

**DIRECTOR OF ENVIRONMENTAL SERVICES REPORT SUBMITTED
TO THE ORDINARY MEETING OF COUNCIL HELD ON
TUESDAY 21st JULY 2009**

Mr Mayor and Councillors,

I wish to report as follows :-

CLAUSE 1. MURRAY LEP REVIEW

Council staff and Habitat Planning recently held a meeting with the NSW Department of Planning to discuss their concerns with respect to the progress of the LEP. As a result of this meeting the Department provided details on the additional information required to allow the project to progress.

Habitat Planning has advised staff that it is anticipated that the information as requested will be provided to the Department for consideration within the next two weeks. Staff reinforce that by providing this information it may not resolve all outstanding issues and may require further meetings with the Department.

Listed for Council information

CLAUSE 2. MURRAY LEP – TOURISM DEVELOPMENT

As part of the LEP review process the NSW Department of Planning has requested additional information with respect to “Tourist Development” within Murray Shire. The Department is aware that a range of 'tourist' developments have been approved in recent years including short-stay cabins, motel/hotel accommodation and permanent residential dwellings. They have requested that Council identify how it discerns 'tourist' accommodation/development/- attractions from permanent residential accommodation and how it wishes to manage it in the future.

The Department has also provided the following comments with respect to 'tourist' development as a result of the information provided to date:

- Future tourism accommodation should not negatively impact on the natural, economic or social fabric of the area it is to be located in. In addition such development should provide for a wide range of experience opportunities from the low cost family type tourism developments, such as in caravan parks and camping grounds, to large single destination development.
- Permanent residential accommodation which is owned individually is not considered to be 'tourist accommodation' and should be distinguished from commercial tourist accommodation.

and making a significant contribution to the quality of life in the Murray region. Tourism provides employment and contributes significant income for the region per annum.

Murray Shire should be committed to developing and marketing sustainable tourism in order to maintain and improve the competitive position of the region. This type of development should not be at the expense of the environment and existing rural activities. Council is therefore required to determine how it would like staff to address the permissibility of tourism development within the Murray Shire under the new LEP.

Recommendation

That Council continue to permit tourism development within the Rural zone under any new LEP subject to the development and implementation of the Development Control Plan (Chapter 2) that details the criteria that any potential application must meet.

Or

That Council select a specified area of land and appropriately zone such under the new LEP to limit where tourism development is permissible.

CLAUSE 3 MURRAY LOCAL ENVIRONMENTAL PLAN REVIEW **4 INDIVIDUAL LOCAL ENVIRONMENTAL STUDIES**

As part of the review of Murray Local Environmental Plan four individual property developers addressed Council at an earlier meeting outlining development proposals for their subject properties that were located outside of the Council's proposed residential development area. These parcels of land were as follows:

- 24 Lane, Moama
 - 1. Lot 24, DP 668368 & Lot 24, DP 668369
- 2040 Perricoota Road, Moama
 - 1. Lot 1, 2 & 3 DP 1088592
- Kooyong Park, Old Deniliquin Road, Moama
 - 1. Lots 220-223, DP 751152 & Lots 1-18, Section 7, DP 758686
 - 2. Lot 5, Section 6, DP 758686 & Lot 3, Section 14, DP 758656 & Lots 3-8, Section 48, DP 758656 & Lots 3-8, Section 49, DP 758656 & Lot 3-8, Section 66, DP 758656 & Pt Lot 2, DP 1078090
 - 3. Lot 1, DP 1078090
- Deep Creek

After being addressed by the respective owners/developers Council resolved to support the inclusion of these properties within the LEP review process. Each applicant was advised that even though supported by Council and that there was a cost involved with respect to developing the respective LES's, no guarantee could be provided as to whether such land would be rezoned in the final document.

The Department of Planning has raised continual concerns with these properties when undertaking inspections of the Shire. The Department has now advised Council in writing of additional information that the applicants will be required to provide to enable the LES's

to be considered. Note; that if this information is provided there is still no guarantee that the properties will be rezoned and in addition it will add to the cost already paid by the developers (in the vicinity of \$35,000).

The Department is requesting that Council provide a justified recommendation for these sites to be formally included in the overall SLUP/LEP.

The correspondence provide by the Department is attached (id 111791) for Councils information.

This report will address three of these properties and exclude that relating to the Deep Creek proposal as such is a difficult proposal as it is not solely focused on residential.

Staff have attempted to summarise the main issues raised in such correspondence to provide Council with an overview of the potential concerns from a planning perspective.

1. Lot 24, Twenty Four Lane, Moama

- Additional detail is required to ensure the proposal complies with new legislation, in particular – SEPP (Rural Lands), new 117 directions and Part 2 of Murray REP (Plan 2);
- Impact of the staging of the land and the potential impact that such could have on the development of residential land closer to Moama that is of higher suitability. This parcel of land may be more suited to rezoning in a latter stage of the LEP process i.e. future residential stage.
- Council is also advised that the development proposal as outlined to Council was to involve a retirement village and rural life style lots, the proposal submitted with the LES includes low density residential only that would compliment surrounding residential development.

