

Murray LEP 2011 - Amendment 6 - Insert Boundary Adjustment Model Clauses and minor housekeeping amendments

Proposal Title : **Murray LEP 2011 - Amendment 6 - Insert Boundary Adjustment Model Clauses and minor housekeeping amendments**

Proposal Summary : **To amend Murray LEP 2011 to:**

- insert 2 boundary adjustment model clauses to provide flexibility for subdivision in rural zones ;
- amend Clause 4.2A(3); and
- amend Clause 7.4.

PP Number : **PP_2016_MRIVE_001_00** Dop File No : **16/09116-1**

Proposal Details

Date Planning Proposal Received : **08-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 : **Housekeeping**

Location Details

Street : _____

Suburb : _____ City : _____ Postcode : _____

Land Parcel : **Land to which Murray LEP 2011 applies.**

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name : **Wayne Garnsey**

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Land Release Data

Growth Centre :

Release Area Name :

Regional / Sub
Regional Strategy :

Consistent with Strategy :

MDP Number :

Date of Release :

Area of Release (Ha)
:

Type of Release (eg
Residential /
Employment land) :

No. of Lots : 0

No. of Dwellings 0
(where relevant) :

Gross Floor Area : 0

No of Jobs Created : 0

The NSW Government Yes

Lobbyists Code of
Conduct has been
complied with :

If No, comment :

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

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

Supporting notes

Internal Supporting
Notes :

The Planning Proposal seeks to amend the Murray Local Environmental Plan 2011 to allow boundary adjustment subdivision for rural and environmental zoned land through the addition of a model 'boundary adjustment' clause, as well as the refinement of Clause 4.2A(3) and Clause 7.4.

BOUNDARY ADJUSTMENT SUBDIVISION CLAUSES:

Prior the introduction of the Standard Instrument, many LEPs had capacity to permit boundary adjustments to lots where dwellings were located, and where the lot created would be below lot size, provided no further dwellings or lots were created.

Clause 4.2 of the Murray LEP 2011, allows for the creation of a lot below lot size but only where there is no existing dwelling on the lot or potential for a dwelling.

The only other provision open for boundary adjustment subdivision in Murray is under Clause 2.75 of the SEPP (Exempt and Complying Development Code)2008.

The intent of the current clause 4.2 and Clause 2.75 of the SEPP is to allow rational alteration and flexibility of rural and environmental land to meet agricultural need. Murray River Council has encountered a number of boundary adjustment proposals of merit where the current provisions do not permit the adjustment.

The model clause will provide the flexibility and clarity required to allow for boundary adjustments for the rationalization of rural and environmental zoned land, particularly where houses exist and lots are below minimum lot size.

Murray River Council also wish to insert the model clause 'Exceptions to minimum lot sizes for certain rural subdivision', to permit 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.

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The Department is supportive of the inclusion of these clauses within the Murray LEP 2011.

CLAUSE 4.2A - Erection of Dwelling Houses on land in certain rural and environment protection zones

Council wish to amend Clause 4.2A(3) to remove the words "and on which no dwelling house has been erected". This will remove the ambiguity associated with the clause and the difficulties associated with its application to properties where dwellings may have been erected in the past on the land however have been subsequently demolished but not replaced to date.

The Department is supportive of the amendment of this clause.

CLAUSE 7.4 - Development on river front areas

The proposal also wishes to include the definition of 'river front area' to Clause 7.4 - Development on river front areas' to provide easier assessment of development that clause 7.4 applies to.

The Department is supportive of this clause.

Council has requested delegations to complete the Planning Proposal and this is considered appropriate.

External Supporting
Notes :

Adequacy Assessment

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

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

Comment : **The statement of objectives provides that the intended outcomes of the proposal are to:**

- To permit 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 subdivision;
- To provide additional flexibility and clarity for boundary adjustment subdivision in zone RU1 Primary Production and zone E3 Environmental Management;
- To remove the ambiguity associated with Clause 4.2A(3) of the Murray LEP 2011; and
- To provide easier assessment of Clause 7.4 of the Murray LEP 2011.

