharfs,

telecommunications,

supply of water, electricity or gas or provision of sewerage or drainage services.

Not applicable. Water supply and electricity are already connected to the existing mooring. These services have been provided to the mooring by the Shire of Campaspe.

22. RECREATION FACILITY ADJOINING RIVER MURRAY OR ON FLOOD LIABLE LAND

Definition:

"A building, work or place, adjoining the River Murray or on flood liable land, used for sporting activities, recreation or leisure activities, whether or not operated for the purpose of gain, but not a building, work or place referred to elsewhere in this Table."

Not applicable. The use of an existing mooring as a restaurant does not fall within this definition.

23. RURAL INDUSTRY

Definition:

"A business development involving:

- a) the handling, treating, processing or packing of primary products, or*
- b) the regular servicing or repairing of plant or equipment used for the purpose of agriculture or aquaculture or for the purpose referred to in paragraph (a)."*

Not applicable.

24. SEWAGE TREATMENT WORKS

Definition:

"Works or land used for the collection, treatment and disposal of sewage by or for a public authority."

Not applicable.

25. SINGLE MOORING

Definition:

"A berth or apparatus located on or in the River Murray (but not in a grouped mooring area identified in a River Management Plan) which may be used for the purpose of storing one vessel."

The existing mooring used to berth the Paddlesteamer Hero falls under this classification. It is an existing use and is not the subject of this application. The mooring has been licenced by the NSW RMS as CL6224.

26. STORMWATER DRAINAGE SCHEME

Definition:

"Works designed to collect, channel, store, treat or disperse stormwater runoff from areas of urban development or from development adjacent to the River Murray. Untreated stormwater is water which has not been subjected to measures designed to reduce litter, suspended solids, nutrients or other substances which contribute to a decline in the quality of water in the River Murray system."

Not applicable.

27. TOURIST RELATED FACILITY

Definition:

"An establishment, place or vessel which provides for either accommodation or entertainment or food or beverage and which is permanently fixed in or on the River Murray or is on land adjacent to the River Murray."

The proposal to use the existing mooring for the secondary purpose of a restaurant does not fall under this classification. The reason being is that the mooring is not permanently fixed in or on the Murray River. The mooring is tethered to the bank and can be relocated at any time. This categorisation of the proposed secondary use has been confirmed by the NSW Office of Environment and Heritage, Murray River Council Planning Department and Planning Lawyers Bazzani Scully & Priddle.

As a result this classification is not applicable to the Planning Proposal.

28. WASTE DISPOSAL FACILITY

Definition:

"Any plant, equipment, apparatus, device, machine, mechanism or land used for the collection and disposal of industrial, trade or human waste, including a pump ashore facility, package sewage treatment works, waste transfer depot or junk yard. A dry toilet, septic tank, sewerage treatment works or development referred to elsewhere in this Table is excluded."

The existing mooring has toilet facilities on board. Waste is stored in stainless steel tanks below deck and is pumped out by a contractor on a regular basis.

The same toilets and system of waste collection and disposal will be utilised when the mooring is also used as a restaurant. No alteration to the already approved and operational waste disposal system is required.

This category is not applicable to the Planning Proposal.

29. WATER RECREATION FACILITY

Definition:

"Piers, wharves, boat sheds or other structures which have a direct structural connection between the bank or the bed of the River Murray and which are used primarily for public recreational purposes."

Not applicable.

30. WETLAND FILLING, DREDGING, DRAINING OR CLEARING

Definition:

"Filling, dredging, draining or destruction of native vegetation on land shown on the map as "wetlands".

Not applicable.

31. WETLAND SUBDIVISION

Definition:

"Subdivision of land shown on the map as "wetlands"."

Not applicable.

14. Building Setbacks – Special Provisions

This clause states that buildings should be set well back from the River unless the building is dependent on a location adjacent to the Murray River.

The mooring is of course a building that is dependent on being located in the river. The additional use of the mooring for the purpose of a restaurant will not conflict with the objectives of this clause which are to:

- *"Maintain and improve water quality."*

All waste from the mooring is already captured and contained in stainless steel tanks that are pumped out regularly.

This same management regime will continue when the restaurant use is established hence the river water quality will be maintained.

- *"Minimise hazard risk and the redistributive effect on floodwater associated with the erection of buildings on the floodplain."*

Not applicable. The mooring is a platform that floats on the river. It does not impact on the water levels as it is designed to rise and fall with the water level in the river.

- *"Protect the scenic landscape of the riverine corridor."*

The mooring includes a timber building that is built out of materials that compliment the riverine corridor and the nearby historic Echuca Wharf and Port precinct. The restaurant building has been architecturally designed to continue this same style and will thus not impact on the scenery.

