



IRF23/3249

## Gateway determination report – PP-2023-1523

6 Clifton Street, Mathoura – Zone and Minimum Lot  
Size Change

February 24

Published by NSW Department of Planning, Housing and Infrastructure

[dpie.nsw.gov.au](https://dpie.nsw.gov.au)

Title: Gateway determination report – PP number

Subtitle: 6 Clifton Street, Mathoura – Zone and Minimum Lot Size Change

---

© State of New South Wales through Department of Planning, Housing and Infrastructure 2024. You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute the Department of Planning and Environment as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (January 24) and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning, Housing and Infrastructure), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

# Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

## Contents

<b>1</b>	<b>Planning proposal.....</b>	<b>1</b>
1.1	Overview.....	1
1.2	Objectives of planning proposal .....	1
1.3	Explanation of provisions .....	1
1.4	Site description and surrounding area.....	2
1.5	Mapping.....	2
1.6	Background .....	<b>Error! Bookmark not defined.</b>
<b>2</b>	<b>Need for the planning proposal .....</b>	<b>4</b>
<b>3</b>	<b>Strategic assessment .....</b>	<b>4</b>
3.1	Regional Plan .....	4
3.2	Local.....	6
3.3	Section 9.1 Ministerial Directions .....	6
3.4	State environmental planning policies (SEPPs) .....	7
<b>4</b>	<b>Site-specific assessment .....</b>	<b>8</b>
4.1	Environmental.....	8
4.2	Infrastructure .....	8
<b>5</b>	<b>Consultation.....</b>	<b>8</b>
5.1	Community .....	8
5.2	Agencies.....	8
<b>6</b>	<b>Timeframe .....</b>	<b>8</b>
<b>7</b>	<b>Local plan-making authority .....</b>	<b>8</b>
<b>8</b>	<b>Assessment summary .....</b>	<b>9</b>
<b>9</b>	<b>Recommendation.....</b>	<b>9</b>

**Table 1 Reports and plans supporting the proposal**

### Relevant reports and plans

Planning Proposal PP-2023-1523 – Amendment to Murray LEP 2011

Murray River Council Meeting Attachments – dated 28 November 2023

Murray River Council Meeting Minutes – dated 28 November 2023

Draft Murray River Council Local Housing Strategy 2023 to 2041 – Part 1 and Part 2

# 1 Planning proposal

## 1.1 Overview

**Table 2 Planning proposal details**

<b>LGA</b>	<b>Murray River</b>
<b>PPA</b>	Murray River Council
<b>NAME</b>	6 Clifton Street, Mathoura – Zone and Minimum Lot Size Change
<b>NUMBER</b>	PP-2023-1523
<b>LEP TO BE AMENDED</b>	Murray Local Environmental Plan 2011
<b>ADDRESS</b>	6 Clifton Street, Mathoura 2710
<b>DESCRIPTION</b>	Lot 611 DP 806704
<b>RECEIVED</b>	5/12/2023
<b>FILE NO.</b>	IRF23/3249
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose, and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal
<b>DWELLING/JOBS</b>	40 dwelling/0 jobs

## 1.2 Objectives of planning proposal

The objective of the planning proposal is to provide opportunities for residential development within the subject site, located north of Mathoura township.

The objective of this planning proposal is clear and adequately explains the intent of the proposal.

## 1.3 Explanation of provisions

The planning proposal seeks to amend the Murray LEP 2011 per the changes below:

**Table 3 Current and proposed controls**

<b>Control</b>	<b>Current</b>	<b>Proposed</b>
Zone	R5 Large Lot Residential	RU5 Village
Minimum lot size	4000 m <sup>2</sup>	450 m <sup>2</sup>

The planning proposal does not provide satisfactory reasoning why the zone RU5 Village is proposed. The RU5 zone objectives and land use tables support a range of land uses beyond residential accommodation, which is the objective of this planning proposal. The planning proposal is to be amended prior to public exhibition to:

- Provide justification why the RU5 zone is an appropriate zoning to facilitate the residential objective of the planning proposal.
- If the RU5 zone is the preferred zone, provide a narrative around how the other permissible non-residential accommodation land uses are appropriate for the site and how land use conflicts will be minimised.

