

Murray LEP 2011 – Rezone land from zone RU1 Primary Production to zone R1 General Residential and reduce Minimum Lot Size from 120ha to 750m2 at Lot 11 DP 285511, 312 Perricoota Road, Moama

Proposal Title :	Murray LEP 2011 – Rezone land from zone RU1 Primary Production to zone R1 General Residential and reduce Minimum Lot Size from 120ha to 750m2 at Lot 11 DP 285511, 312 Perricoota Road, Moama		
Proposal Summary :	Murray LEP 2011 – Rezone land from zone RU1 Primary Production to zone R1 General Residential and reduce Minimum Lot Size from 120ha to 750m2 at Lot 11 DP 285511, 312 Perricoota Road, Moama		
PP Number :	PP_2016_MRIVE_002_00	Dop File No :	16/09469-1

Proposal Details

Date Planning Proposal Received :	18-Jul-2016	LGA covered :	Murray River
Region :	Western	RPA :	Murray River Council
State Electorate :	MURRAY DARLING	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	312 Perricoota Road		
Suburb :		City :	Moama
		Postcode :	2731
Land Parcel :	Lot 11, DP 285511		

DoP Planning Officer Contact Details

Contact Name :	Ella Wilkinson
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RPA Contact Details

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DoP Project Manager Contact Details

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Land Release Data

Growth Centre :		Release Area Name :	
Regional / Sub Regional Strategy :		Consistent with Strategy :	

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MDP Number :		Date of Release :	
Area of Release (Ha) :	7.50	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	60
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment :

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment : **There have been no known meetings or communications with registered lobbyists**

Supporting notes

Internal Supporting Notes : **The subject planning proposal seeks to provide 7.5 hectares of new zone R1 General Residential land with a minimum lot size of 750m2 in the locality of Moama.**

There is no adopted regional strategy applicable to the planning proposal, however the draft Murray Regional Strategy (draft MRS) was prepared by the former Department of Planning in October 2009 and while it has not been finalised, the proposal is not inconsistent with this draft Plan.

The draft Riverina- Murray Regional Plan has been on exhibition. The proposal is not inconsistent with this draft Plan.

A public meeting was held on the 20th of May, 2014 at the Moama Bowling Club, calling for public submissions regarding suggested areas for review via a future amendment of the Murray LEP 2011. The submissions were summarised in a report prepared by Councils Planning Staff and presented to Council on the 9th of December, 2014.

On the 3rd of March, 2015, a report setting out areas to be reviewed for rezoning, recommended by the public submissions was compiled. Lot 11, DP 285511, 312 Perricoota Road, Moama, formed part of these recommendations. The report outlined the proponent wished to rezone Lot 11 DP 285511 to share the same zoning as the adjoining lot to the east, seeking to rezone from RU1 Primary Production.

In the absence of an endorsed strategy, the rezoning is supported in a number of plans adopted and used by Council, including the Murray Shire Strategic Land Use Plan (MSLUP) and the Moama North West Master Plan 2008 (MNWMP). While these plans have not been endorsed by the Department they have been used to up zone land in Murray LEP 2013.

The proposal will provide Council with flexibility for housing provision in Moama and ensure a consistent supply is maintained in the town. Noting this land is identified for long term release. Council have advised existing zoned land is not being developed and there is supply available for about 13 years.

Currently, lot yield averages 8 x lots/ha, so the proposal has the potential to yield approximately 60 lots.

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The Director Regions, Western is able to determine the planning proposal although it is not supported by an endorsed strategy.

On 12 May 2016, Murray Shire and Wakool Shire amalgamated. The proposal is consistent with the strategic direction of the former Murray Shire Council.

Council has requested to be authorised to exercise delegation to complete the planning proposal and this is considered inappropriate as its land use strategies are not endorsed by the Department and this is a recently amalgamated Council.

External Supporting
Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The planning proposal seeks to provide 7.5 hectares of new zone R1 General Residential land with a minimum lot size of 750m2 in the locality of Moama.**

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The planning proposal seeks to amend the relevant Lot Size and Land Zone maps, which is consistent with the objective of the planning proposal.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

1.2 Rural Zones

* May need the Director General's agreement

1.5 Rural Lands

3.1 Residential Zones

4.4 Planning for Bushfire Protection

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

SEPP (Rural Lands) 2008

Murray REP No. 2 - Riverine Land

e) List any other matters that need to be considered :

Section 117 Directions:

Council has identified that the planning proposal is considered consistent with all section 117 Directions and State Environmental Planning Policies (SEPP) with the following comments except for 1.2 Rural Zones and 1.5 Rural Lands:

1.2 - Rural Zones

This direction is applicable to the proposed LEP amendment as it affects land within an existing rural zone and it is intended to rezone the site from zone RU1 Primary Production to zone R1 General Residential and reduce the minimum lot size from 120ha to 750m2.

The proposal is inconsistent with this this direction because it seeks to rezone land from a rural zone to a residential zone.

