

MURRAY RIVER COUNCIL

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Notice is hereby given that the **Ordinary Meeting** of Murray River Council will be held on **Tuesday 15th November 2016**, commencing at **1.00pm** in the **Moama Seniors Community Centre**, Martin Street, Moama.



Margot Stork

Interim General Manager**AGENDA**

1. Acknowledgement of Country
2. Opening Prayer
3. Leave of Absence/Apologies
4. Conflict of Interest Declarations
5. Confirmation of Minutes:
 - *Ordinary Meeting on 18th October 2016*
6. Deputations
7. Mayor's Minute
8. Standing Committee Reports
9. Notices of Motion/Notices of Rescission
10. General Manager's Report & Supplementary Matters
11. Officer's Reports & Supplementary Matters
12. Questions on Notice
13. Correspondence Report
14. Sundry Delegates Reports
15. Births and Condolences
16. Confidential Reports
 - *Please refer over the page for a detailed listing*
17. Notice of Urgent Business
18. Close of Meeting

DEPUTATIONS

- 1.00pm Ms Judith O'Farrell
*Planning Proposal to Amend Murray Local
Environmental Plan 2011 – "Kooyong Park"*

INSPECTIONS

NIL

**2. PLANNING PROPOSAL TO AMEND
MURRAY LOCAL ENVIRONMENTAL PLAN 2011 –
“KOORYONG PARK”**

AUTHOR: Margot Stork – Interim General Manager
VENUE: Moama Seniors Community Centre
TRIM Reference: N/A

Issues Considered in writing report: Murray Strategic Land Use Plan; State, Regional and Local planning directions' Council Policy; Legislation; Natural Environment; Built Environment; Social Environment; Economic Environment – issues applicable have been reported on.

RECOMMENDATION

- i. That the report be received and noted.
- ii. That Council instruct the EDM Group to continue with the preparation of the required Planning Proposal in respect of “Kooyong Park”.
- iii. That a Planning Proposal be submitted back to Council for consideration prior to lodging with the Department of Planning and Environment for a Gateway Determination.

BACKGROUND INFORMATION

Murray River Council has engaged EDM Group as an independent planning consultant to facilitate and prepare a Planning Proposal for the possible rezoning of a property located to the east of the Moama township known as “Kooyong Park”. The purpose of the project is to provide Council with sufficient information to make an informed decision in respect of the proposal to develop the land for a range of residential and commercial landuses as part of an overall development to be known as “Kooyong Park Sustainable Development”.

Council, at its meeting of 20 October 2015, considered a progress report on the planning proposal which included a separate site specific review report. Following is an extract from the Council Report:

“... the site specific review in respect of the Kooyong Park planning proposal considered in detail the following review documents:

- Coomes Local Environmental Study (LES) February 2008; and*
- NSW Department of Planning letter dated 14th May 2009.*

The Coomes LES was commissioned by Council for the purpose of assessing the appropriateness of the subject land for rezoning to facilitate the Kooyong Park Sustainable Development. It was noted within the LES

that the initial request by the landowner for inclusion of the land within the new Shire wide LEP was lodged in May 2005.

The letter of the former NSW Department of Planning dated 14 May 2009 was subsequently received by Council in direct response to the referral of the Coomes LES for Kooyong Park. This letter was largely framed in the context of the overall strategic work that was being undertaken in support of the comprehensive LEP at that time.

The Department's letter also outlined additional information that should be provided to facilitate the completion of an appropriately documented LES for the proposed new release areas of Kooyong Park. In this case it is apparent that the Department's position was largely a reflection of the recommendations outlined within the Coomes LES.

In response to the Coomes LES the consultant states:

"It is difficult, even with the benefit of hindsight, to understand why the Coomes LES was not relied upon to support the retention of Kooyong Park within the SLUP. It is clear from an analysis of the various recommendations that the only critical outstanding matter was in respect of the lack of a detailed flood study. Either such a study should have been commissioned at the same time as the LES or alternatively such work should have been required as a matter of priority so as to be included as an addendum to the LES prior to the Council Meeting of 21 July 2009.

Be that as it may, such work still remains outstanding and in terms of any additional detailed site analysis, it clearly remains the responsibility of the proponent to undertake such work."

Further to the above, in response to the Department's letter the consultant concludes:

Upon review it would seem that the abovementioned lack of clarity within the Coomes LES had a direct impact on the subsequent response of the Department of Planning.

Putting aside the range of issues that would be appropriately addressed at any subsequent DA phase it is once again apparent that the single stumbling point for the development proposal is the need for an up to date and detailed flood assessment report.

Council subsequently resolved:

- 1. The Site Specific Review report prepared by EDM Group be received and noted by the Council;**
- 2. The Murray Development Control Plan (DCP) Chapter 6 be amended to reinstate notation over the subject land identifying "Kooyong Park" as a potential development site, subject to further investigation (including extension of town flood levee);**
- 3. Council place a draft copy of the Murray Development Control Plan (DCP) 2012 – Amendment 5, on public exhibition for a period of 28 days;**
- 4. The landowner be invited to engage a suitably qualified floodplain practitioner, agreeable to Council, to prepare, at no cost to Council, an independent flood assessment, as outlined within the Site Specific Review report; and**
- 5. Upon receipt of an agreed comprehensive flood risk report and having regard to any recommendations of such a report, that Council give further consideration to preparation of a Planning Proposal for the subject land.**

Following the Council Meeting of 20 October 2015, the DCP Amendment was exhibited. Following consideration of submissions received, Council subsequently resolved at its meeting of 2 February 2016:

That the Council approves the amended draft version of the Development Control Plan (Murray Development Control Plan (DCP) 2012 – Amendment 5) in the form which it was publicly exhibited.