- *“Improve bank stability.”*

Access to the mooring is already in place, and consists of both bitumen and unsealed walking tracks that lead to a metal gangplank that bridges the gap between the top of the bank and the mooring.

No change to the existing access is required hence there will be no impact on bank stability.

- *“Conserve wildlife habitat.”*

The mooring floats on the river, it has no impact on either aquatic or terrestrial wildlife. The proposed extension of the mooring and its use as a restaurant will also have no impact on habitat.

This clause also deals with the disposal of effluent in the riverine environment, specifically as related to the use of septic tanks.

The mooring and restaurant do not use septic tanks, rather all waste is collected and stored in stainless steel tanks below deck. The waste is then pumped out by a contractor on a regular basis. No effluent impacts on the river water.

This clause also recommends that buildings should be screened from the river by landscape plantings.

This clause is relevant to buildings that are located on the river bank but is not applicable to structures such as moorings that are in the river itself.

SUMMARY

In summary it can be seen that the proposed secondary use of the mooring for the purposes of a restaurant does not conflict with the contents aims and objectives of the Murray REP2 Riverine Land.

STATE ENVIRONMENTAL PLANNING POLICY No 64 – Advertising and signage

Signage associated with the proposed restaurant has not been finalised at this time, however it will consist of a business identification sign consisting of the words “Oscar W’s”.

It is recognised that development consent for signage will be required from both the Murray River Council and Roads and Maritime Services (RMS) NSW.

Although advertising signs are prohibited within a waterway under clause 10 of this SEPP, this prohibition does not apply to Business Identification Signs (Clause 9).

This application is for a Planning Proposal and it is likely that a subsequent Development Consent will be required should the proposal be approved. Details of the Business Identification Sign and consent for same will be sought at that time.

SECTION 117 DIRECTION 4.4 – Planning for Bushfire Protection (see subsection 3)

“When this direction applies

(3) This direction applies when a relevant planning authority prepares a Planning proposal that will affect, or is in proximity to land mapped as bushfire prone land.”

The bushfire prone land mapping prepared by Murray River Council indicates that the site of the mooring, being within the river, is not bushfire prone land.

However the mapping indicates that land on the NSW side of the river opposite the mooring, is bushfire prone. The river at this point is approximately 75 metres wide, hence it can be deemed that the site of the development is in proximity to Bush Fire Prone land and as a result the requirements of Planning for Bushfire Protection do apply.

Land immediately abutting the site of the mooring on the Victorian side of the river is not classified as being Bushfire Prone Land. In Victoria the planning terminology for Bushfire Prone Land is land that is affected by the Wildfire Management Overlay or WMO.

An extract of the Campaspe Shire (Vic) WMO mapping is attached. This mapping shows that the foreshore of the Murray River is not affected by the WMO. However just back from the foreshore is a public park known as the Echuca Aquatic Reserve. This land is shown as affected by the WMO. This classification is incorrect. Under the NSW RFS classification system, the park is treated as “managed land”. Photos are provided with this report to verify this assessment.

Under the Building Code of Australia (BCA), the proposed restaurant on the mooring is a class 6 building.

A class 6 building does not require assessment under the Sections of PBP that apply to residential developments, isolated rural developments and Special Fire Protections Purposes.

Clause 4.3.6 (f) details the PBP requirements for class 6 buildings as follows;

“the general fire safety construction provisions are taken as acceptable solutions, but the aim and objectives of PBP apply in relation to other matters such as access, water and services, emergency planning and landscaping/vegetation management.”

In circumstances where the aims and objectives of PBP (section 1.1) are not met, then the construction requirements for bush fire protection will need to be “considered on a case by case basis.”

Clause 1.3 (b) of PBP relates to “other classes of building” i.e.: class 6 buildings as follows;

“For other classes of buildings (such as factories, shops and warehouses) BPMs will only apply at the development assessment stage. Consent will be determined on a case by case basis without the need to refer the development application to the RFS. However, if the Council is concerned that the development does not meet the aim and objectives of PBP, then the matter may be referred to the RFS for its advice. The provisions under the BCA for fire safety will be accepted for bush fire purposes where the aim and objectives of PBP can be met (see objection 1.1).”

The aim and objectives of PBP as prescribed in chapter 1.2 are detailed below. Relevant measures taken to satisfy each objective with respect to this planning proposal are also provided.

Aim and Objectives of PBP

“All development on Bush Fire Prone Land must satisfy the aim and objectives of PBP.