## 1.4 Site description and surrounding area

The subject site is a single lot at the northern fringe of Mathoura township. The lot has a total area of 2.02 ha. The subject site is currently zoned R5 Large Lot Residential, and the proposed rezoning will result in isolated patch of RU5 Village zoned land (as shown in Figure 1).

Immediately to the east of the subject site lies the SP2 Railway Infrastructure zoned Cobb Highway. It is recommended that the Gateway determination be conditioned requiring Council to consider the option to updating the planning proposal prior to public exhibition to include the intention to rectify the SP2 zone labelling anomalies in this area. Further east of the highway is C3 Environmental Management zoned land alongside the Gulpa Creek. Additionally, the site is mapped in the bushfire prone land (as vegetation buffer) and is identified on the terrestrial biodiversity maps.

## 1.5 Mapping

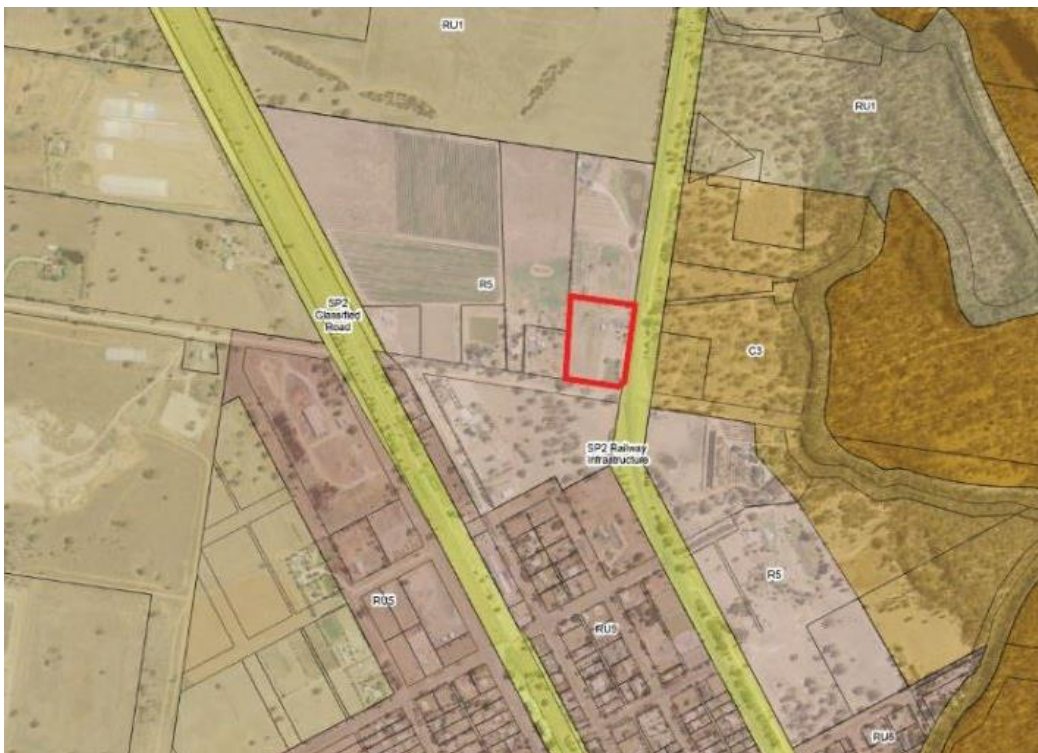
As a result of the proposed amendments detailed in section 1.3 above, the planning proposal will require amendments to the following maps of Murray LEP 2011:

- Land Zoning Map LZN\_005A – to rezone the subject site from R5 Large Lot Residential to RU5 Village zone.
- Minimum Lot Size Map LSZ\_005A – to change the minimum lot size of subject site from 4000 m<sup>2</sup> to 450 m<sup>2</sup>.

