

MURRAY RIVER COUNCIL

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Notice is hereby given that the **Ordinary Meeting** of Murray River Council will be held on **Tuesday 20th September 2016**, commencing at **1.00pm** in the **Multi-Function Room, Mathoura Visitor & Business Centre**, Cobb Highway, Mathoura.



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 2nd August 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

NIL

INSPECTIONS

NIL

**36. PLANNING PROPOSAL PP_2016_MRIV_001_00 –
ADDITION OF 'MODEL CLAUSES' INTO MURRAY LEP
2011, AND MINOR CORRECTIONS**

AUTHOR: Chris O'Brien – Town Planner
VENUE: Mathoura Visitor & Business Centre
TRIM Reference:

Issues Considered in writing report: State, Regional and local planning directions, Council Policy, Legislation – issues applicable have been reported on.

RECOMMENDATION

- i. That the Officer's report be received and noted.
- ii. That Council proceed with the Planning Proposal and send the Planning Proposal to the NSW Parliamentary Counsel's Office (PCO) requesting Parliamentary Counsel's Opinion and drafting of a new Murray LEP 2011 in accordance with Planning Proposal PP_2016_MRIV_001_00.

BACKGROUND INFORMATION

At Council's Ordinary Meeting held 28 June 2016, Council resolved that the subject Planning Proposal be sent to the NSW Department of Planning and Environment (NSW DPE) for Gateway Determination.

The Planning Proposal is to amend the Murray Local Environmental Plan 2011 (Murray LEP 2011) by:-

- Inserting the following clause into the Murray LEP 2011, under **Part 4 Principal development standards:**
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 for the purpose of 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.*

- Inserting the following clause into the Murray LEP 2011, under **Part 4 Principal development standards:**

Boundary adjustments in certain rural and environmental protection zones

- (1) *The objective of this clause is to facilitate boundary adjustments between lots in certain rural and environmental protection zones where one or more resultant lots do not meet the minimum lot size shown on the Lot Size Map in relation to that 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 (3), development consent may be granted to subdivide land by way of a boundary adjustment between adjoining lots where one or more resultant lots 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 or the opportunity for additional dwelling houses, and*
- (b) the number of dwelling houses or opportunities for dwelling houses on each lot after 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) *Before 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 or not 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 or not the subdivision is likely to be incompatible with a land use on any adjoining land,*
 - (d) *whether or not the subdivision is appropriate having regard to the natural and physical constraints affecting the land,*
 - (e) *whether or not 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 individual 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.*
- Amend Clause 4.2A(3) of the Murray LEP 2011 to read:
 - (3) *Development consent must not be granted for the erection of a dwelling house on land in a zone to which this clause applies, unless the land is:*
 - (a) *a lot that is at least the minimum lot size specified for that land by the Lot Size Map, or*
 - (b) *a lot created under an environmental planning instrument before this Plan commenced and on which the erection of a dwelling house was permissible immediately before that commencement, or*
 - (c) *a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dwelling house would have been permissible if the plan of subdivision had been registered before that commencement, or*
 - (d) *an existing holding.*

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, Clause xx and Clause xx (proposed additional clauses).
- Insert the definition of 'river front area' into Clause 7.4 'Development on river front areas' of the Murray LEP 2011.

Discussion

Council submitted the Planning Proposal on 5 July 2016 to NSW DPE and requested a Gateway Determination. Council received a Gateway Determination on 20 July 2016, which outlined the requirement for the planning proposal to be placed on public exhibition. In accordance with the Gateway Determination, the Planning Proposal was placed on public exhibition until 5 September 2016. During the exhibition period, no submissions were received. It is noted that the Planning Proposal has not changed in any way since Council resolved to send the Planning Proposal to NSW DPE for a Gateway Determination, and has not changed in any way since the Gateway Determination was received.

Conclusion

It is considered that the Planning Proposal is a suitable outcome for the Council. The planning proposal is consistent with the objects of the *Environmental Planning and Assessment Act 1979* and will allow for the sustainable and economic use and development of land within Murray River Council. The planning proposal is not inconsistent with the aims of the Murray Local Environmental Plan 2011 or any other Environmental Planning Instrument relevant to the Council. The Planning Proposal has been notified to the public, and no submissions were received, whilst the Planning Proposal has not changed in any way.

It is therefore recommended that Council proceed with the Planning Proposal and send the Planning Proposal to the NSW Parliamentary Counsel's Office (PCO) requesting Parliamentary Counsel's Opinion and drafting of a new Murray LEP 2011 in accordance with Planning Proposal PP_2016_MRIV_001_00.