The aim of PBP is to use the NSW development assessment system to provide for the protection of human life (including firefighter) and to minimise impacts on property from the threat of bush fire, while having due regard to development potential, on-site amenity and protection of the environment.”

More specifically, the objectives are to:

“(1) afford occupants of any building adequate protection from exposure to a bush fire.”

The proposed restaurant will be on a floating pontoon in the Murray River.

The abutting land south of the site on the Victorian side of the river is known as the "Onion Patch" and adjoining that is the Echuca Aquatic Reserve. These areas are used for Public recreation and are managed by the Shire of Campaspe. Both areas are kept in a reduced fuel state and under the RFS vegetation classification system are identified as being Managed Land.

Similarly to the east and west of the site is the Murray River itself. Again under RFS classification a waterway falls under the Managed Land category.

Managed Land is deemed to be incapable of supporting a bush fire hence there is no threat of bush fire to the restaurant and pontoon from either the east, south or west.

North of the site the Murray River is approximately 70 metres wide. Vegetation on the north bank of the Murray River is classified as being Bush Fire prone and is categorized as "*Forest*".

By reference to Table 2.5 of PBP it can be seen that the required Asset Protection Zone for a class 1 or class 2 building in this situation is 20m. The available asset protection zone provided by the Murray River is 70m, which is more than 3 times the requirement.

"The purpose of an Asset Protection Zone is to provide for:

- *Minimal separation for safe firefighting (access to fire front);*
- *Reduced radiant heat;*
- *Reduced influence of convection driven winds;*
- *Reduced ember viability thereby limiting the impact of ember attack; and*
- *Dispersal of smoke which would otherwise severely impact on residents affected by reduced mobility or health issues."*

By having an APZ available that is more than 3 times the recommended size it is obvious that the threat of Bush Fire Attack to the site is minimal and this aim of PBP is satisfied.

"(2) provide for a defensible space to be located around buildings."

A defensible space is defined in PBP as "*an area within the Asset Protection Zone that provides an environment in which a person can undertake property protection after the passage of a bush fire with some level of safety.*"

The restaurant/pontoon is surrounded on three sides by the Murray River which provides a suitable defensible space.

On the Victorian (south) side of the pontoon the managed land including the vehicular access track provides a suitable defensible space.

It should be emphasized that managed land does not present a bush fire hazard so the requirement to provide a defensible space is somewhat unnecessary.

This aim of PBP is satisfied.

- “(3) provide appropriate separation between a hazard and buildings which, in combination with other measure, prevent direct flame contact and material ignition.”*

Page 5 of Appendix 3 of PBP states that *“In general, a deemed to satisfy outcome can be achieved where the building is exposed to a radiant heat flux of less than or equal to 40KW/m² (BAL 40).”*

The site of the planning proposal is surrounded on three sides by Managed Land. As managed land cannot sustain a bushfire, there is no threat to the building from these directions.

A Bushfire Assessment Report has been undertaken for the site, see attachment. The report indicates that the bushfire attack level on the north side of the building is BAL 12.5.

As this is less than deemed to satisfy the outcome mentioned above (BAL 40), this aim of the PBP is also satisfied.

- “(4) ensure that safe operational access and egress for emergency service personnel and residents is available.”*

Vehicular access to and from the site is provided from Heygarth Street (bitumen) via the road and carpark (bitumen) past the visitor information centre and then by a formed track (unsealed) along the bank of the Murray River.

The access route is suitable for cars and trucks (i.e. fire fighting vehicles).

The entire access route is located within managed land, hence it is not subject to bush fire attack and is safe.

This aim of PBP is satisfied.

- “(5) provide for ongoing management and maintenance of bush fire protection measures, including fuel loads in the asset protection zone (APZ).”*

The Asset Protection Zone located to the north, east and west of the site is within the water of the Murray River. This is naturally free of fuel.

On the south side of the site is land managed by the Shire of Campaspe for public recreation purposes. This area is kept in a reduced fuel state by the Responsible Authority.

This aim of PBP is satisfied.

“(6) ensure that utility services are adequate to meet the needs of firefighter (and others assisting in bush firefighting).”

The utility service required for bush firefighting is water.

Reticulated water is connected to the site via underground pipes. This supply is suitable for drinking water rather than firefighting.

An unlimited supply of water is available for firefighting purposes from the Murray River which surrounds the pontoon.

This aim is satisfied.

SUMMARY

From this analysis it can be seen that the aims and objectives of PBP are satisfied.

Further proof that the proposal satisfied the requirements of PBP can be shown in another way as follows;

Appendix A1.8 of PBP states that other classes of buildings (i.e. class 6) can be assessed under the provisions of Section 79BA of the Environmental Planning and Assessment Act 1979.

