

MURRAY RIVER COUNCIL

ORDINARY COUNCIL MEETING

28TH JUNE 2016

12. PLANNING PROPOSAL – ADDITION OF ‘MODEL CLAUSES’ INTO MURRAY LEP 2011 AND MINOR CORRECTIONS

DIRECTOR: Simon Arkinstall- Director of Environmental Services
AUTHOR: Christopher O’Brien – Town Planner
VENUE: Moulamein Bowling Club
TRIM Reference:

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 Officer’s report be received and noted.
- ii. That the subject Planning Proposal be sent to NSW DPE for Gateway Determination.

BACKGROUND INFORMATION

The process for preparing and amending a Local Environmental Plan (LEP) is stipulated in the *Environmental Planning and Assessment Act 1979* and covered within the NSW Department of Planning and Environment (DPE) document entitled: ‘*A guide to preparing local environmental plans*’, tabled as Tabled Document 1’.

The plan making process normally involves the following key components:-

- The preparation of a Planning Proposal
- The issuing of a Gateway determination
- Community and other consultation on the Planning Proposal (as required)
- Finalising the Planning Proposal
- Drafting of the LEP (plan)
- Making the plan
- Notifying the LEP on the NSW Government Legislation website

A Planning Proposal is a document that explains the intended effect of the proposed LEP and provides the justification for making it. ‘*A guide to preparing planning proposals*’ provides detailed advice on the preparation of a Planning Proposal.

Proposed amendment(s) to the Murray LEP 2011

At Council's Ordinary Meeting held 3 March 2015, Council heard a report which compiled recommendations of suggested areas for review under a proposed Amendment of the Murray LEP 2011. A copy of the subject report and resolutions are tabled as Tabled Document 2'.

The suggested areas for review of the Murray LEP 2011 were brought about from Council's periodic review of the Murray LEP 2011. Further information of the events leading up Council's Ordinary Meeting of 3 March 2015 is outlined below:

Date	Event
20 May 2014	Public meeting held at the Moama Bowling Club calling for public submissions regarding suggested areas for review via a future amendment of the Murray LEP 2011.
9 December 2014	Report summarising the public submissions received requesting Murray LEP 2011 review heard at Council's Ordinary Meeting.
3 March 2015	Report setting out investigations and recommendations regarding the various areas for review nominated by public submissions (the subject report has been tabled for reference).

The requests as a result of this public consultation and which are relevant to this Planning Proposal are detailed below, which are taken from Council's Ordinary Meeting Agenda held on 3 March 2015:

a) Brian Mitsch and Associates Request

"The submission maker feels that there are a number of permissible uses in the RU1 zone that are unable to be carried out due to the minimum lot size requirements. Examples given by the submission maker include animal boarding establishments, aquaculture, bed and breakfast accommodation, farm stay accommodation, freight transport facilities, home based child care, home industry and veterinary hospitals. The submission maker feels that reduction in the minimum lot size to cater for subdivisions for the purposes of business should be catered for in the LEP as this would allow those within the zone to subdivide off a viable business (which may only require a small parcel of land to operate) and retain the remainder of the property without requiring the minimum lot size of 120 hectares to do so.

The submission maker also notes their disappointment that the minimum lot sizes from the previous 1989 LEP were not transferred to the current document, whereby lots could be subdivided to 40 hectares if water was available to the proposed lot. The submission maker also notes that the Land Use Table for the RU1 zone is negative rather than positive as any activity not specified as "permitted with consent", or "permitted without consent" is automatically classified as prohibited. The submission maker feels that this layout stifles innovation within the zone".

b) Blueprint Planning submission – Lot 5 DP 778438, Grimison Road, Moama

“Blueprint Planning & Development have based their submission on the current requirements for boundary realignment under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. Under these requirements, a realignment of boundaries may be undertaken as exempt development without the requirement for formal consent from Council if the development is for realignment:-

- (i) that is not carried out in relation to land on which a heritage item or draft heritage item is situated, and*
- (ii) that will not create additional lots or the opportunity for additional dwellings, and*
- (iii) that will not result in any lot that is smaller than the minimum size specified in an environmental planning instrument in relation to the land concerned (unless a lot or lots whose boundaries are being realigned is or are already smaller than the minimum size and that lot or those lots will only increase in size at the completion of the subdivision), and*
- (iv) that will not adversely affect the provision of existing services on a lot, and*
- (v) that will not result in any increased fire risk to existing buildings, and*
- (vi) if located in Zone RU1, RU2, RU3, RU4, RU6, E1, E2, E3 or E4—that will not result in more than a minor change in the area of any lot, and*
- (vii) if located in any other zone—that will not result in a change in the area of any lot by more than 10%,*

Lot 5 DP 778438, Grimison Road, Moama is zoned E3 Environmental Management with a minimum lot size of 120 hectares. The subject lot was unable to be realigned under these provisions as it conflicted with provision (iii), and all the requirements must be satisfied in order for the exempt development to take place.

Under the Murray LEP 2011, Clause 4.6 provides some exemption to the development standards in order to provide an appropriate degree of flexibility, however subdivision of E3 zoned land which will result in development set out in (a) and (b) below is expressly excluded from the operation of the Clause:-

- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

As the subdivision was unable to comply with Clause 4.6(6)(a) and (b), development consent for this minor realignment of boundaries was unable to go ahead.

The submission maker has requested that Council amend the Murray LEP 2011 to include suitable enabling provisions which would allow existing lots less than the minimum lot size in the E3 zone to be subdivided or realigned”.

c) **Clause 4.2A(3) – Erection of Dwelling Houses on land in certain rural and environmental protection zones**

"In accordance with the recommendations of the Department of Planning & Environment dated 24 September 2014, it is suggested that the wording of Clause 4.2A(3) be amended.

Clause 4.2A(3) currently states that:

- 3) *Development consent must not be granted for the erection of a dwelling house on land in a zone to which this clause applies, and on which no dwelling house has been erected, 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.*

It is suggested by the Department of Planning & Environment to remove the words "...and on which no dwelling house has been erected...". This amendment aims to remove the ambiguity associated with this 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".

As a result of the above requests and discussions held between Council's Environmental Services Department and the NSW Department of Planning and Environment, the below planning proposal has been developed.

Part 1 - Objectives or Intended Outcomes

The intended outcomes of the Planning Proposal are to:

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

Part 2 - Explanation of Provisions

(The following proposed clauses recommended to be inserted into the Murray LEP 2011 were obtained/suggested by the DPE)

The proposed outcomes are to be achieved 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.

Part 3 – Justification

Section A – Need for the planning proposal

Q1. Is the planning proposal a result of any strategic study or report?

Comment: The planning proposal is not a result of any strategic study or report, but instead is the outcome of a review of the Murray LEP 2011, discussions with DPE, and comparison with other Local Environmental Plans developed in accordance with the Standard Instrument.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Comment: It is considered that the planning proposal is the best means of achieving the objectives or intended outcomes. The proposed amendments will continue to allow appropriate development (with additional consent) and will not significantly adversely impact upon the natural, built, social or economic environment.

Section B – Relationship to strategic planning framework

Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Comment: It is noted that an amended Draft Riverina Murray Regional Plan was released by NSW DPE in April 2016. It is considered that the Planning Proposal is consistent with the Draft Plan. Please see below for assessment against relevant Directions outlined within the Draft Plan.

Direction 1.1 – Grow the economic potential of the agribusiness sector

Action 1.1.1 – Provide enabling planning controls to facilitate diversification and attract investment in the agribusiness sector

Comment: The Planning Proposal is consistent with this action. The Planning Proposal will provide flexible planning controls which will have the potential to provide diversification and attract investment in the agribusiness sector.

Action 1.1.2 – Encourage value-add manufacturing opportunities across the region to increase regional economic diversification

Comment: The Planning Proposal is not inconsistent with this action. The Planning Proposal does not pose an adverse impact to value-added manufacturing of agriculture opportunities, the export of regional agricultural commodities, the strategic positioning of future value-add enterprises, or manufacturing and intensive operations. The planning proposal will not inhibit the encouragement of value-add manufacturing opportunities to increase regional economic diversification in agriculture and agribusiness, and will not adversely affect the factors which enable future agricultural enterprise to harness innovation technologies or agricultural research.

Direction 2 – Manage productive agricultural lands in a sustainable way

Action 1.2.1- Identify and protect regionally important productive agricultural lands

Comment: The Planning Proposal is not inconsistent with this action. The proposal is not considered to pose a significant adverse impact to resource availability and is not predicted to adversely affect agricultural efficiency or pose fragmentation of productive rural lands. The Proposal does not seek to rezone any rural land, and is not considered to adversely affect the agricultural supply chain or State significant agricultural lands.

Action 1.2.2 – Establish a strategic planning framework that protects the productive values of agricultural land and manages land use conflict

Comment: The Planning Proposal is not inconsistent with this action. The proposal will not inhibit the delivery of strategic plans and policies to protect rural land uses, natural resources, developing industries, or dependent industries and communities, and is not predicted to result in land use conflict.

Action 1.2.3 – Encourage the increased use of biosecurity measures to protect the regions agricultural assets

Comment: The Planning Proposal is not inconsistent with this action. The Planning Proposal is not considered to present a biosecurity risk to the region or locality.