2. 2040 Perricoota Road, Moama

- Additional detail is required to ensure the proposal complies with new legislation, in particular – SEPP (Rural Lands), new 117 directions and Part 2 of Murray REP (Plan 2);
- Impact of the staging of the land and the potential impact that such could have on the development of residential land closer to Moama that is of higher suitability. This parcel of land may be more suited to rezoning in a latter stage of rezoning process ie future residential stage.
- The site does not represent efficient and orderly provision of services and infrastructure;
- The impact of the surrounding vineyards and the inclusion of a buffer to minimise any potential impact associated with contaminated lands.

3. Kooyong Parks, Old Deniliquin Road, Moama

- The proposal is not in accordance with the philosophy of the SLUP as adopted by Council. Contradictions relate to land being situated in a flood affected area and the SLUP not including lands protected by rural levees

- The SLUP clearly focuses on developing and encouraging development to the west of Moama, not the east based on flooding and infrastructure constraints;
- Additional detail is required to ensure the proposal complies with new legislation, in particular – SEPP (Rural Lands), new 117 directions and Part 2 of Murray REP (Plan 2);
- Additional information is required addressing issues such as potential environmental constraints such as vegetation, biodiversity or similar;
- Additional information on how the constraints surrounding the property ie bushfire, flooding etc will be managed;
- Why Council would consider this site as it appears to be fragmented compared to other sites proposed by the SLUP;
- The impact of the site on the demand analyses and the release of land that would be more suitable;
- More detailed analysis of the Moama Floodplain Management Plan is required
- Further analyses of previous land uses and the potential for land contamination; and
- The impact of the rail system with respect to noise and vibration

Conclusion

Staff reinforce that the above is only a summary of the issues raised by the Department of Planning and the detailed response is attached for additional information if required.

The Council is required to make a determination on whether the land is to be included in the LES. The basic options available to Council are to:

- include all four properties or select properties in the Shire wide LES, keeping in mind if adopted such could further slow the process if the Department does not support or continues to require further information relating to these sites;
- not to include the four LES's in the Shire wide LES but allow them to run independently. If approved by the Department at a latter date such could be incorporated into any adopted LEP as an amendment.
- Not to support one or all of the four site specific LES's

From discussions with the Department of Planning, Habitat Planning and reviewing such from a planning focus the following conclusions are made:

1. That both Lot 24, DP 668368, 24 Lane and Lot 1, 2 & 3, DP 1088592, 2040 Perricoota Road, Moama if incorporated with the current LES/LEP be classified as future/long term residential. This conclusion is drawn due to such properties being positioned on the extremity of the proposed development area as supported by Council in the SLUP. This is further reinforced by more suitable land closer to the centre of Moama being proposed to be rezoned as residential, which would allow the strategic (not fragmented) development of residential properties through the north west corridor.
2. That the LES proposal known as "Kooyong Park", Old Deniliquin Road, Moama should not be included in the Shire wide LES as such contradicts the direction taken by the SLUP as adopted by Council. The basis for this comment is that the proposed site is fragmented to the east of the Moama township, situated in and/or surrounded by flood effected lands and requires the extension of Council

infrastructure. In summary there are more suitable parcels of land which from a planning aspect should take priority over this site.

Council has clearly provided a direction for residential development through the construction of a levee and the installation of necessary infrastructure to the northwest of Moama. The inclusion of this parcel of land would not be seen as a strategic direction as it is to the east of Moama and if included would exclude other land which would be more suitable for residential development. In summary the property is effected by the following constraints:

- Bushfire;
- Vegetation;
- property is classified as flood storage, however may be excluded from such;
- property is bounded to the west by a main floodway; and
- would require the alteration/extension of Council's infrastructure to service such property.

Eventhough the impact of the above factors can be minimised through engineering/design solutions the area and expected supply of land of greater suitability to the north west of Moama should take priority over this site.

Reinforcing comments made above the if Council were to consider this site on a strategic basis it would be excluded from the SLUP as its positioning alone is contradicts the direction previously implemented by Council.

Recommendation

1. That Council not include the following LES in the Shire wide LES
 - Kooyong Park, Old Deniliquin Road, Moama
 - Lots 220-223, DP 751152 & Lots 1-18, Section 7, DP 758686
 - Lot 5, Section 6, DP 758686 & Lot 3, Section 14, DP 758656 & Lots 3-8, Section 48, DP 758656 & Lots 3-8, Section 49, DP 758656 & Lot 3-8, Section 66, DP 758656 & Pt Lot 2, DP 1078090
 - Lot 1, DP 1078090
2. That Council incorporate the following LES's in the Shire wide LES and SLUP, however such be classified as Future Residential – Stage 3.
 - 24 Lane, Moama
 - Lot 24, DP 668368 & Lot 24, DP 668369
 - 2040 Perricoota Road, Moama
 - Lot 1, 2 & 3 DP 1088592
3. That Council advise the respective land owners/developers of the first recommendation, the additional information required by the Department and the reasoning for Council's position.