

21 July 2016

Department of Planning and Environment
PO Box 58
DUBBO NSW 2830

Dear Sir,

Re: Draft Riverina-Murray Regional Plan

I refer to your recent public exhibition period for the above mentioned plan and provide the following comments.

- **Draft Riverina-Murray Regional Plan**

From the perspective of a smaller Local Government area it would appear that the Draft Plan has a major focus on the three (3) regional centres being Albury, Wagga Wagga and Griffith and with minimal focus on the regional areas outside of these centres.

In using the Murray River Council Local Government area as an example there is little connection with these centres and even minimal connection to Deniliquin, which the State Government also seem to suggest as being a regional centre. The Murray River Council's main communities would have a greater connection to the regional centres that are located within Victoria, being Echuca and Swan Hill. It is appreciated that these centres are located in Victoria and this is a NSW document, but the reality is these are the regional centres for this area and this requires greater recognition in the Draft Plan. As an example to travel from Moama to the Albury will take approximately two and a half hours, where Echuca is directly across the river, Bendigo is a one hour drive and one can be in Melbourne in two and a half hours.

For residents in this region the focus and development of the three (3) regional centres has limited importance and impact on development within our immediate area. In addition our services, whether that is medical, education, shopping, transport and similar are all Victoria orientated.

It is also suggested that the Draft Plan pays little importance on Moama, in that it is a rural community that is growing at a significant rate and is definitely not in decline or stagnant. This should be considered as in time there will be pressures placed on the essential services and such will be required to be addressed and acknowledged by the State Government. As an example the State Government is installing infrastructure in Deniliquin, whose population is in decline but not supporting the same in a rural community that is growing. Based on the Department's population predictions the township of Moama would already be a similar size to Deniliquin. It is this factor and the impact that same would have on existing infrastructure and services that Council believes that the Draft plan has not considered.

- **Murray River Riparian Planning Controls Study**

- There is general reference to MREP2 throughout the document, there is a need for the State Government to review and update this plan.
- The document indicates that that 'Some SI LEPs include a 'Development on River Front Areas' clause. This was developed on the advice from the Office of Environmental Heritage to reflect the relevant requirements of the MREP2 ... in all Murray River Council LEPs'. Council does not disagree with this statement but questions why the same principles are not applied to other river systems within the same catchment. As an example the Edwards River that branches off from the Murray River and in a general sense has/contains the same/similar environmental ecosystems as that of the Murray. However, this river system has no 'set back' controls to protect an environment of similar importance.
- Under Section 2.4 - it is suggested that it needs to reference Crown Land legislation as development within the channel or on the bank may be subject to same.
- Under Section 3 'Issues' (Page 16 – last dot point) it is suggested that all Council's did not have a similar or greater, river set back distance in their penultimate planning instrument. It is suggested that for the former Murray Shire Council the set back requirement in the rural zone of 60m is not similar or the same as the current set back requirement of 100m for the same zone.
- It is suggested that the comments made under the section of 'Ancillary development' (page 24) contradicts previous advice as provided by the Department of Planning to Council. The advice received by the Department of Planning, which was then confirmed by Council's legal advisors indicated that ancillary development (i.e. a swimming pool associated with an existing dwelling) is permissible within the river front area subject to a merits assessment being completed. Whereas, the report indicates that '*development must be located behind the building setback, except for development... This prevent development creep and modification of development into inappropriate land uses.*' It is therefore suggested that this issue requires further clarification by the Department to ensure Council's have a clear understanding of the standard clause.
- There is still differing opinion between legal parties as to whether this clause is a development standard or a prohibition and this requires the Department to provide a direction to assist Council's and reduce our legal costs and exposure. As an example Council has viewed at least three independent legal opinions that indicate that the clause is a prohibition and it has also viewed a legal opinion from a Senior Counsel indicating it is a development standard. As a result Council is now seeking a further legal opinion from a Barrister in an attempt to resolve this uncertainty. The Department needs to provide some clarity in relation to this matter as it is a clause required by the Department to be inserted into Council's LEPs.

- The LEP restricts development of the 'outside bend' of the river. When seeking a definition of 'outside bend' from the Department such can not be provided, this again places Local Government in a litigious situation if challenged. If the Government is unable to support their position and/requirements under the LEP with the appropriate support documentation then same should be removed from the LEP.
- Section 4 Options
 - Boat Ramps
 - Again what is the definition of an outside bend and where does such start and finish
 - Moorings
 - What is the definition of "deep water or weir pools only".
 - All banks of the river are prone to erosion and therefore moorings would not be permissible. I understand the intent but this wording would need improvement.
 - Walkway / Landings & Stairs on river banks
 - Suggest that advice be provided where such is attached to the Victorian side of the river that the approval be a 'deferred approval' and that no work commence until approval is obtained from the relevant Victorian approval authority.

- Recommendations

- 10. Prepare Practice note – should also incorporate advice as to whether the development in river front areas clause is a development standard or a prohibition
- 15. Streamline approval process for moorings – I fully agree with the intent, however such is not permissible at this stage due to legislative requirements not providing the relevant delegations to the required agencies. As an example Council is not legally able to adopt, implement or similar any policy relating to water based activities as this is not permitted under maritime legislation.

Yours faithfully



Simon Arkinstall

Director of Environmental Services

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