Direction 1.3 – Manage and use the regions natural resource sustainably

Action 1.3.1 – Support the sustainable use and conservation of water resources

Comment: The Planning Proposal is not inconsistent with this action. The Proposal is not considered to adversely impact water resources, water catchments, watercourses or riparian areas. The planning proposal will not generate significant pressure on urban water supply.

Action 1.3.2 – Protect areas of mineral and energy, extractive and renewable energy potential

Comment: The Planning Proposal is not inconsistent with this action, and will have no effect on the aim of the plan to protect the regions natural resource base and renewable energy infrastructure potential.

Action 1.3.3 – Avoid urban expansion and rural residential development on productive agricultural land identified mineral resource and energy resources

Comment: The Planning Proposal is not inconsistent with this action. The Planning Proposal does not propose the rezoning of any RU1 Primary Production zoned land.

Action 1.3.4 – Implement the NSW Renewable Energy Plan to increase renewable energy generation

Comment: The Planning Proposal is not considered inconsistent with this action. The Proposal has no effect on the implementation of this plan.

Action 1.3.5 – Support the protection of native and plantation forests from encroachment

Comment: The Planning Proposal is not inconsistent with this action. The planning proposal has no effect on the considerations discussed within this action.

Direction 2.1 – Enhance the regions freight networks through coordinated investment

Action 2.1.1 - Identify and prioritise pinch points in the freight network

Comment: The Planning Proposal is not considered inconsistent with this action. The Proposal has no effect on the considerations discussed within this action. The Proposal is not considered to pose any impact to freight efficiency, future bypasses or bridge crossings (including the Moama Echuca Bridge Crossing upgrade).

Action 2.1.2 - Identify and protect intermodal freight terminals to facilitate growth in the freight and logistics sector

Comment: The Planning Proposal is not inconsistent with this action. The planning proposal has no effect on the considerations discussed within this action.

Action 2.1.3 - Identify and prioritise opportunities to improve regionally significant local road connections

Comment: The Planning Proposal is not inconsistent with this action. The Proposal has no effect on the considerations discussed within this action.

Action 2.1.4 – Work with the Australian Government on the proposed Melbourne-Brisbane inland rail corridor

Comment: The Planning Proposal is not inconsistent with this action, and has no effect on the considerations discussed within this action.

Direction 2.2 – Improve inter-regional transport services

Action 2.2.1 – Implement local planning controls that protect regional airports from the encroachment of incompatible land uses

Comment: The Planning Proposal is not inconsistent with this action, and has no effect on the considerations discussed within this action.

Action 2.2.2 – Identify and protect future rail corridors

Comment: The Planning Proposal is not inconsistent with this action, and has no effect on the considerations discussed within this action.

Direction 2.3 – Coordinate infrastructure delivery to facilitate economic opportunities

Action 2.3.1 – Coordinate the delivery of infrastructure to support the future needs of residents, business and industry

Comment: The Planning Proposal is not inconsistent with this action, and is not considered to pose an impact with respect to supply of energy, waste services, water, or telecommunication within the region and locality.

Action 2.3.2 – Establish monitoring mechanisms to enable better demand forecasting to inform infrastructure coordination

Comment: The Planning Proposal is not inconsistent with this action. The Proposal has no effect on the considerations discussed within this action.

Direction 3.1 – Grow the regional cities of Albury, Wagga Wagga and Griffith

Action 3.1.1 – Develop a regional cities strategies for Albury, Wagga Wagga and Griffith

Comment: The Planning Proposal is not inconsistent with this action and has no effect on the considerations discussed within this action.

Action 3.1.2 – Implement an industrial land monitoring program to maintain a supply of well-located and serviced industrial land

Comment: The Planning Proposal is not inconsistent with this action and has no effect on the considerations discussed within this action.

Action 3.1.3 – Develop and deliver strategies that strengthen the commercial function of the CBDs and town centres

Comment: The Planning Proposal is not inconsistent with this action and has no effect on the considerations discussed within this action.

Direction 3.2 – Enhance the liveability and economic prosperity of the region's towns and villages

Action 3.2.1 – Deliver improved tools and partnerships to build community capacity in towns and villages to strengthen community resilience

Comment: The Planning Proposal is not inconsistent with this action and will not adversely impact on Community resilience or the alleviation of skill shortage, particularly in the agribusiness sector.

Action 3.2.2 – Support the continued identification and protection of the region's heritage

Comment: The Planning Proposal is not inconsistent with this action. The Proposal will not impact the consideration of the heritage within the planning system, heritage protection, promotion, or management of heritage assets.

Action 3.2.3 – Deliver enabling planning controls to diversify regional tourism markets and increase tourism opportunities

Comment: The Planning Proposal is not inconsistent with this action. The Proposal has no effect on the considerations discussed within this action. The Proposal will not impact local or regional tourism, tourism markets or tourism events.

Action 3.2.4 – Deliver regionally specific urban design guidelines

Comment: The Planning Proposal is not inconsistent with this action and will not impact the delivery of such guidelines.

Action 3.2.5 – Identify opportunities to provide improved and increased transport connections between the region's town and villages to the regional cities

Comment: The Planning Proposal is not inconsistent with this action.

Direction 3.3 – Enhance the economic self-determination of Aboriginal communities

Action 3.3.1 – Conduct a strategic assessment of land held by the region's Local Aboriginal Land Councils to identify priority sites for further investigation of their economic opportunities

Comment: The Planning Proposal is not inconsistent with this action. The Proposal has no effect on the considerations discussed within this action.

Direction 3.4 – Provide a continuous supply of appropriate housing to suit the different lifestyles and needs of the region’s population

Action 3.4.1 – Deliver enabling planning controls that facilitate an increased range of housing options including infill housing close to existing jobs and services

Comment: The Planning Proposal is not inconsistent with this action. The Proposal has no effect on the implementation of considerations discussed within this action.

Action 3.4.2 - Facilitate a more diverse range of housing for seniors

Comment: The Planning Proposal is not inconsistent with this action.

Action 3.4.3 Develop a framework to facilitate a range of accommodation options for itinerant workers

Comment: The Planning Proposal is not inconsistent with this action and has little effect on the considerations discussed within this action.

Action 3.4.4 – Develop and implement principles for rural residential development

Comment: The Planning Proposal is not inconsistent with this action and has little effect on the considerations discussed within this action.

Action 3.4.5 – Facilitate the delivery of more affordable housing options through improved planning policies

Comment: The Planning Proposal is not inconsistent with this action and has little effect on the considerations discussed within this action.

Direction 3.5 – Enhance connections and planning between cross-border communities to improve service quality and infrastructure delivery

Action 3.5.1 – Investigate opportunities to improve cross-border planning outcomes, including infrastructure and service delivery

Comment: The Planning Proposal is not inconsistent with this action and will have little impact on the delivery of infrastructure or services.

Action 3.5.2 – develop a cross-border land monitoring program

Comment: The Planning Proposal is not inconsistent with this action and will not inhibit improved tracking and forecasting of housing and employment of land release within the region.

Direction 4.1 – Protect the nationally significant Murray River

Action 4.1.1 – Actively manage settlement and competing land uses along the Murray River

Comment: The Planning Proposal is not inconsistent with this action.

Direction 4.2- Protect the region's environmental assets and biodiversity values

Action 4.2.1 – Facilitate improved access to quality information relating to high environmental values, to avoid, minimise and mitigate the impacts of development on significant environmental assets

Comment: The Planning Proposal is not inconsistent with this action. All development applications will continue to be assessed on their merits against the requirements of Section 79C of the Act.

Action 4.2.2 – Maintain healthy waterways and wetlands, including downstream environments

Comment: The Planning Proposal is not inconsistent with this action.

Direction 4.3 – Increase the region's resilience to natural hazards

Action 4.3.1 – Review and map natural hazard risks to inform land use planning decisions

Comment: The Planning Proposal is not inconsistent with this action and has no effect on the considerations discussed within this action.

Action 4.3.2 – Support communities to build resilience to the impacts of natural hazards and climate change

Comment: The Planning Proposal is not inconsistent with this action.

Action 4.3.3 – Minimise the potential impacts of naturally occurring asbestos on communities

Comment: The Planning Proposal is not inconsistent with this action.

Q4. Is the planning proposal consistent with a Council's local strategy or other local strategic plan?

Comment: Council has developed the Murray Strategic Land Use Plan 2010-2030 (SLUP). See below for more information.

"The overall purpose of the SLUP is to guide the future development and use of land within the Shire for the next 20 years and beyond. More specifically the purpose of the SLUP is to assist in:

- *preparing a new Shire-wide Local Environmental Plan;*
- *providing the community with a degree of certainty for the location of various land uses in the future;*
- *maintaining in production agricultural land not required for urban expansion;*
- *protecting the riverine environment from use and development detrimental to it;*
- *separating incompatible land uses;*
- *reducing development speculation;*
- *considering tourist development proposals; and*
- *discouraging development on flood prone land.*

It is considered that the planning proposal is consistent with the overall purpose and specific purposes on the Murray SLUP. The planning proposal will allow for the future development and use of land within the Council for the next 20 years and beyond, and will provide the community with a degree of

certainty for the location of various land uses in the future. The planning proposal will assist in maintaining in production agricultural land not required for urban expansion, and will not result in adverse impacts upon the riverine environment.