The inconsistency with this direction is not considered to be minor and further work is required before finalisation.

1.5 Rural Lands

This direction is applicable to the proposed LEP amendment as it affects land within an existing rural zone and it is intended to rezone the subject land from zone RU1 Primary Production to zone R1 General Residential and reduce the minimum lot size from 120ha to 750m2.

The proposal has identified that the planning proposal affects land within a rural zone and advocates a minimum lot size for subdivision less than that permitted in the RU1 zone.

The Director Regions, Western can be satisfied in this case that the proposal is considered consistent with the Rural Lands Planning Principles expressed in the SEPP (Rural Lands) as the land, and surrounding lands, have been designated for future residential development in the MSLUP (albeit not endorsed by the Department).

The adjoining land to the south-east of the lot has already been approved for residential purposes, and is currently in the process of being developed.

Whilst the proposal reduces the agricultural viability of the land, the proximity of the land to the township of Moama means the fragmentation of the rural land is considered to be minor.

There is potential for conflict between the proposed residential use and the use of adjoining land for viticulture. As this land is also designated for future residential development, a buffer between the conflicting uses is seen as appropriate until this transition occurs.

Therefore the inconsistency with this direction is not considered to be minor and further work is required before finalisation. Consultation with DPI - Agriculture is recommended to help satisfy this direction.

3.1 Residential Zones

This direction is applicable to the proposed LEP amendment as it affects land within an existing or proposed residential zone (including the alteration of any existing residential boundary).

The proposal can be deemed consistent with this direction as it will provide for a greater supply of housing within Moama, broadening the choice of building types and locations available in the housing market, through the development of approximately 60 residential lots, and does not reduce the density of residential development.

The proposal will make more efficient use of existing infrastructure by utilising infrastructure currently established in Perricoota Road and the adjoining approved residential subdivision.

Finally the proposal fulfils the requirement that land must be adequately serviced prior to residential development with the MLEP containing a provision (clause 7.1) requiring development to be adequately serviced.

4.4 Planning for Bushfire Protection

This direction is applicable to the proposed LEP amendment as it affects, or is in proximity to land mapped as bushfire prone land.

A small section of Lot 11 DP 285511 is identified as being bush fire prone.

At this time the proposal is inconsistent with this Direction and consultation is required

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and needs to be settled with the NSW Rural Fire Service prior to community consultation.

5.10 Implementation of Regional Plans

This Direction applies as the draft Riverina- Murray Regional Plan has been on community consultation. The proposal is not inconsistent with this draft Plan as the land is identified for future urban use.

SEPPs:

SEPP No 55 - Remediation of Land:

The land is being used for intensive plant agriculture (viticulture) and as such potential land contamination needs to be investigated under SEPP 55 Remediation of Land. A preliminary review of the site and initial site contamination report are to be prepared and placed on public exhibition to and Council is to satisfy the requirements of SEPP 55.

State Environmental Planning Policy (Rural Lands) 2008

The planning proposal is generally consistent because rezoning the land to zone R1 General Residential is outlined as the preferred future land use of the land, and is generally compatible with the current surroundings.

The proponent has outlined that there is potential for conflict between the proposed residential use and the use of adjoining land for viticulture. As this land is also designated for future residential development, a buffer between the conflicting uses is seen as appropriate until this transition occurs.

The proposal is to be referred to DPI-Agriculture during public exhibition to help resolve the requirements of the Rural Lands SEPP.

SEPP No 44 – Koala Habitat Protection

Council have identified that the subject land does not contain any vegetation that is a koala feed tree species and therefore consider that the site does not have potential to be a koala habitat. The planning proposal is consistent with this SEPP. This matter will be considered as part of Council's merit assessment for a development application.

Murray Regional Environmental Plan No 2 – Riverine Land (MREP 2)

The proposal is generally consistent with the MREP 2 and specific development will be assessed, and applicable agencies will be consulted at development application stage.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : **Indicative mapping provided. Mapping prepared in accordance with DPE technical guidelines will be required for submission at section 59 stage.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The applicant has noted that at a minimum, they expect the planning proposal will be exhibited for a period of 28 days in accordance with the requirements of section 57 of the EP&A Act 1979 and that this will include various forms of consultation. This is**

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considered appropriate.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : **December 2011**

Comments in relation to Principal LEP : **Murray LEP 2011 notified on 16 December, 2011**

Assessment Criteria

Need for planning proposal :

The planning proposal is a result of public submissions provided to Council in regards to a review via a future amendment of the Murray LEP 2011. The submissions were compiled into a report, which outlined the proponent wished to rezone Lot 11 DP 285511 to share the same zoning as the adjoining lot to the east, seeking to rezone from RU1 Primary Production. A planning proposal is the only way to achieve this outcome.

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Consistency with strategic planning framework :

The land is identified in both the MSLUP and MNWMP as being appropriate for residential development. The MSLUP recommends Lot 11 DP 285511 be made available for residential land as part of Stage 2 release, which is currently still in Stage 1. The proposal will provide for potential 60 new R1 lots in Moama out of sequence.