The planning proposal includes adequate mapping.



**Figure 1 Subject site (source: NSW Planning Portal Spatial Viewer)**



**Figure 2 Current zoning map (source: planning proposal)**





**Figure 3 Current minimum lot size map (source: planning proposal)**

## 2 Need for the planning proposal

*Q1. Is the planning proposal a result of an assured local strategic planning statement, or Department approved local housing strategy, employment strategy or strategic study or report?*

The planning proposal is not a result of a department approved strategy or report. However, the intent of the planning proposal broadly aligns with the Murray Local Housing Strategy 2023, Part 1 and Part 2, which is endorsed by Murray River Council. Condition 1 of the Gateway determination requires the planning proposal be updated with justification regarding leap-frog development, to clearly demonstrate alignment with the above strategy.

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

The proposed amendments to the Murray Local Environmental Plan 2011 require a planning proposal. It is agreed that the provisions of this planning proposal are the best means of achieving the above objectives.

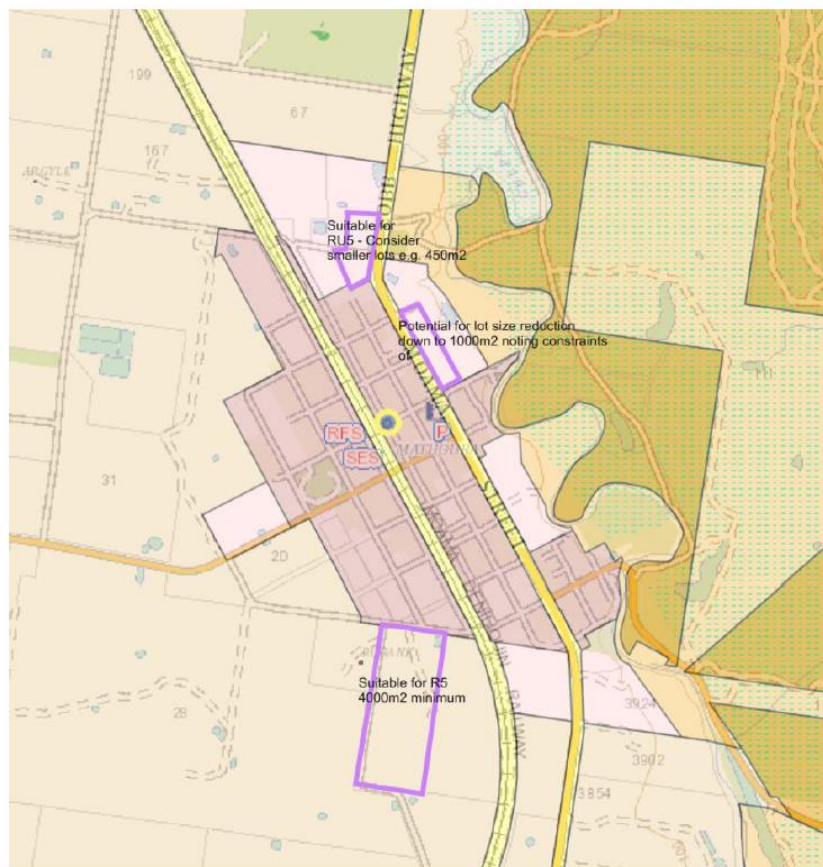
## 3 Strategic assessment

### 3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the Riverina Murray Regional Plan 2041.

**Table 4 Regional Plan assessment**

Regional Plan Objectives	Justification
Objective 1 – Protect, connect and enhance biodiversity throughout the region	The subject area is mapped in the terrestrial biodiversity map, and consultation with BCS is included as a condition in the Gateway determination. The aerial imagery of the site indicate that future development can occur by avoiding the areas containing biodiversity.
Objective 3 – Increase natural hazard resilience	The subject area is mapped in the bushfire prone land map as vegetation buffer. Consultation with RFS is included as a condition in the Gateway determination. During development application assessment down the track, further consideration would be given to bushfire attack level ratings and establishment of asset protection zones within the subject site.
Objective 9 – Plan for resilient places that respect local character	The planning proposal should include justification for rezoning Lot 611 DP 806704 in isolation, while not considering rezoning Part Lot 2 DP 816258, which provides connectivity to the areas currently zoned RU5 Village. Lot 2 DP 816258 has been identified in the Draft Murray Local Housing Strategy 2023 to be developed (Figure 4 below). Providing justification for the isolated rezoning would clarify that the risks of leap-frog development has been considered. Therefore, the planning proposal is inconsistent with Objective 9, and has been conditioned to be amended prior to exhibition to justify orderly development.

**Figure 4 Areas identified in Mathoura for development in Draft Murray River**



	<b>Council Local Housing Strategy Part 2.</b>
Objective 11 – Plan for integrated and resilient utility infrastructure	<p>The scoping proposal (submitted within Murray River Council Meeting Attachments, dated 28/11/2023) recommended further investigations in the planning proposal regarding “engineering services investigation to demonstrate adequate capacity for water, sewer, and stormwater for future development of the site and utility infrastructure augmentation requirements”, and “needs assessment to demonstrate sufficient economic and planning needs”.</p> <p>The planning proposal has not been updated to include above investigations. It is, therefore, inconsistent with objective 11 of the regional plan. A condition is recommended, requiring the planning proposal to be amended to demonstrate that there is adequate infrastructure capacity to service future development of the site.</p>