It is also noted that the planning proposal is not inconsistent with the Moama North West Master Plan 2008 (MNWMP) or Council's Community Strategic Plan 2015/2016 – 2024/25.

Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

It is considered that the planning proposal is consistent with all applicable State Environmental Planning Policies. Please see below:

State Environmental Planning Policy (Affordable Rental Housing) 2009

Comment: Not applicable to the subject planning proposal. No additional opportunities for affordable rental housing will be created as a result of the planning proposal.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

Comment: Not applicable to the subject planning proposal. No additional opportunities for BASIX affected development will be created as a result of the planning proposal.

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

Part 1 General

Clause 1.3 Aims of Policy

This Policy aims to provide streamlined assessment processes for development that complies with specified development standards by:

- (a) providing exempt and complying development codes that have State-wide application, and*
- (b) identifying, in the exempt development codes, types of development that are of minimal environmental impact that may be carried out without the need for development consent, and*
- (c) identifying, in the complying development codes, types of complying development that may be carried out in accordance with a complying development certificate as defined in the Act, and*
- (d) enabling the progressive extension of the types of development in this Policy, and*
- (e) providing transitional arrangements for the introduction of the State-wide codes, including the amendment of other environmental planning instruments.*

Comment: It is considered that the planning proposal is consistent with the aims and intent of this Policy. The planning proposal does not adversely affect existing exempt and complying development requirements, but instead will permit additional development subject to development consent being issued. It is noted that the planning proposal has been developed in addition to the exemptions outlined in Subdivision 38 '**Subdivision**' within Part 2, Division 1 of this Policy. Please see below:

Subdivision 38 Subdivision

Clause 2.75 Specified development

The subdivision of land, for the purpose only of any one or more of the following, is development specified for this code:

- (a) widening a public road,*
- (b) a realignment of boundaries:*
 - (i) that is not carried out in relation to land on which a heritage item or draft heritage item is situated, and*
 - (ii) that will not create additional lots or the opportunity for additional dwellings, and*
 - (iii) that will not result in any lot that is smaller than the minimum size specified in an environmental planning instrument in relation to the land concerned (unless a lot or lots whose boundaries are being realigned is or are already smaller than the minimum size and that lot or those lots will only increase in size at the completion of the subdivision), and*
 - (iv) that will not adversely affect the provision of existing services on a lot, and*
 - (v) that will not result in any increased fire risk to existing buildings, and*
 - (vi) if located in Zone RU1, RU2, RU3, RU4, RU6, E1, E2, E3 or E4—that will not result in more than a minor change in the area of any lot, and*
 - (vii) if located in any other zone—that will not result in a change in the area of any lot by more than 10%,*
- (c) (Repealed)*
- (d) rectifying an encroachment on a lot,*
- (e) creating a public reserve,*
- (f) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public toilets.*

Clause 2.76 Development standards

Note. (At the commencement of this clause no standards were specified.)

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

Comment: Not applicable to the subject planning proposal. No additional opportunities for Housing for Seniors or People with a Disability will be created as a result of the planning proposal.

State Environmental Planning Policy (Infrastructure) 2007

Part 1 Preliminary

Clause 2 Aim of Policy

The aim of this Policy is to facilitate the effective delivery of infrastructure across the State by:

- (a) improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and*
- (b) providing greater flexibility in the location of infrastructure and service facilities, and*

- (c) *allowing for the efficient development, redevelopment or disposal of surplus government owned land, and*
- (d) *identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development), and*
- (e) *identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and*
- (f) *providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing.*

Comment: It is considered that the planning proposal is consistent with the aim and intent of this Policy. The planning proposal does not adversely affect existing requirements outlined within the Policy.

State Environmental Planning Policy (Kosciuszko National Park—Alpine Resorts) 2007

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy (Kurnell Peninsula) 1989

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007

Part 1 Preliminary

Clause 2 Aims of Policy

The aims of this Policy are, in recognition of the importance to New South Wales of mining, petroleum production and extractive industries:

- (a) *to provide for the proper management and development of mineral, petroleum and extractive material resources for the purpose of promoting the social and economic welfare of the State, and*
- (b) *to facilitate the orderly and economic use and development of land containing mineral, petroleum and extractive material resources, and*
- (b1) *to promote the development of significant mineral resources, and*
- (c) *to establish appropriate planning controls to encourage ecologically sustainable development through the environmental assessment, and sustainable management, of development of mineral, petroleum and extractive material resources, and*
- (d) *to establish a gateway assessment process for certain mining and petroleum (oil and gas) development:*
 - (i) *to recognise the importance of agricultural resources, and*
 - (ii) *to ensure protection of strategic agricultural land and water resources, and*
 - (iii) *to ensure a balanced use of land by potentially competing industries, and*
 - (iv) *to provide for the sustainable growth of mining, petroleum and agricultural industries.*

Comment: It is considered that the planning proposal is consistent with the aims and intent of this Policy. The planning proposal does not adversely affect existing requirements outlined within the Policy.

State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007

Part 1 Preliminary

Clause 3 Aims of Policy

The aims of this Policy are as follows:

- (a) to provide that the erection of temporary structures is permissible with consent across the State,*
- (b) to ensure that suitable provision is made for ensuring the safety of persons using temporary structures,*
- (c) to encourage the protection of the environment at the location, and in the vicinity, of temporary structures by specifying relevant matters for consideration,*
- (d) to provide that development comprising the subdivision of land, the erection of a building or the demolition of a building, to the extent to which it does not already require development consent under another environmental planning instrument, cannot be carried out except with development consent.*

Comment: It is considered that the planning proposal is consistent with the aims and intent of this Policy. The planning proposal does not adversely affect existing requirements outlined within the Policy.

Part 3 Subdivision, demolition, change of use and fire alarm communication links

Clause 13 Land to which Part applies

- (1) This Part applies to land other than land to which a standard plan applies.*
- (2) In this clause, **standard plan** means a local environmental plan (whether made before or after the commencement of this clause) that has been made as provided by section 33A (2) of the Act.*

Comment: This Part is not applicable. All land within Murray River Council is land to which a standard plan applies.

Clause 14 Subdivision of land

- (1) A person may subdivide land to which this Part applies, but only with development consent.*
- (2) Development consent must not be granted for the subdivision of land on which a secondary dwelling is situated that would result in the secondary dwelling being on a different lot of land to the principal dwelling unless each proposed lot on which those dwellings would be situated would comply with the minimum lot size (if any) required by an environmental planning instrument applying to the land.*

*Note. The standard instrument prescribed by the [Standard Instrument \(Local Environmental Plans\) Order 2006](#) contains the following definitions of **secondary dwelling** and **principal dwelling**:*

***secondary dwelling** means a self-contained dwelling that:*

- (a) is established in conjunction with another dwelling (the **principal dwelling**), and*
- (b) is on the same lot of land as the principal dwelling, and*

- (c) *is located within, or is attached to, or is separate from, the principal dwelling.*

Comment: Not applicable. See Clause 13.

State Environmental Planning Policy (Penrith Lakes Scheme) 1989

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy (Rural Lands) 2008

Part 1 Preliminary

Clause 2 Aims of Policy

The aims of this Policy are as follows:

- (a) *to facilitate the orderly and economic use and development of rural lands for rural and related purposes,*
- (b) *to identify the Rural Planning Principles and the Rural Subdivision Principles so as to assist in the proper management, development and protection of rural lands for the purpose of promoting the social, economic and environmental welfare of the State,*
- (c) *to implement measures designed to reduce land use conflicts,*
- (d) *to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,*
- (e) *to amend provisions of other environmental planning instruments relating to concessional lots in rural subdivisions.*

Comment: It is considered that the planning proposal is consistent with the aims of this policy. The planning proposal will allow for the orderly and economic use and development of rural lands for rural and related purposes, and will assist in the proper management, development and protection of rural lands for the purpose of promoting the social, economic and environmental welfare of the State. Land use conflicts can continue to be avoided through the implementation of the planning proposal, whilst State significant agricultural land will not be compromised.

Part 2 Rural Planning Principles

Clause 7 Rural Planning Principles

The Rural Planning Principles are as follows:

- (a) *the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,*

Comment: The planning proposal will continue to allow the Murray LEP 2011 to be consistent with this subclause.

- (b) *recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,*

Comment: The planning proposal will continue to allow the Murray LEP 2011 to be consistent with this subclause.

- (c) *recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,*

Comment: The planning proposal will continue to allow the Murray LEP 2011 to be consistent with this subclause.

- (d) *in planning for rural lands, to balance the social, economic and environmental interests of the community,*

Comment: The planning proposal will continue to allow the Murray LEP 2011 to be consistent with this subclause. The planning proposal will allow for a more flexible approach to rural land considerations, whilst protecting the importance of rural land in Murray River Council.

- (e) *the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,*

Comment: The planning proposal will continue to allow the Murray LEP 2011 to be consistent with this subclause.

- (f) *the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,*

Comment: The planning proposal does not create additional residential opportunities, but instead provides for a variety of additional development within RU1 and E3 zoned land which is considered an appropriate outcome.

- (g) *the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,*

Comment: Not applicable. See above.

- (h) *ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.*

Comment: The planning proposal is consistent with the draft Riverina Murray Regional Plan. See relevant section of this report for more information.

