



New South Wales

PARLIAMENTARY COUNSEL

Opinion

Environmental Planning and Assessment Act 1979
Proposed Murray Local Environmental Plan 2011 (Amendment No 6)

Your ref: Chris O'Brien PP_2016_MRIV_001_00
Our ref: FG e2016-253.d07

In my opinion the attached draft environmental planning instrument may legally be made.

A handwritten signature in black ink, appearing to read 'D Colagiuri'.

(D COLAGIURI)
Parliamentary Counsel

19 October 2016



New South Wales

Murray Local Environmental Plan 2011 (Amendment No 6)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the
Environmental Planning and Assessment Act 1979.

22 Nov '16

As Delegate for Minister for Planning

Bryce Craggs
Acting Interim General Manager
Murray River Council.

Murray Local Environmental Plan 2011 (Amendment No 6)

under the

Environmental Planning and Assessment Act 1979

1 Name of Plan

This Plan is *Murray Local Environmental Plan 2011 (Amendment No 6)*.

2 Commencement

This Plan commences on the day on which it is published on the NSW legislation website.

3 Land to which Plan applies

This Plan applies to land in Zone RU1 Primary Production and Zone E3 Environmental Management under *Murray Local Environmental Plan 2011*.

Schedule 1 Amendment of Murray Local Environmental Plan 2011

[1] Clause 4.2A Erection of dwelling houses on land in certain rural and environmental protection zones

Omit “and on which no dwelling house has been erected,” from clause 4.2A (3).

Insert instead “and on which there is no existing dwelling house.”.

[2] Clause 4.2A (3), note

Omit the note. Insert instead:

Note. A dwelling cannot be erected on a lot created under clause 9 of *State Environmental Planning Policy (Rural Lands) 2008* or clause 4.2. Land in Zone RU1 Primary Production cannot be subdivided to create a lot that is less than the minimum lot size for the purpose of residential accommodation (see clause 4.2C).

[3] Clauses 4.2C and 4.2D

Insert after clause 4.2B:

4.2C Exceptions to minimum lot sizes for certain rural subdivisions

- (1) The objective of this clause is to enable the subdivision of land in rural areas to create lots of an appropriate size to meet the needs of current permissible uses other than residential accommodation.
- (2) This clause applies to land in Zone RU1 Primary Production.
- (3) Land to which this clause applies may, with development consent, be subdivided to create a lot of a size that is less than the minimum size shown on the Lot Size Map in relation to that land, if the consent authority is satisfied that the use of the land after the subdivision will be the same use (other than residential accommodation) permitted under the existing development consent for the land.
- (4) Development consent must not be granted for the subdivision of land to which this clause applies unless the consent authority is satisfied that:
 - (a) the subdivision will not adversely affect the use of the surrounding land for agriculture, and
 - (b) the subdivision is necessary for the ongoing operation of the permissible use, and
 - (c) the subdivision will not increase rural land use conflict in the locality, and
 - (d) the subdivision is appropriate having regard to the natural and physical constraints affecting the land.

4.2D Boundary adjustments in Zones RU1 and E3

- (1) The objective of this clause is to facilitate boundary adjustments between lots where one or more of the lots created do not meet the minimum lot size shown on the Lot Size Map in relation to the land but the objectives of the relevant zone can be achieved.
- (2) This clause applies to land in the following zones:
 - (a) Zone RU1 Primary Production,
 - (b) Zone E3 Environmental Management.

- (3) Despite clause 4.1, development consent may be granted to subdivide land to which this clause applies by way of a boundary adjustment between adjoining lots where one or more of the lots created by the subdivision do not meet the minimum lot size shown on the Lot Size Map in relation to that land, if the consent authority is satisfied that:
 - (a) the subdivision will not create additional lots, and
 - (b) the number of dwelling houses or opportunities for dwelling houses on each lot after the subdivision will remain the same as before the subdivision, and
 - (c) the potential for land use conflict will not be increased as a result of the subdivision, and
 - (d) if the land is in Zone RU1 Primary Production—the subdivision will not have a significant adverse effect on the agricultural viability of the land, and
 - (e) if the land is in Zone E3 Environmental Management—the subdivision will result in the continued protection and long-term maintenance of the land, and
 - (f) the subdivision will not result in any increased bush fire risk to existing buildings.
- (4) In determining a development application for the subdivision of land under this clause, the consent authority must consider the following:
 - (a) the existing uses and approved uses of other land in the vicinity of the subdivision,
 - (b) whether the subdivision is likely to have a significant impact on land uses that are likely to be preferred and the predominant land uses in the vicinity of the development,
 - (c) whether the subdivision is likely to be incompatible with a land use on any adjoining land,
 - (d) whether the subdivision is appropriate having regard to the natural and physical constraints affecting the land,
 - (e) whether the subdivision is likely to have a significant adverse impact on the environmental values of the land.
- (5) This clause does not apply:
 - (a) in relation to the subdivision of lots in a strata plan or community title scheme, or
 - (b) if the subdivision would create a lot that could itself be subdivided in accordance with clause 4.1.