## 3.2 Local

The following table provides an assessment of the planning proposal against relevant aspects of the local strategies:

**Table 6 Local strategic planning assessment**

<b>Local Strategies</b>	<b>Justification</b>
Murray River Council Local Housing Strategy, Part 1 and Part 2	The subject site has been identified in the strategy. However, further explanation is required in provisions highlighted in Table 4, Objectives 3 and 9, regarding serviceability and continuity of development fronts. Additionally, the strategy identifies the need to address flooding hazards for the site, specifically the PMF. This additional work has been conditioned on the Gateway determination, and is required prior to public exhibition.

## 3.3 Section 9.1 Ministerial Directions

The planning proposal’s consistency with relevant section 9.1 Directions is discussed below:

**Table 7 9.1 Ministerial Direction assessment**

<b>Directions</b>	<b>Consistent/ Not Applicable</b>	<b>Reasons for Consistency or Inconsistency</b>
1.1 Implementation of Regional Plans	Inconsistent	Inconsistent with Riverina Murray Regional Plan 2041 as identified in Table 4 above. This inconsistency has been conditioned on the Gateway determination. The resubmitted planning proposal required by condition 1 will resolve this inconsistency.
3.1 Conservation Zones	Consistent	<p>Aerial images of the proposed Lot 611 DP806704 show opportunity for future development to occur with appropriate biodiversity considerations to be captured in the development assessment. The planning proposal is not inconsistent with this direction.</p> <p>However, due to the site being mapped on the Terrestrial Biodiversity map, consultation with BCS</p>

		has been conditioned.
4.1 Flooding	Inconsistent	The LHS suggests there is a need to investigate the impact of the PMF on this site. This direction requires that a planning proposal must not contain provisions that apply to areas between the FPA and PMF. The planning proposal does not address this. The Gateway determination has been conditioned to require the planning proposal to be updated to address the potential PMF on this site. This direction remains inconsistent until this has been addressed.
4.3 Planning for Bushfire Protection	Inconsistent, consultation with NSW RFS required.	The subject site is mapped as bushfire prone land – vegetation buffer. To ensure alignment with this direction, a Gateway determination condition is recommended requiring consultation with NSW RFS.
5.1 Integrating Land Use and Transport	Inconsistent, minor in nature.	Due to the eastern boundary of the site adjoining Cobbs Highway, consultation with Transport for NSW is recommended to ensure alignment with this direction.
6.1 Residential Zones	Inconsistent, further justification required.	Condition 1 of the Gateway determination requires amendment of the planning proposal to demonstrate consistency with Direction 6.1, which states to “ensure that new housing has appropriate access to infrastructure and service”.