Note. Under section 117 of the Act, the Minister has directed that councils exercise their functions relating to local environmental plans in accordance with the Rural Planning Principles. Under section 55 of the Act, the Minister may also direct a council to prepare a local environmental plan.

Comment: Noted.

Part 3 Rural subdivisions and dwellings

Note. This Policy does not change the minimum lot size provision in existing environmental planning instruments. This Policy does permit variation of minimum lot sizes for agricultural purposes (see clause 9).

Comment: Noted.

Clause 8 Rural Subdivision Principles

The Rural Subdivision Principles are as follows:

- (a) *the minimisation of rural land fragmentation,*

Comment: It is considered that the planning proposal will continue to minimise the chance of rural land fragmentation. The proposed additional clause to permit subdivisions to accommodate existing permitted land uses will not fragment rural land, as each application will be required to be assessed on its merits.

- (b) *the minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses,*

Comment: It is considered that the planning proposal will not create the chance of rural land use conflicts, particularly between residential land uses and other rural land uses.

- (c) *the consideration of the nature of existing agricultural holdings and the existing and planned future supply of rural residential land when considering lot sizes for rural lands,*

Comment: The planning proposal is not proposing to alter the minimum lot size provisions outlined in the Council.

- (d) *the consideration of the natural and physical constraints and opportunities of land,*

Comment: It is considered that the planning proposal is not inconsistent with this requirement. Any subsequent development application submitted to Council will be required to adhere to all relevant considerations as outlined in Section 79C of the *Environmental Planning and Assessment Act 1979*.

- (e) *ensuring that planning for dwelling opportunities takes account of those constraints.*

Comment: The planning proposal is not proposing to alter the opportunities for dwellings to be constructed.

Note. Under section 117 of the Act, the Minister has directed that councils exercise their functions relating to changes in minimum lot sizes under local environmental plans in accordance with the Rural Planning Principles and the Rural Subdivision Principles. Under section 55 of the Act, the Minister may also direct a council to prepare a local environmental plan.

Comment: Noted.

Clause 9 Rural subdivision for agricultural purposes

- (1) *The objective of this clause is to provide flexibility in the application of standards for subdivision in rural zones to allow land owners a greater chance to achieve the objectives for development in the relevant zone.*

Comment: The planning proposal will allow the Murray LEP 2011 to provide flexibility for subdivision in rural zones to allow land owners a greater chance to achieve the objectives for development in the relevant zone.

- (2) *Land in a rural zone may, with consent, be subdivided for the purpose of primary production to create a lot of a size that is less than the minimum size otherwise permitted for that land.*

Comment: The planning proposal does not propose to alter these existing requirements.

- (3) *However, such a lot cannot be created if an existing dwelling would, as the result of the subdivision, be situated on the lot.*

Comment: The planning proposal does not propose to alter these existing requirements.

- (4) *A dwelling cannot be erected on such a lot.*

Comment: The planning proposal does not propose to alter these existing requirements.

- (5) *State Environmental Planning Policy No 1—Development Standards does not apply to a development standard under this clause.*

Comment: Noted.

State Environmental Planning Policy (SEPP 53 Transitional Provisions) 2011

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy (State and Regional Development) 2011

Part 1 Preliminary

Clause 3 Aims of Policy

The aims of this Policy are as follows:

- (a) *to identify development that is State significant development,*
- (b) *to identify development that is State significant infrastructure and critical State significant infrastructure,*
- (c) *to confer functions on joint regional planning panels to determine development applications.*

Comment: It is considered that the planning proposal is consistent with the aims and intent of this Policy. The planning proposal does not adversely affect existing requirements outlined within the Policy.

State Environmental Planning Policy (State Significant Precincts) 2005

Comment: The planning proposal does not affect State Significant Precincts.

State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy (Sydney Region Growth Centres) 2006

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy (Three Ports) 2013

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy (Urban Renewal) 2010

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy (Western Sydney Employment Area) 2009

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy (Western Sydney Parklands) 2009

Comment: Not applicable to Murray River Council.

Murray Regional Environmental Plan No 2—Riverine Land

Part 1 Introduction

Clause 2 Aims of the plan

The aims of this plan are to conserve and enhance the riverine environment of the River Murray for the benefit of all users.

Comment: It is considered that the planning proposal is not inconsistent with the aims of the plan. The planning proposal will continue to protect the importance of the River Murray.

Clause 3 Objectives of the plan

The objectives of this plan are:-

- (a) to ensure that appropriate consideration is given to development with the potential to adversely affect the riverine environment of the River Murray, and*
- (b) to establish a consistent and co-ordinated approach to environmental planning and assessment along the River Murray, and*
- (c) to conserve and promote the better management of the natural and cultural heritage values of the riverine environment of the River Murray.*

Comment: It is considered that the planning proposal is consistent with the objectives of the plan.

Part 2 Planning principles

Clause 8 When planning principles should be applied

This Part applies when:

- (a) a council prepares any local environmental plan, or*
- (b) a consent authority determines a development application, or*
- (c) a public authority or person proposes to carry out development which does not require development consent but which has the potential to adversely affect the riverine environment of the River Murray.*

Comment: Noted.

Clause 9 General principles

When this Part applies, the following must be taken into account:-

- (a) the aims, objectives and planning principles of this plan,*
- (b) any relevant River Management Plan,*
- (c) any likely effect of the proposed plan or development on adjacent and downstream local government areas,*
- (d) the cumulative impact of the proposed development on the River Murray.*

Comment: The aims, objectives and planning principles of this plan have been considered in the assessment of this planning proposal. No relevant River Management Plan applies in this instance. The planning proposal is unlikely to have any adverse impact upon adjacent and downstream local government areas, and will not cause any cumulative impact on the River Murray.

Clause 10 Specific principles

When this Part applies, the following must be taken into account:

Access

- * The waterway and much of the foreshore of the River Murray is a public resource. Alienation or obstruction of this resource by or for private purposes should not be supported.*
- * Development along the main channel of the River Murray should be for public purposes. Moorings in the main channel should be for the purposes of short stay occupation only.*
- * Human and stock access to the River Murray should be managed to minimise the adverse impacts of uncontrolled access on the stability of the bank and vegetation growth.*

Comment: The planning proposal is consistent with this subclause.

Bank disturbance

- * Disturbance to the shape of the bank and riparian vegetation should be kept to a minimum in any development of riverfront land.*

Comment: The planning proposal is consistent with this subclause.

Flooding

Where land is subject to inundation by floodwater:

- (a) the benefits to riverine ecosystems of periodic flooding,*
- (b) the hazard risks involved in developing that land,*
- (c) the redistributive effect of the proposed development on floodwater,*
- (d) the availability of other suitable land in the locality not liable to flooding,*
- (e) the availability of flood free access for essential facilities and services,*
- (f) the pollution threat represented by any development in the event of a flood,*
- (g) the cumulative effect of the proposed development on the behaviour of floodwater, and*
- (h) the cost of providing emergency services and replacing infrastructure in the event of a flood.*
- * Flood mitigation works constructed to protect new urban development should be designed and maintained to meet the technical specifications of the Department of Water Resources.*

Comment: The planning proposal is consistent with this subclause.

Land degradation

- * Development should seek to avoid land degradation processes such as erosion, native vegetation decline, pollution of ground or surface water, groundwater accession, salination and soil acidity, and adverse effects on the quality of terrestrial and aquatic habitats.*

Comment: The planning proposal is consistent with this subclause.

Landscape

- * *Measures should be taken to protect and enhance the riverine landscape by maintaining native vegetation along the riverbank and adjacent land, rehabilitating degraded sites and stabilising and revegetating riverbanks with appropriate species.*

Comment: The planning proposal is consistent with this subclause.

River related uses

- * *Only development which has a demonstrated, essential relationship with the river Murray should be located in or on land adjacent to the River Murray. Other development should be set well back from the bank of the River Murray.*
- * *Development which would intensify the use of riverside land should provide public access to the foreshore.*

Comment: The planning proposal is consistent with this subclause.

Settlement

- * *New or expanding settlements (including rural-residential subdivision, tourism and recreational development) should be located:*
 - (a) *on flood free land,*
 - (b) *close to existing services and facilities, and*
 - (c) *on land that does not compromise the potential of prime crop and pasture land to produce food or fibre.*

Comment: The planning proposal is consistent with this subclause. Any subsequent development application received by Council will be required to be assessed on its merits.

Water quality

- * *All decisions affecting the use or management of riverine land should seek to reduce pollution caused by salts and nutrients entering the River Murray and otherwise improve the quality of water in the River Murray.*

Comment: The planning proposal is consistent with this subclause.

Wetlands

- * *Wetlands are a natural resource which have ecological, recreational, economic, flood storage and nutrient and pollutant filtering values. Land use and management decisions affecting wetlands should:*
 - (a) *provide for a hydrological regime appropriate for the maintenance or restoration of the productive capacity of the wetland,*
 - (b) *consider the potential impact of surrounding land uses and incorporate measures such as a vegetated buffer which mitigate against any adverse effects,*
 - (c) *control human and animal access, and*
 - (d) *conserve native plants and animals.*

Comment: The planning proposal is consistent with this subclause.

State Environmental Planning Policy No 1—Development Standards

Comment: Not applicable to the Murray LEP 2011.