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

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

Comment : **The explanation of provisions is consistent with the statement of objectives.**

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**
2.1 Environment Protection Zones

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 (Rural Lands) 2008**

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

Section 117 Directions:

1.2 Rural Zones – The planning proposal does not propose to rezone the subject land and will not increase the permissible density of the subject land, it is for this reason that the Proposal is considered consistent with the Direction.

1.5 Rural Lands – The model clauses and minor amendments will provide the flexibility and clarity required to allow for boundary adjustments for the rationalisation of rural and environmental zoned land, particularly where houses exist and lots are below lot size. It is for this reason that the Planning Proposal is considered consistent with the Direction.

2.1 Environmental Protection Zones - the Planning Proposal will not change existing potential development and is considered consistent with this direction.

SEPP (Rural Lands) 2008:

The model clauses and minor amendments will not provide for any additional dwelling opportunities within rural zones. For this reason, the proposal is considered to be consistent with the rural subdivision principles in clause 9 of this SEPP.

Have inconsistencies with items a), b) and d) being adequately justified? **N/A**

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : **The proposed amendments do not require any changes to mapping.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council has not proposed a time period for community consultation. It is considered appropriate that the proposal be placed on public exhibition for 28 days.**

Additional Director General's requirements

Are there any additional Director General's requirements?

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 : **The Murray LEP 2011 was notified on 16 December 2011.**

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Assessment Criteria

Need for planning proposal :	The Planning Proposal is required to provide some flexibility for boundary adjustment for rural and environmental zoned land, and allow the Murray LEP 2011 to be easily interpreted. A planning proposal is the best mechanism to achieve this.
Consistency with strategic planning framework :	Murray River LGA is subject to the Draft Riverina Murray Regional Strategy 2016 (draft strategy), and the proposal is considered to be consistent with the relevant aims and objectives of the draft strategy. The Murray Strategic Land Use Plan 2010-2030 applies to the Murray Local Government Area (LGA), however this is not a Department endorsed strategy. This strategy has been adopted by Council and it is used by Council to provide guidance on the strategic direction for settlement and growth in the LGA. The content of the Strategy is not applicable to the proposal.
Environmental social economic impacts :	There is no perceived negative impact of the planning proposal. The clauses will allow for farm rationalisations, conserve existing dwelling stocks without facilitating additional dwellings beyond that already permissible under the LEP, as well as removing ambiguity regarding the assessment of development in river front areas.

Assessment Process

Proposal type :	Consistent	Community Consultation Period :	28 Days
Timeframe to make LEP :	12 months	Delegation :	RPA
Public Authority Consultation - 56(2)(d) :			
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 :			

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Documents

Document File Name	DocumentType Name	Is Public
Cover Letter.pdf	Proposal Covering Letter	Yes
Initial Request for Gateway and Evaluation for Plan Making Delegations.pdf	Proposal Covering Letter	Yes
Ordinary Council Meeting Minutes 28 June 2016.pdf	Proposal	Yes
Planning Proposal and Council Report 28 June 2016.pdf	Proposal	Yes

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
 2.1 Environment Protection Zones

Additional Information : **That Ministers delegate determines and supports the Planning Proposal, subject to the following conditions:**

1.Proceed and finalise the Planning Proposal within 9 months of the Gateway Determination date.

2.Community and agency consultation to occur for a minimum of 28 days.

3.A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. 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).

5. No consultation is required with public authorities under section 56(2)(d) of the EP&A Act.

4.Council is to request the drafting and finalisation of the amendment no later than 10 weeks prior to the projected making of the amendment date.

5. Authorise Murray River Council to utilise delegations to finalise the Planning Proposal.

Supporting Reasons : **The Planning Proposal justifies permitting the inclusion of the model boundary adjustment clauses and housekeeping amendments in the Murray LEP 2011 which will provide the flexibility and clarity required for the subdivision of rural and environmental zoned land, where a dwelling already exists but does not meet the minimum lot size requirements. Such boundary adjustment subdivision provision is not currently available in the Murray LEP 2011.**

Signature:



Printed Name:

Jenna McNeill

Date:

20/7/16

Endorsed
W Gamsey 20/7/2016
TLWR