### 3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

**Table 8 Assessment of planning proposal against relevant SEPPs**

SEPPs	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Yes	The planning proposal is not inconsistent with the requirements of the SEPP. However, the site is mapped on the Terrestrial Biodiversity map, thus, consultation with BCS will ensure that avoidance, minimisation, and mitigation of any future development is considered during proposed rezoning.
State Environmental Planning Policy (Housing) 2021	Yes	The planning proposal is not inconsistent with the requirements of the SEPP.

## 4 Site-specific assessment

### 4.1 Environmental

The eastern half of the subject site is mapped as terrestrial biodiversity. Furthermore, the site lies in close proximity to land zoned C3 Environmental Management. Consultation with BCS is conditioned to ensure that future development considers appropriate avoidance, minimisation and mitigation.

### 4.2 Infrastructure

The proposed amendments seek to increase development opportunities on the site which are likely to impact existing servicing and infrastructure provisions. Condition 1 of the Gateway determination requires the planning proposal to be revised to include details around serviceability to manage the impact of future developments.

## 5 Consultation

### 5.1 Community

Council proposes a community consultation period of 20 days.

The exhibition period proposed is considered appropriate and the Gateway determination has been conditioned accordingly.

### 5.2 Agencies

It is recommended the following agencies be consulted on the planning proposal and given 30 days to comment:

- NSW Rural Fire Service
- Transport for NSW
- NSW Department of Climate Change, Energy, the Environment and Water – Biodiversity Conservation and Science

## 6 Timeframe

Council proposes a 7 month time frame to complete the LEP.

The Department recommends a timeframe consistent with the LEP Making Guideline to ensure it is completed in line with its commitment to reduce processing times. The planning proposal is classed a standard category proposal and therefore a 225 working day finalisation date will be conditioned on the Gateway determination. The completion date to make the LEP is 16 May 2025.

## 7 Local plan-making authority

Council has advised that it would like to exercise its functions as a local plan-making authority.

Given the nature of the planning proposal, the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

## 8 Assessment summary

## 9 The planning proposal is supported to proceed with conditions outlined in section 9 of this report.

### Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 5.1 Integrating Land Use and Transport are minor and
- Note that the consistency with section 9.1 Directions 1.1 Implementation of Regional Plans, 4.1 Flooding, 4.3 Planning for Bushfire Protection and 6.1 Residential Zones remain unresolved and will require justification.

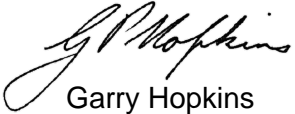
It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal is to be updated to:
  - Include evidence and narrative how the increased permissible density can be serviced.
  - Provide justification why the RU5 zone is the most appropriate zoning to facilitate the residential objective of the planning proposal. If the RU5 zone is to be retained, further detail is required to demonstrate how other non-residential accommodation land uses are appropriate for the site and land use conflicts will be minimised.
  - Address the Murray River Local Housing Strategy flooding recommendations in relation to the subject site.
  - Include justification to demonstrate the risks of leap-frog development have been considered, as the proposed Lot 611 DP 806704 does not adjoin the current RU5 Village zoned land.
  - Include provisions that rectify zoning anomalies of the surrounding SP2 infrastructure zones.
2. Consultation is required with the following public authorities:
  - NSW Rural Fire Service
  - Transport for NSW
  - NSW Department of Climate Change, Energy, the Environment and Water – Biodiversity Conservation and Science
3. Prior to community consultation, the planning proposal is to be revised to address condition 1.
4. The planning proposal should be made available for community consultation for a minimum of 20 working days.
5. The timeframe for completing the LEP is 16 May 2025.
6. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



9/2/24

Tim Collins  
Manager, Western



15/2/24

Garry Hopkins  
Director, Western Region

Assessment officer

Prakriti Mukherjee  
Graduate Planning Officer, Western  
Region