State Environmental Planning Policy No 14—Coastal Wetlands

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy No 15—Rural Landsharing Communities

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy No 19—Bushland in Urban Areas

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy No 21—Caravan Parks

Clause 3 Aims, objectives etc.

- (1) *The aim of this Policy is to encourage:*
 - (a) *the orderly and economic use and development of land used or intended to be used as a caravan park catering exclusively or predominantly for short-term residents (such as tourists) or for long-term residents, or catering for both, and*
 - (b) *the proper management and development of land so used, for the purpose of promoting the social and economic welfare of the community, and*
 - (c) *the provision of community facilities for land so used, and*
 - (d) *the protection of the environment of, and in the vicinity of, land so used.*
- (2) *The strategies by which that aim is to be achieved are:*
 - (a) *(Repealed)*
 - (b) *by requiring that development consent be obtained from the local Council for development for the purposes of caravan parks, and*
 - (c) *by providing that development consent may be granted that will authorise the use of sites for short-term stays (whether or not by tourists) or for long-term residential purposes, or for both, and*
 - (d) *by requiring that development consent be obtained from the local Council for the subdivision of land for lease purposes under section 289K of the [Local Government Act 1919](#).*

Comment: It is considered that the planning proposal is consistent with the aims and intent of this Policy. The planning proposal does not adversely affect existing requirements outlined within the Policy.

State Environmental Planning Policy No 26—Littoral Rainforests

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy No 29—Western Sydney Recreation Area

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy No 30—Intensive Agriculture

Clause 2 Aims, objectives etc.

- (1) *The aims of this Policy are:*
 - (a) *to require development consent for cattle feedlots having a capacity to accommodate 50 or more head of cattle, and piggeries having a capacity to accommodate 200 or more pigs or 20 or more breeding sows, and*

- (b) *to provide for public participation in the consideration of development applications for cattle feedlots or piggeries of this size, and*
- (c) *to require that, in determining a development application for cattle feedlots or piggeries of this size, the consent authority is to take into consideration:*
 - (i) *the adequacy of information provided, and*
 - (ii) *the potential for odour, water pollution and soil degradation, and*
 - (iii) *measures to mitigate potential adverse impacts, and*
 - (iv) *measures for the health and welfare of animals, and*
 - (v) *relevant guidelines,**so as to achieve greater consistency in environmental planning and assessment for cattle feedlots and piggeries.*
- (2) *This Policy also aims to extend the definition of the term **rural industry** where used in environmental planning instruments so as to include within the meaning of that term composting facilities and works, including facilities and works for the production of mushroom substrate.*

Comment: It is considered that the planning proposal is consistent with the aims and intent of this Policy. The planning proposal does not adversely affect existing requirements outlined within the Policy.

State Environmental Planning Policy No 32—Urban Consolidation (Redevelopment of Urban Land)

Comment: No urban land is to be affected by the planning proposal.

State Environmental Planning Policy No 33—Hazardous and Offensive Development

Part 1 Preliminary

Clause 2 Aims, objectives etc.

This Policy aims:

- (a) *to amend the definitions of hazardous and offensive industries where used in environmental planning instruments, and*
- (b) *to render ineffective a provision of any environmental planning instrument that prohibits development for the purpose of a storage facility on the ground that the facility is hazardous or offensive if it is not a hazardous or offensive storage establishment as defined in this Policy, and*
- (c) *to require development consent for hazardous or offensive development proposed to be carried out in the Western Division, and*
- (d) *to ensure that in determining whether a development is a hazardous or offensive industry, any measures proposed to be employed to reduce the impact of the development are taken into account, and*
- (e) *to ensure that in considering any application to carry out potentially hazardous or offensive development, the consent authority has sufficient information to assess whether the development is hazardous or offensive and to impose conditions to reduce or minimise any adverse impact, and*
- (f) *to require the advertising of applications to carry out any such development.*

Comment: The planning proposal is consistent with the aims, objectives etc. of this Policy. The planning proposal will not adversely impact upon the requirements of this Policy. Any subsequent development application which seeks consent for hazardous and or offensive development, or potentially hazardous and offensive development will continue to be required to adhere to all relevant legislation.

State Environmental Planning Policy No 36—Manufactured Home Estates

Comment: Not applicable. Manufactured Home Estates are not permitted on E3 or RU1 Zoned land.

State Environmental Planning Policy No 39—Spit Island Bird Habitat

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy No 44—Koala Habitat Protection

Part 1 Preliminary

Clause 3 Aims, objectives etc.

This Policy aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline:

- (a) by requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and*
- (b) by encouraging the identification of areas of core koala habitat, and*
- (c) by encouraging the inclusion of areas of core koala habitat in environment protection zones.*

Comment: The planning proposal is consistent with the aims, objectives etc. of this Policy. The planning proposal will not adversely impact upon the requirements of this Policy. The consideration of Koala Habitat Protection will continue to be provided.

State Environmental Planning Policy No 47—Moore Park Showground

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy No 50—Canal Estate Development

Comment: The planning proposal is consistent with the aims, objectives etc. of this Policy. The planning proposal will not adversely impact upon the requirements of this Policy.

State Environmental Planning Policy No 52—Farm Dams and Other Works in Land and Water Management Plan Areas

Clause 2 Aims of Policy

- (1) This Policy aims to require environmental assessment under Part 4 of the [Environmental Planning and Assessment Act 1979](#) of development for the purpose of artificial waterbodies (other than minor works in restricted locations) that will be carried out under farm plans that implement land and water management plans.
Consequently, that development will be able to be lawfully carried out only with development consent granted by the council of the local*

government area in which it will be carried out and only after a statement of environmental effects or (in the case of large works or those on environmentally sensitive land) only after an environmental impact statement has been considered by the council.

- (2) *This Policy also aims to allow the carrying out of development without development consent for the purpose of the following:*
- (a) *small artificial waterbodies, such as those used for the purpose of storing water run-off for reuse, but only in locations restricted by this Policy,*
 - (b) *routine maintenance of irrigation channels, and the use of land for related access, whether or not a land and water management plan applies to the land concerned,*
 - (c) *emergency work on irrigation channels by irrigation corporations and their use of land for related access, whether or not a land and water management plan applies to the land concerned.*
 - (d) *(Repealed)*

Comment: The planning proposal is consistent with the aims of this Policy. The planning proposal will not adversely impact upon the requirements of this Policy.

State Environmental Planning Policy No 55—Remediation of Land

Clause 2 Object of this Policy

- (1) *The object of this Policy is to provide for a Statewide planning approach to the remediation of contaminated land.*
- (2) *In particular, this Policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment:*
- (a) *by specifying when consent is required, and when it is not required, for a remediation work, and*
 - (b) *by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and*
 - (c) *by requiring that a remediation work meet certain standards and notification requirements.*

Comment: The planning proposal is consistent with the object of this Policy. The planning proposal will not adversely impact upon the requirements of this Policy.

State Environmental Planning Policy No 59—Central Western Sydney Regional Open Space and Residential

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy No 62—Sustainable Aquaculture

Comment: The planning proposal is not inconsistent with this Policy.

State Environmental Planning Policy No 64—Advertising and Signage

Part 1 Preliminary

Clause 3 Aims, objectives etc.

- (1) *This Policy aims:*
 - (a) *to ensure that signage (including advertising):*
 - (i) *is compatible with the desired amenity and visual character of an area, and*
 - (ii) *provides effective communication in suitable locations, and*
 - (iii) *is of high quality design and finish, and*
 - (b) *to regulate signage (but not content) under Part 4 of the Act, and*
 - (c) *to provide time-limited consents for the display of certain advertisements, and*
 - (d) *to regulate the display of advertisements in transport corridors, and*
 - (e) *to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.*
- (2) *This Policy does not regulate the content of signage and does not require consent for a change in the content of signage.*

Comment: The planning proposal is not inconsistent with the aims of this Policy.

State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development

Part 1 Preliminary

Clause 2 Aims, objectives etc.

- (1) *This Policy aims to improve the design quality of residential apartment development in New South Wales.*
- (2) *This Policy recognises that the design quality of residential apartment development is of significance for environmental planning for the State due to the economic, environmental, cultural and social benefits of high quality design.*
- (3) *Improving the design quality of residential apartment development aims:*
 - (a) *to ensure that it contributes to the sustainable development of New South Wales:*
 - (i) *by providing sustainable housing in social and environmental terms, and*
 - (ii) *by being a long-term asset to its neighbourhood, and*
 - (iii) *by achieving the urban planning policies for its regional and local contexts, and*
 - (b) *to achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces they define, and*
 - (c) *to better satisfy the increasing demand, the changing social and demographic profile of the community, and the needs of the widest range of people from childhood to old age, including those with disabilities, and*
 - (d) *to maximise amenity, safety and security for the benefit of its occupants and the wider community, and*
 - (e) *to minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions, and*
 - (f) *to contribute to the provision of a variety of dwelling types to meet population growth, and*

- (g) *to support housing affordability, and*
- (h) *to facilitate the timely and efficient assessment of applications for development to which this Policy applies.*
- (4) *This Policy aims to provide:*
 - (a) *consistency of policy and mechanisms across the State, and*
 - (b) *a framework for local and regional planning to achieve identified outcomes for specific places.*

Comment: The planning proposal is not inconsistent with the aims of this Policy.