A duly completed Section 79BA form is included with this information.

A plan showing vegetation types within 140m of the site together with a plan showing details of access are also included.

This assessment proves that the proposal meets the requirements of Planning for Bushfire Protection even though the site is not classified as being bushfire prone.

SECTION 117 DIRECTION 6.1 – Approval and Referral Requirements

What a relevant planning authority must do if this direction applies

“(4) A planning proposal must:

- a) Minimise the inclusion of provisions that require the concurrence, consultation or referral of a development application to a Minister or public authority, and*
- b) Not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:*
 - i. The appropriate Minister or public authority; and*
 - ii. The Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of section 57 of the Act.”*

I have attempted to contact all relevant public authorities to obtain their consent so that such consents would not be required again at the Development Application stage. Most authorities have complied with this request however one Authority commented that it would not respond until a Development Application referral was received.

“(c) Not identify development as designated development unless the relevant planning authority:

- i. Can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and*
- ii. Has obtained the approval of the Director General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act.”*

The impact this planning proposal will have on the environment is negligible. As a result it cannot be identified as designated development.

PART 5 – GUIDE TO PREPARING PLANNING PROPOSALS

COMMUNITY CONSULTATION

The planning proposal to use an existing mooring for the secondary purpose as a restaurant is considered to be a low impact proposal.

- *“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.”*

The land use zone of the site of the planning proposal will remain as current, i.e. W2. This is consistent with the surrounding land use zone.

The planning proposal will authorise an additional permitted use on a particular site within the zone.

The additional permitted use is for a “restaurant”. The restaurant will be established on an existing pontoon.

It is noted that a “kiosk” is already a permitted use in the W2 zone.

The definition of a kiosk in the standard LEP is *“premises that are used for the purposes of selling food, light refreshments and other small convenience items such as newspapers films and the like.”*

The definition of a restaurant or café in the Standard LEP is *“a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, takeaway meals and drinks or entertainment are also provided.”*

Effectively there is not that much difference between the two land uses. It is thought that to allow the additional permitted use “restaurant”, particularly in this one specific location only, is not a significant change to the LEP.

Furthermore the mooring on which the planning proposal is to occur is associated with the Paddlesteamer Hero. The Hero is already licenced to carry 80 persons and has the facilities to prepare food on board and to serve this as well as drinks to the patrons. The planning proposal is a logical extension to the existing use of the Paddlesteamer.

- *“Consistent with the strategic planning framework.”*

The planning proposal will maintain the existing zoning of the land, hence the strategic framework will be unaffected by the proposal.

The proposal conforms to the Regional Strategic Planning Framework being Murray REP2 – Riverine Lands and the draft Riverina – Murray Regional Plan.

- *“Presents no issues with regard to infrastructure servicing.”*

The infrastructure that is required to service the planning proposal is already in place as the same services are required for the pontoon/mooring and the Paddlesteamer Hero.

The relevant infrastructure that is in place includes reticulated treated water, electricity and vehicular and pedestrian access.

Toilets are also in place on both the boat and the pontoon. Waste is collected in stainless steel tanks that are located below deck. These are pumped out by a contractor on a regular basis. The effluent is then treated in the town sewerage system.

- *“Not a principal LEP.”*

The principal LEP is the Murray (River) LEP 2011. The planning proposal is to authorise an additional permitted use in schedule 1 of the LEP.

The principal LEP remains.

- *“Does not reclassify public land.”*

Public Land is not re-classified by the Planning Proposal.

The Planning Proposal satisfies the criteria considered to be *“Low Impact”*. As a result the exhibition period for the proposal is fourteen days.

Public exhibition of the planning proposal is expected to be 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.

It is not expected that Public Hearing will be required for this proposal.

PART 6 – GUIDE TO PREPARING PLANNING PROPOSALS

PROJECT TIMELINE

The suggested project timeline is as follows;

TASK	TIMING
Anticipated commencement date (date of Gateway determination)	May 2017
Anticipated timeframe for completion of required technical information	June 2017
Timeframe for Government agency consultation (pre and post exhibition as required by Gateway determination)	July 2017
Commencement and completion dates for public exhibition	August 2017
Dates for public hearing (if required)	N.A.
Timeframe for consideration of submissions	September 2017
Timeframe for the consideration of the planning proposal following exhibition	October 2017
Date of submission to the Department to finalise LEP	November 2017
Anticipated date LEP will be made	November 2017

Yours faithfully

Mark F Langenbacher
Licensed Surveyor