The MNWMP recommends release of the land during the latter stages of land release in Moama.

The release of the land at Lot 11 DP 285511 is justified by the MSLUP which outlines land to the north and either side of Martin Road should be made available when supply drops below 15 years, with current supply at approximately 13.8 years.

Council provided information on 18 July 2016 to justify supply and demand.

Further, the site adjoins an existing approved residential subdivision and is considered to have strategic merit as the site can be connected to existing services and incorporated to the road and infrastructure corridors outlined in the MNWMP.

The proposal is consistent with the draft Murray Regional Strategy and draft Riverina Murray Regional Plan in that, while it outlines the intent to rezone RU1 Primary Production land, the proposal does not fragment agricultural land and is not considered to pose a significant impact to resource availability or agricultural efficiency. The proposal has outlined a buffer will be implemented between residential uses and viticulture adjoining the site, until such time as the vines are removed on the adjoining site for future residential purposes.

The planning proposal can be supported, as the proposal has strategic merit. The release of the land for urban uses, while not technically occurring in the earmarked Stage 2 release, is appropriate given Council's need to maintain 15 years of urban release for Moama as outlined in the MNWMP. While there is no endorsed strategy for this area of the Murray River Council, the land has been identified in two strategic documents used by the Murray River Council. Finally the proposal will not result any adverse effects on resource availability or agricultural efficiency and is consistent with the draft Riverina Murray Regional Plan.

In addition the land is located between land currently being developed for urban purposes.

Environmental social economic impacts :

The rezoning of land from zone RU1 Primary Production to zone R1 General Residential and reduce Minimum Lot Size from 120ha to 750m2 at Lot 11 DP 285511, 312 Perricoota Road, Moama does not pose any immediate environmental impacts.

The land is not covered by Councils biodiversity mapping in the MLEP, and falls outside the 1 in 100 year flood zone.

A section of the site is mapped as bush fire prone and as a result, the Department has conditioned that the NSW Rural Fire Service is consulted under section 59(2) of the Environmental Planning and Assessment Act 1979, prior to community consultation to satisfy section 117 Direction 4.4 Planning for Bushfire Protection.

Positive social and economic impacts are expected, providing for a greater supply of housing within Moama, broadening the choice of building types and locations available in the housing market.

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Assessment Process

Proposal type : **Consistent** Community Consultation Period : **28 Days**

Timeframe to make LEP : **12 months** Delegation : **RPA**

Public Authority Consultation - 56(2)(d) : **Office of Environment and Heritage
NSW Department of Primary Industries - Agriculture
NSW Rural Fire Service**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
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Planning Team Recommendation

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

S.117 directions: **1.2 Rural Zones
1.5 Rural Lands
3.1 Residential Zones
4.4 Planning for Bushfire Protection**

Additional Information : **1. 1. Prior to community consultation being undertaken consultation is required with the NSW Rural Fire Service under section 56(2) of the Environmental Planning and Assessment Act 1979 to comply with the requirement of section 117 direction 4.4 Planning for Bushfire Protection. Council is to forward the NSW Rural Fire Service response to the Department and seek approval to proceed to community consultation.**

2. Prior to community consultation Council is to ensure that the planning proposal satisfies the requirements of State Environmental Planning Policy (SEPP) 55 –

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Remediation of Land. An initial site contamination investigation report is to be prepared to demonstrate that the land is suitable for rezoning to the proposed R5 zone. The preliminary review of the subject land by Council and initial site contamination investigation report are to be forwarded to the Department seeking approval so that such reports can be placed on public exhibition with the planning proposal.

3. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act, 1979 as follows:

(a) The planning proposal is required to be made publicly available on exhibition for 28 days as described in A Guide to Preparing LEPs (Department of Planning and Infrastructure 2013).

(b) The relevant planning authority must comply with the notice requirements for public exhibition of planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs.

4. Consultation is required with the following public authorities under section 56(2)(d) of the Environmental Planning and Assessment Act, 1979 and/or to comply with the requirements of relevant section 117 Directions:

- Office of Environment and Heritage
- Department of Primary Industries - Agriculture

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Environmental Planning and Assessment Act, 1979. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

6. The LEP maps shall be prepared in accordance with the requirements of the Department's "Standard Technical Requirements for Spatial Datasets and Maps" (2015).

7. The timeframe for completing the LEP is to be 12 months from the week following the date of Gateway determination.

8. Murray River Council not be authorised to exercise delegation.

Supporting Reasons :

The amendment to the Land Zoning Map and Minimum Lot Size map in the Murray LEP 2011 to allow the subject land to be developed for general residential is considered appropriate and the Director Regions, Western can use delegation as the proposal is consistent with local strategic planning (albeit not endorsed by the Department) and broader Government Policy.

Signature:



Printed Name:

Ella Wilkinson

Date:

2/8/2016

Endorsed
WJanssen 2/8/16
TWWR