State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes)

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy No 71—Coastal Protection

Comment: Not applicable to Murray River Council.

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s. 117 directions)?

It is considered that the planning proposal is consistent with all applicable Ministerial Directions (Section 117 Directions). Please see below.

1. Employment and Resources

1.1 Business and Industrial Zones

Comment: Not applicable. The planning proposal does not affect land within an existing or proposed business or industrial zone.

1.2 Rural Zones

Objective

The objective of this direction is to protect the agricultural production value of rural land.

Comment: It is considered that the planning proposal is consistent with this objective. The agricultural production value of rural land will not be adversely impacted by the planning proposal.

When this direction applies

- (3) *This direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary).*

Comment: This direction applies.

What a relevant planning authority must do if this direction applies

- (4) *A planning proposal must:*
 - (a) *not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.*

- (b) *not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).*

Comment: The planning proposal is consistent with (4)(a). (4)(b) does not apply.

Consistency

(5) *A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:*

- (a) *justified by a strategy which:*
 - (i) *gives consideration to the objectives of this direction,*
 - (ii) *identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and*
 - (iii) *is approved by the Director-General of the Department of Planning, or*
- (b) *justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or*
- (c) *in accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or*
- (d) *is of minor significance.*

Comment: Not applicable. The planning proposal is consistent with the terms of this direction.

1.3 Mining, Petroleum Production and Extractive Industries

Comment: This direction does not apply. The planning proposal will not have the effect of:

- (a) *prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or*
- (b) *restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.*

1.4 Oyster Aquaculture

Comment: Not applicable to Murray River Council.

1.5 Rural Lands

Objectives

- (1) *The objectives of this direction are to:*
 - (a) *protect the agricultural production value of rural land,*
 - (b) *facilitate the orderly and economic development of rural lands for rural and related purposes.*

Comment: It is considered that the planning proposal is consistent with these objectives. The agricultural production value of rural land will not be adversely impacted by the planning proposal, whilst the inclusion of the relevant clauses into the Murray LEP 2011 will facilitate the orderly and economic development of rural lands for rural and related purposes.

Where this direction applies

Comment: This direction applies to Murray River Council.

When this direction applies

(3) *This direction applies when:*

- (a) *a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary) or*
- (b) *a relevant planning authority prepares a planning proposal that changes the existing minimum lot size on land within a rural or environment protection zone.*

Comment: This direction applies.

What a relevant planning authority must do if this direction applies

- (4) *A planning proposal to which clauses 3(a) or 3(b) apply must be consistent with the Rural Planning Principles listed in State Environmental Planning Policy (Rural Lands) 2008.*
- (5) *A planning proposal to which clause 3(b) applies must be consistent with the Rural Subdivision Principles listed in State Environmental Planning Policy (Rural Lands) 2008.*

Note: State Environmental Planning Policy (Rural Lands) 2008 does not require a relevant planning authority to review or change its minimum lot size(s) in an existing LEP. A relevant planning authority can transfer the existing minimum lot size(s) into a new LEP. However, where a relevant planning authority seeks to vary an existing minimum lot size in an LEP, it must do so in accordance with the Rural Subdivision Principles listed in State Environmental Planning Policy (Rural Lands) 2008.

Comment: It is considered that the planning proposal is consistent with this section. See assessment against State Environmental Planning Policy (Rural Lands) 2008 for more information.

Consistency

- (6) *A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:*
 - (a) *justified by a strategy which:*

- i. gives consideration to the objectives of this direction,
 - ii. identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites, and
 - iii. is approved by the Director-General of the Department of Planning and is in force, or
- (b) is of minor significance.

Comment: Not applicable. The planning proposal is consistent with the terms of this direction.

2. Environment and Heritage

2.1 Environment Protection Zones

Objective

- (1) *The objective of this direction is to protect and conserve environmentally sensitive areas.*

Comment: It is considered that the planning proposal is consistent with this objective. The protection and conservation of environmentally sensitive areas will not be adversely impacted upon by the planning proposal.

Where this direction applies

- (2) *This direction applies to all relevant planning authorities.*

Comment: This direction applies to Murray River Council.

When this direction applies

- (3) *This direction applies when a relevant planning authority prepares a planning proposal.*

Comment: Noted.

What a relevant planning authority must do if this direction applies

- (4) *A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.*
- (5) *A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 "Rural Lands".*

Comment: It is considered that the planning proposal is consistent with this section. The planning proposal includes provisions that facilitate the protection and conservation of environmentally sensitive areas, whilst the planning proposal will not reduce the environmental protection standards that apply to the land.

Consistency

- (6) *A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:*
- b. justified by a strategy which:*
 - i. gives consideration to the objectives of this direction,*
 - ii. identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and*
 - iii. is approved by the Director-General of the Department of Planning, or*
 - (b) justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or*
 - (c) in accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or*
 - (d) is of minor significance.*

Comment: Not applicable. The planning proposal is consistent with the terms of this direction.

2.2 Coastal Protection

Comment: Not applicable to Murray River Council.

2.3 Heritage Conservation

Objective

- (1) *The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.*

Comment: It is considered that the planning proposal is consistent with this objective. The conservation of items, areas, objects and places of environmental heritage significance and indigenous heritage significance will not be adversely impacted upon by the planning proposal.

Where this direction applies

- (2) *This direction applies to all relevant planning authorities.*

Comment: Noted.

When this direction applies

- (3) *This direction applies when a relevant planning authority prepares a planning proposal.*

Comment: Noted.

What a relevant planning authority must do if this direction applies

- (4) A planning proposal must contain provisions that facilitate the conservation of:
- (a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,
 - (b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and
 - (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.

Comment: It is considered that the planning proposal is consistent with this section. The planning proposal does not propose to alter the existing provisions contained within the Murray LEP 2011 which facilitates the conservation of:

- (a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,
- (b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and
- (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.

Consistency

- (5) A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that:
- (a) the environmental or indigenous heritage significance of the item, area, object or place is conserved by existing or draft environmental planning instruments, legislation, or regulations that apply to the land, or
 - (b) the provisions of the planning proposal that are inconsistent are of minor significance.

Note: In this direction:

“conservation”, “environmental heritage”, “item”, “place” and “relic” have the same meaning as in the Heritage Act 1977.

“Aboriginal object”, “Aboriginal area” and “Aboriginal place” have the same meaning as in the National Parks and Wildlife Act 1974. Heritage conservation is covered by a compulsory clause in the Standard Instrument (Local Environmental Plans) Order 2006. A LEP that adopts the Standard Instrument should identify such items, areas, objects or places of environmental heritage significance or indigenous heritage significance as are relevant to the terms of this direction on the Heritage Map and relevant Schedule of the LEP.

Comment: Not applicable. The planning proposal is consistent with the terms of this direction.

2.4 Recreation Vehicle Areas

Objective

(6) The objective of this direction is to protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.

Comment: It is considered that the planning proposal is consistent with this objective. The protection of sensitive land or land with significant conservation values from adverse impacts from recreation vehicles will remain.

Where this direction applies

(7) This direction applies to all relevant planning authorities.

Comment: Noted.

When this direction applies

(8) This direction applies when a relevant planning authority prepares a planning proposal.

Comment: Noted.

What a relevant planning authority must do if this direction applies

(9) A planning proposal must not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the Recreation Vehicles Act 1983):

- (a) where the land is within an environmental protection zone,*
- (b) where the land comprises a beach or a dune adjacent to or adjoining a beach,*
- (c) where the land is not within an area or zone referred to in paragraphs (4)(a) or (4)(b) unless the relevant planning authority has taken into consideration:*
 - (i) the provisions of the guidelines entitled Guidelines for Selection, Establishment and Maintenance of Recreation Vehicle Areas, Soil Conservation Service of New South Wales, September, 1985, and*
 - (ii) the provisions of the guidelines entitled Recreation Vehicles Act, 1983, Guidelines for Selection,*

Comment: It is considered that the planning proposal is consistent with this section.

Consistency

(10) *A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:*

- (a) justified by a strategy which:*
 - (i) gives consideration to the objective of this direction, and*
 - (ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and*
 - (iii) is approved by the Director-General of the Department of Planning, or*
- (b) justified by a study prepared in support of the planning proposal which gives consideration to the objective of this direction, or*
- (c) in accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or*
- (d) of minor significance.*

Comment: Not applicable. The planning proposal is consistent with the terms of this direction.

2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs

Comment: Not applicable to Murray River Council.

3. Housing, Infrastructure and Urban and Urban Development

3.1 Residential Zones

Comment: This direction does not apply. The planning proposal does not affect land within:

- (a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary), or*
- (b) any other zone in which significant residential development is permitted or proposed to be permitted.*

**3.2 Caravan Parks and Manufactured Home Estates
Objectives**

(12) *The objectives of this direction are:*

- (a) to provide for a variety of housing types, and*

- (b) to provide opportunities for caravan parks and manufactured home estates.

Comment: The planning proposal does not change provisions relating to caravan parks and manufactured home estates.

Where this direction applies

(13) This direction applies to all relevant planning authorities. This direction does not apply to:

- (a) Crown land reserved or dedicated for any purposes under the Crown Lands Act 1989, except Crown land reserved for accommodation purposes, or
- (b) land dedicated or reserved under the National Parks and Wildlife Act 1974.