Subject Land

The subject land known as “Kooyong Park” is identified as Lot 1, DP 1098204; Lot 1, DP1139001; and Lots 1 and 2, DP 1078090.



Figure 1: Site context plan (source SIX Viewer)

The property has frontage to Moama Street to the west, and Holmes Street to the south. To the west the property also has frontage to Old Deniliquin Road.

As previously noted within various Council reports in respect of this particular property, site characteristics include the following:

- located less than 2.0km to east of town centre;
- largely protected by an existing rural levee bank system;
- land uses in the vicinity to the east of the railway line include a mixture of farming, rural living, holiday homes/tourist developments;
- the property is generally flat terrain draining from south to north at a grade of around 0.5%;
- a single storey dwelling and associated outbuildings are located in north eastern corner of the property (Lot 1 DP1078090);
- an approved Stage 1 – 17 lot subdivision is being constructed in south western corner of property. Fifteen of these lots are to be developed for residential purposes. Lots are fully serviced and range in size from 1775m² – 2270m²;
- some scattered paddock trees across the property;

- native vegetation largely constrained to the road reserves around the site; and
- evidence of wetland area/low lying natural drainage along southern section.

Located to the west across Moama Street is the rail corridor, which also acts as a flood levee. Further west across Barnes Road is the Moama Industrial Estate.

Flood Study

In response to Council's resolution of 20 October 2015, the landowner subsequently engaged Water Technology to complete the necessary flood investigation. A copy of the report is attached (Appendix 1).

The *Flood Report for Kooyong Park Planning Proposal (August 2016)* documents a flood assessment of existing conditions flood behaviour for a 1% AEP flood event on the Murray River system at Kooyong Park, Moama, and the impacts of further developing the rural ring levees surrounding the property to an urban levee standard.

Two dimensional hydraulic modelling was undertaken to assist with characterising the impact of flood behaviour across the Murray River Floodplain, including the Kanyapella basin to approximately 7km downstream of Echuca/Moama. The flood modelling results were assessed against appropriate NSW planning policy and best practice floodplain management principles, providing information to support the application for the proposed development.

In summary the report concludes:

"The assessment shows that the floodplain surrounding the proposed development can be categorised as low hazard storage in a 1% AEP flood event. Depths in a 1% AEP flood event are lower than 1m to the south and west of the site, and around 0.3m to the north and east. The velocities in a 1% AEP flood event are low, less than 0.2m/s.

With the proposed levee constructed the site will be protected during a large flood. Flood modelling has demonstrated that the proposed levee upgrade does not significantly alter flood levels and flood behaviour in the surrounding floodplain.

In an extreme flood event evacuation may be necessary. Evacuation routes have been assessed and have been shown to be low hazard during a 1% AEP flood event. When considering the long flood warning time afforded to Moama, safe evacuation of the proposed development site can be achieved if necessary.

There is expected to be very little, if any, environmental, social and economic adverse issues associated with the proposed development.

The proposed development meets the required performance criteria of NSW floodplain management policy. There are no floodplain

related issues which should impact on Council's decision to accept this development proposal."

In respect of levee upgrade, the report also notes that the current approved alignment of the existing levee has no restrictions in relation to width and height. The report subsequently recommends that the levee crest be designed at the Flood Planning Level of 96.0 to 96.08m AHD, which is based on the 1% AEP flood level plus 0.5m freeboard.

Discussion

On the basis that Council has previously reached a point where it was prepared to entertain a fresh Planning Proposal for consideration under the Gateway Process pending further information in respect of flooding, it is considered appropriate to now report back to Council with a recommendation to proceed.

In this regard, it is to be noted that EDM Group has previously provided some detailed discussion on the various zone and/or ordinance changes that might be considered should the Murray LEP be amended. In conclusion, the consultant noted:

"Without pre-empting the findings of any possible future flood risk assessment report prepared by a suitably qualified practitioner it is considered after an evaluation of the various options available that the most suitable outcome to consider might be:

- *Rezoning the land to R5 – Large Lot Residential Zone without specifying a minimum lot size; and*
- *Introduction of a specific local provision related to Kooyong Park which would identify the subject land as a Development Area and that allows subdivision of land consistent with an approved Masterplan.*

However before making a final decision upon such an outcome the necessary further analysis in respect of flood risk must be carried out to Council's satisfaction.

As a consequence it is considered that subject to any recommendations within an agreed comprehensive flood risk report, that should this matter then proceed to a Gateway Determination the Planning Proposal should further reconsider the various options available and in consultation with the NSW Department of Planning and Environment make a recommendation as to the most appropriate response for inclusion in a subsequently amended Murray LEP."

Concluding Comments

Following a thorough review of the numerous detailed background documents relating to the Kooyong Park proposal, including the most recent *Flood Report for Kooyong Park Planning Proposal (August 2016)* prepared by Water Technology, it is now concluded that the matter should proceed to a Planning Proposal for Council consideration prior to being submitted to the Department of Planning and Environment for a Gateway Determination.