Comment: Noted.

When this direction applies

(14) This direction applies when a relevant planning authority prepares a planning proposal.

Comment: Noted.

What a relevant planning authority must do if this direction applies

(15) In identifying suitable zones, locations and provisions for caravan parks in a planning proposal, the relevant planning authority must:

- (a) retain provisions that permit development for the purposes of a caravan park to be carried out on land, and
- (b) retain the zonings of existing caravan parks, or in the case of a new principal LEP zone the land in accordance with an appropriate zone under the Standard Instrument (Local Environmental Plans) Order 2006 that would facilitate the retention of the existing caravan park.

(16) In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a planning proposal, the relevant planning authority must:

- (a) take into account the categories of land set out in Schedule 2 of SEPP 36 as to where MHEs should not be located,
- (b) take into account the principles listed in clause 9 of SEPP 36 (which relevant planning authorities are required to consider when assessing and determining the development and subdivision proposals), and
- (c) include provisions that the subdivision of MHEs by long term lease of up to 20 years or under the Community Land Development Act 1989 be permissible with consent.

Comment: The planning proposal does not change provisions relating to caravan parks and manufactured home estates.

Consistency

(17) *A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:*

- (a) justified by a strategy which:*
 - (i) gives consideration to the objective of this direction, and*
 - (ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and*
 - (iii) is approved by the Director-General of the Department of Planning, or*
- (b) justified by a study prepared in support of the planning proposal which gives consideration to the objective of this direction, or*
- (c) in accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or*
- (d) of minor significance.*

Comment: Not applicable. The planning proposal is consistent with the terms of this direction.

3.3 Home Occupations

Objective

- (1) *The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.*

Comment: The planning proposal does not change provisions relating to the carrying out of low-impact small businesses in dwelling houses. It is noted that the planning proposal will not increase the possibility of additional dwelling houses.

Where this direction applies

- (2) *This direction applies to all relevant planning authorities.*

Comment: Noted.

When this direction applies

- (3) *This direction applies when a relevant planning authority prepares a planning proposal.*

Comment: Noted.

What a relevant planning authority must do if this direction applies

- (4) *Planning proposals must permit home occupations to be carried out in dwelling houses without the need for development consent.*

Comment: The planning proposal does not change provisions relating to permitting home occupations to be carried out in dwelling houses without the need for development consent.

Consistency

- (5) *A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent with the terms of this direction are of minor significance.*

Note: In this direction "home occupation" has the same meaning as it has in the Standard Instrument (Local Environmental Plans) Order 2006.

Comment: Not applicable. The planning proposal is consistent with the terms of this direction.

3.4 Integrating Land Use and Transport

Comment: This direction does not apply. The planning proposal does not create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.

3.5 Development Near Licensed Aerodromes

Comment: This direction does not apply. The planning proposal does not create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome.

3.6 Shooting Ranges

Objective

- (1) *The objectives are:*
- (a) *to maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range,*
 - (b) *to reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land,*
 - (c) *to identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range.*

Comment: The planning proposal is consistent with the objectives of the direction.

Where this direction applies

- (2) *This direction applies to all relevant planning authorities.*

Comment: Noted.

When this direction applies

- (3) *This direction applies when a relevant planning authority prepares a planning proposal that will affect, create, alter or*

remove a zone or a provision relating to land adjacent to and/or adjoining an existing shooting range.

Comment: Noted.

What a relevant planning authority must do if this direction applies

- (4) *A planning proposal must not seek to rezone land adjacent to and/or adjoining an existing shooting range that has the effect of:*
- a. *permitting more intensive land uses than those which are permitted under the existing zone; or*
 - b. *permitting land uses that are incompatible with the noise emitted by the existing shooting range.*

Comment: The planning proposal does not seek to rezone any land.

Consistency

- (5) *A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:*
- (a) *justified by a strategy which:*
 - i. *gives consideration to the objectives of this direction, and*
 - ii. *identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites) and*
 - iii. *is approved by the Director-General of the Department of Planning and is in force, or*
 - (b) *justified by a study prepared in support of the planning proposal which gives consideration to the objective of this direction, or*
 - (c) *is of minor significance.*

Note: In this direction, an "existing shooting range" means a shooting range the subject of a valid approval issued under the Firearms Act 1996 and Firearms Regulation 2006, and includes the Range Danger Area of that shooting range.

Comment: Not applicable. The planning proposal is consistent with the terms of this direction.

4. Hazard and Risk Hazard and Risk

4.1 Acid Sulfate Soils

Comment: This direction does not apply. The planning proposal will not apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps.

4.2 Mine Subsidence and Unstable Land

Comment: This direction does not apply. The planning proposal will not apply to land within a Mine Subsidence District proclaimed pursuant to section 15 of the *Mine Subsidence Compensation Act 1961*, or which has been identified as unstable land.

4.3 Flood Prone Land

Objectives

- (1) *The objectives of this direction are:*
- (a) *to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and*
 - (b) *to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.*

Comment: The planning proposal is consistent with the objectives of this direction. The existing flood prone land considerations contained within the Murray LEP 2011 will not be affected.

Where this direction applies

- (2) *This direction applies to all relevant planning authorities that are responsible for flood prone land within their LGA.*

Comment: Noted.

When this direction applies

- (3) *This direction applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.*

Comment: Noted.

What a relevant planning authority must do if this direction applies

- (4) *A planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas).*
- (5) *A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.*
- (6) *A planning proposal must not contain provisions that apply to the flood planning areas which:*
 - (a) *permit development in floodway areas,*
 - (b) *permit development that will result in significant flood impacts to other properties,*
 - (c) *permit a significant increase in the development of that land,*

- (d) *are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or*
- (e) *permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development.*
- (7) *A planning proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).*
- (8) *For the purposes of a planning proposal, a relevant planning authority must not determine a flood planning level that is inconsistent with the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas) unless a relevant planning authority provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).*

Comment: The planning proposal is consistent with all requirements outlined above.

Consistency

- (9) *A planning proposal may be inconsistent with this direction only if the relevant planning authority can satisfy the Director-General (or an officer of the Department nominated by the Director-General) that:*
 - (a) *the planning proposal is in accordance with a floodplain risk management plan prepared in accordance with the principles and guidelines of the Floodplain Development Manual 2005, or*
 - (b) *the provisions of the planning proposal that are inconsistent are of minor significance.*

Note: "flood planning area", "flood planning level", "flood prone land" and "floodway area" have the same meaning as in the Floodplain Development Manual 2005.

Comment: Not applicable. The planning proposal is consistent with this direction.

4.4 Planning for Bushfire Protection

Objectives

- (1) *The objectives of this direction are:*
 - (a) *to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and*
 - (b) *to encourage sound management of bush fire prone areas.*

Comment: The planning proposal is consistent with the objectives of this direction. The existing bush fire prone areas considerations contained within the Murray LEP 2011 will not be affected.

Where this direction applies

- (2) *This direction applies to all local government areas in which the responsible Council is required to prepare a bush fire prone land map under section 146 of the Environmental Planning and Assessment Act 1979 (the EP&A Act), or, until such a map has been certified by the Commissioner of the NSW Rural Fire Service, a map referred to in Schedule 6 of that Act.*

Comment: Noted.

When this direction applies

- (3) *This direction applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land.*

Comment: Noted.

What a relevant planning authority must do if this direction applies

- (4) *In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made,*
- (5) *A planning proposal must:*
- (a) *have regard to Planning for Bushfire Protection 2006,*
 - (b) *introduce controls that avoid placing inappropriate developments in hazardous areas, and*
 - (c) *ensure that bushfire hazard reduction is not prohibited within the APZ.*
- (6) *A planning proposal must, where development is proposed, comply with the following provisions, as appropriate:*
- (a) *provide an Asset Protection Zone (APZ) incorporating at a minimum:*
 - (i) *an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and*
 - (ii) *an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road,*
 - (b) *for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning*

proposal permit Special Fire Protection Purposes (as defined under section 100B of the Rural Fires Act 1997), the APZ provisions must be complied with,

- (c) contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks,*
- (d) contain provisions for adequate water supply for firefighting purposes,*
- (e) minimise the perimeter of the area of land interfacing the hazard which may be developed,*
- (f) introduce controls on the placement of combustible materials in the Inner Protection Area.*

Comment: The planning proposal is consistent with all requirements outlined above. Once any gateway determination is received under section 56 of the Act, Council will consult with the Commissioner of the NSW Rural Fire Service, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made (where applicable).

Consistency

- (7) A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the council has obtained written advice from the Commissioner of the NSW Rural Fire Service, to the effect that, notwithstanding the non-compliance, the NSW Rural Fire Service does not object to the progression of the planning proposal.*

Comment: Not applicable. The planning proposal is consistent with this direction.

5. Regional Planning

5.1 Implementation of Regional Strategies

Comment: This direction does not apply. Murray River Council is not affected by the following regional strategies:

- (a) Far North Coast Regional Strategy*
- (b) Lower Hunter Regional Strategy*
- (c) South Coast Regional Strategy (excluding land in the Shoalhaven LGA)*
- (d) Sydney–Canberra Corridor Regional Strategy*
- (e) Central Coast Regional Strategy, and*
- (f) Mid North Coast Regional Strategy.*

5.2 Sydney Drinking Water Catchment

Comment: Not applicable to Murray River Council.

5.3 Farmland of State and Regional Significance on the NSW Far North Coast

Comment: Not applicable to Murray River Council.

5.4 Commercial and Retail Development along the Pacific Highway, North Coast

Comment: Not applicable to Murray River Council.

5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) (Revoked 18 June 2010)

Comment: Noted.

5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)

Comment: Noted.

5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)

Comment: Noted.

5.8 Second Sydney Airport: Badgerys Creek

Comment: Not applicable to Murray River Council.

5.9 North West Rail Link Corridor Strategy

Comment: Not applicable to Murray River Council.

5.10 Implementation of Regional Plans

Objective

(6) *The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.*

Comment: The planning proposal is consistent with the objective of this direction.

Where this direction applies

(7) *This direction applies to land to which a Regional Plan has been released by the Minister for Planning.*

Comment: No Regional Plan has been released by the Minister for Planning relating to Murray River Council. It is noted that the draft Riverina Murray Regional Plan is currently on exhibition for comment. The planning proposal is not inconsistent with this document.

When this direction applies

(8) *This direction applies when a relevant planning authority prepares a planning proposal.*

What a relevant planning authority must do if this direction applies

(9) *Planning proposals must be consistent with a Regional Plan released by the Minister for Planning.*

Comment: A draft Riverina Murray Regional Plan is currently on exhibition for comment. The planning proposal is not inconsistent with this document.

Consistency

(10) *A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Secretary of the Department of Planning and Environment (or an officer of the Department nominated by the Secretary), that the extent of inconsistency with the Regional Plan:*

- (a) is of minor significance, and*
- (b) the planning proposal achieves the overall intent of the Regional Plan and does not undermine the achievement of its vision, land use strategy, goals, directions or actions.*

Comment: Not applicable. The planning proposal is consistent with this direction.

6. Local Plan Making**6.1 Approval and Referral Requirements****Objective**

(1) *The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.*

Comment: The planning proposal is consistent with the objectives of this direction. The additions into the Murray LEP 2011 as a result of the planning proposal will continue to encourage the efficient and appropriate assessment of development.

Where this direction applies

(2) *This direction applies to all relevant planning authorities.*

Comment: Noted.

When this direction applies

(3) *This direction applies when a relevant planning authority prepares a planning proposal.*

Comment: Noted.

What a relevant planning authority must do if this direction applies

(4) *A planning proposal must:*

- (a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and*
- (b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:*
 - (i) the appropriate Minister or public authority, and*
 - (ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General),**prior to undertaking community consultation in satisfaction of section 57 of the Act, and*

- (c) *not identify development as designated development unless the relevant planning authority:*
 - (i) *can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and*
 - (ii) *has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act.*

Comment: The planning proposal is consistent with this section.

Consistency

- (5) *A planning proposal must be substantially consistent with the terms of this direction.*

Note: In this direction "public authority" has the same meaning as section 4 of the Environmental Planning and Assessment Act 1979.

Comment: The planning proposal is substantially consistent with the terms of this direction.

6.2 Reserving Land for Public Purposes

Objectives

- (1) *The objectives of this direction are:*
 - (a) *to facilitate the provision of public services and facilities by reserving land for public purposes, and*
 - (b) *to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.*

Comment: The planning proposal is not inconsistent with the objectives of this direction.

Where this direction applies

- (2) *This direction applies to all relevant planning authorities.*

Comment: Noted.

When this direction applies

- (3) *This direction applies when a relevant planning authority prepares a planning proposal.*

Comment: Noted.

What a relevant planning authority must do if this direction applies

- (4) *A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-*

General of the Department of Planning (or an officer of the Department nominated by the Director-General).

Comment: The planning proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.

- (5) *When a Minister or public authority requests a relevant planning authority to reserve land for a public purpose in a planning proposal and the land would be required to be acquired under Division 3 of Part 2 of the Land Acquisition (Just Terms Compensation) Act 1991, the relevant planning authority must:*
 - (a) *reserve the land in accordance with the request, and*
 - (b) *include the land in a zone appropriate to its intended future use or a zone advised by the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), and*
 - (c) *identify the relevant acquiring authority for the land.*
- (6) *When a Minister or public authority requests a relevant planning authority to include provisions in a planning proposal relating to the use of any land reserved for a public purpose before that land is acquired, the relevant planning authority must:*
 - (a) *include the requested provisions, or*
 - (b) *take such other action as advised by the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) with respect to the use of the land before it is acquired.*
- (7) *When a Minister or public authority requests a relevant planning authority to include provisions in a planning proposal to rezone and/or remove a reservation of any land that is reserved for public purposes because the land is no longer designated by that public authority for acquisition, the relevant planning authority must rezone and/or remove the relevant reservation in accordance with the request.*

Comment: Not applicable to the subject planning proposal.

Consistency

- (8) *A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that:*
 - (c) *with respect to a request referred to in paragraph (7), that further information is required before appropriate planning controls for the land can be determined, or*
 - (d) *the provisions of the planning proposal that are inconsistent with the terms of this direction are of minor significance.*

Note: Clause 12 of the EP&A Reg 2000 provides that a planning proposal for a proposed local environmental plan:

- (a) *may not contain a provision reserving land for a purpose referred to in section 26 (1) (c) of the EP&A Act, and*

(b) *may not contain a provision in respect of that reservation as required by section 27 of the EP&A Act, unless the public authority responsible for the acquisition of the land has notified the relevant planning authority of its concurrence to the inclusion of such a provision in the planning proposal.*

In this direction:

LOCAL PLANNING DIRECTIONS

Section 117(2) of the Environmental Planning and Assessment Act 1979

"public authority" has the same meaning as section 4 of the EP&A Act.

the use or reservation of land for a public purpose has the same meaning as in section 26(1)(c) of the EP&A Act.

Comment: Not applicable. The planning proposal is not inconsistent with this direction.

6.3 Site Specific Provisions

Objective

(1) *The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.*

Comment: The planning proposal is consistent with the objectives of this direction. The planning proposal will not create unnecessarily restrictive site specific planning controls but instead will permit appropriate development to occur (subject to receiving development consent).

Where this direction applies

(2) *This direction applies to all relevant planning authorities.*

Comment: Noted.

When this direction applies

(3) *This direction applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out.*

Comment: Aspects of the planning proposal will permit additional boundary adjustments/subdivisions from occurring.

What a relevant planning authority must do if this direction applies

(4) *A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:*

- (a) *allow that land use to be carried out in the zone the land is situated on, or*
- (b) *rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or*

- (c) *allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.*
- (5) *A planning proposal must not contain or refer to drawings that show details of the development proposal.*

Comment: The planning proposal is not inconsistent with the requirements of this section.

Consistency

- (6) *A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are of minor significance.*

Comment: Not applicable. The planning proposal is consistent with this direction.

7. Metropolitan Planning

7.1 Implementation of A Plan for Growing Sydney

Comment: Not applicable to Murray River Council.

7.2 Implementation of Greater Macarthur Land Release Investigation

Comment: Not applicable to Murray River Council.

Section C – Environmental, social and economic impact

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The planning proposal is unlikely to adversely affect critical habitat or threatened species, populations or ecological communities, or their habitats. The planning proposal relates to minor variations to the existing Murray LEP 2011. Any future development associated with the planning proposal will be subject to a merit based development application assessment against Section 79C of the *EP&A Act* 1979 and all other relevant legislation.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

It is considered that the planning proposal will not create any adverse environmental effects. The planning proposal relates to minor variations to the current Murray LEP 2011, whilst it is noted that no additional dwelling house opportunities will be created as a result of this planning proposal. Any proposed development which may be permitted as a result of this planning proposal will require subsequent development application consent and must be compliant with all relevant aspects of Section 79C of the *Environmental Planning and Assessment Act* 1979 and Regulations.

Q9. Has the planning proposal adequately addressed any social and economic effects?

It is considered that the planning proposal will not create any adverse social or economic effects. The planning proposal relates to minor variations to the current Murray LEP 2011 and will not adversely impact upon the social or economic environment of Murray River Council. It is noted that no additional dwelling house opportunities will be created as a result of this planning proposal.

Section D – State and Commonwealth interests

Q10. Is there adequate public infrastructure for the planning proposal?

It is considered that there is adequate public infrastructure for the planning proposal to proceed. It is noted that any demand created by future development will be required to provide suitable arrangements with the relevant authority to ensure development can be serviced.

Q11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

The planning proposal is considered to be of a minor nature with regards to State or National significance, and therefore has not been referred to State and Commonwealth public authorities for comment at this preliminary stage. The Gateway determination will determine if any consultation with State and Commonwealth authorities is required (in accordance with Section 57 of the *EP & A Act 1979*).

Part 4 – Mapping

No mapping is required to be amended.

Part 5 – Community Consultation

Community consultation will be undertaken in accordance with the requirements of the Director-General of Planning and all relevant legislation. Preliminary public consultation has previously been undertaken by Council in relation to amendments to the Murray LEP 2011. Additional consultation requirements are to be dictated by the Gateway determination.

Part 6 – Project timeline

It is considered that the Planning Proposal is of a 'minor nature'. The planning proposal will be able to progress once a Gateway Determination is received.