

habitat



Statement of Environmental Effects

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1. Introduction

This Statement of Environmental Effects (SEE) has been prepared by Habitat Planning on behalf of Ovens + Murray Land Survey (OMLS) and is submitted to Murray River Council in support of a Development Application (DA) for a four (4) Lot subdivision of Lot 2 in DP286894, and Pt. Lot 10 in DP270580 and addressed as Marina Drive and Perricoota Road, Moama.

The DA and this report have been prepared in accordance with the *Environmental Planning and Assessment Act 1979* ("EP&A Act") and the *Environmental Planning and Assessment Regulation 2021* ("EP&A Regs").

This report addresses the relevant heads of consideration listed under Section 4.15(1) of the EP&A Act and provides an assessment of the proposed development against the relevant Environmental Planning Instruments (EPIs) and other planning controls applicable to the site and to the proposal. It also describes the site, its environs, the proposed development, and provides an assessment of the environmental impacts and identifies the steps to be taken to protect or lessen the potential impacts on the environment.

1.1. Supporting Plans and Documentation

This application is accompanied by:

- Proposed Plan of Subdivision, prepared by Ovens + Murray Land Survey

2. Site Analysis

2.1. Site Context

The subject comprises two (2) existing lots described as Lot 2 in DP286894 and Lot 10 in DP270580 and are addressed as 71-77 Marina Drive and Perricoota Road Moama, respectively. The land is located within the Waterfront Marina approximately 17kilometres north west of Moama. The land has frontage to the Deep Creek Lagoon, which is a tributary to the Murray River, and is shown in a local context map and aerial imagery at **Figures 1 and 2** below.

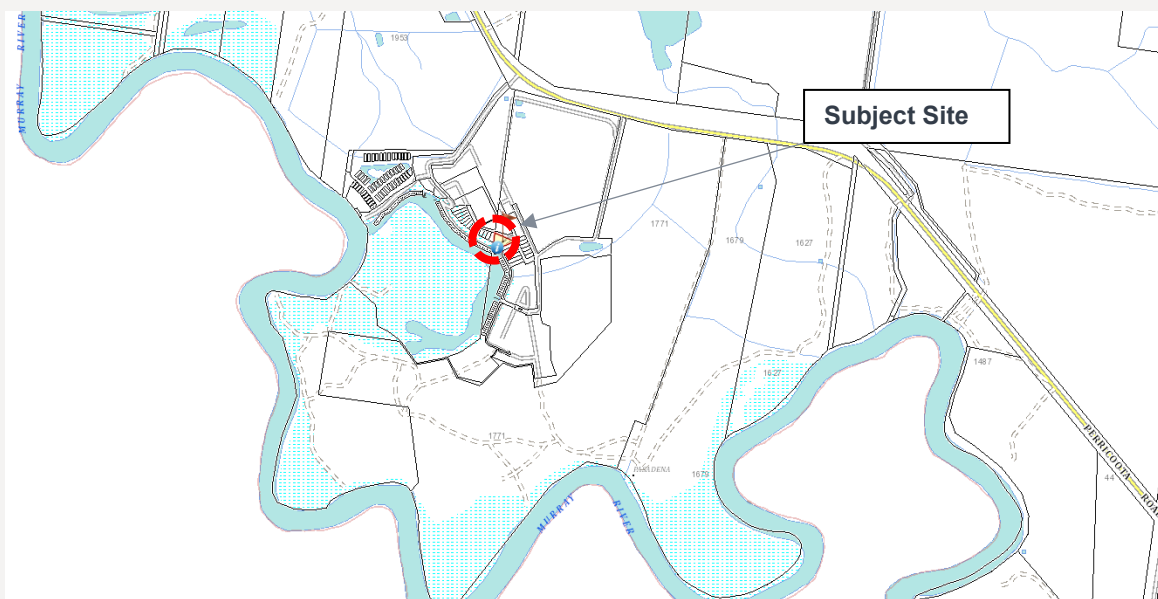


Figure 1 – Site Context Map



Figure 2 – Site Aerial

A site description and summary of the site context is provided in the Table 1 at Section 2.2 below.

2.2. Site Description

Table 1 – Site Description

Legal Description (Lot and DP)	Lot 2 in DP286894 Lot 10 in DP270580
Address	Marina Drive, Moama Perricoota Road, Moama
Site Location	The land is located within the Perricoota Marina approximately 17kilometres northwest of Moama. It has frontage to the Deep Creek Lagoon, which is a tributary to the Murray River. It contains two (2) established trees and has frontage and access to Marina Drive. And the Lagoon waters.
Site Description	<p>Lot 2 is a vacant development Lot on the northern boundary of the Waterfront Marina. It abuts the Deep Creek Marina common boundary and has an area of approximately 3,388m². It forms the northern and larger section of the development Lot.</p> <p>Lot 10 forms the residual Marina land and balance Lot. It is the southern part of the development Lot and contains two (2) established trees and has frontage and access to the lagoon's marina waters. The part lot equating to approximately 977m² is proposed to be excised and consolidated into the proposed subdivision.</p>
Existing Development	The subject land is currently vacant development land. It has access to common urban services including water and electricity; however, the site remains largely unimproved in the context of the existing and establishing marina. The land has a gentle slope to the mooring docks and water frontage and contains two existing remnant trees with manicured lawns.
Existing Access	The site is accessed from Perricoota Road via an internal private road network under the Neighbourhood Association property within the Marina.
Topography	There is a gently fall from the north frontage of the land to the berthing docks at the water's edge. Existing drainage infrastructure provides stormwater management across the site.
Boundary/interfaces	Timber post and wire fencing separates the existing marina lands with open spaces and private properties with residential uses on the northern side. The lagoon and common areas dominate the land to the south, east and west there are no boundary treatments.
Natural Hazards	The subject site is located in a Flood Planning Area and is Bushfire Prone.

3. Description of Proposal

3.1. Overview

This application seeks approval for a four (4) Lot subdivision of land contained in Lot 2 in DP 286894 and Lot 10 in DP 270580 pursuant to the *Community Land Development Act 2021*.

The proposed plan of subdivision is included in **Appendix B**; and is reproduced below. A detailed description of the proposal is provided in the following sections.

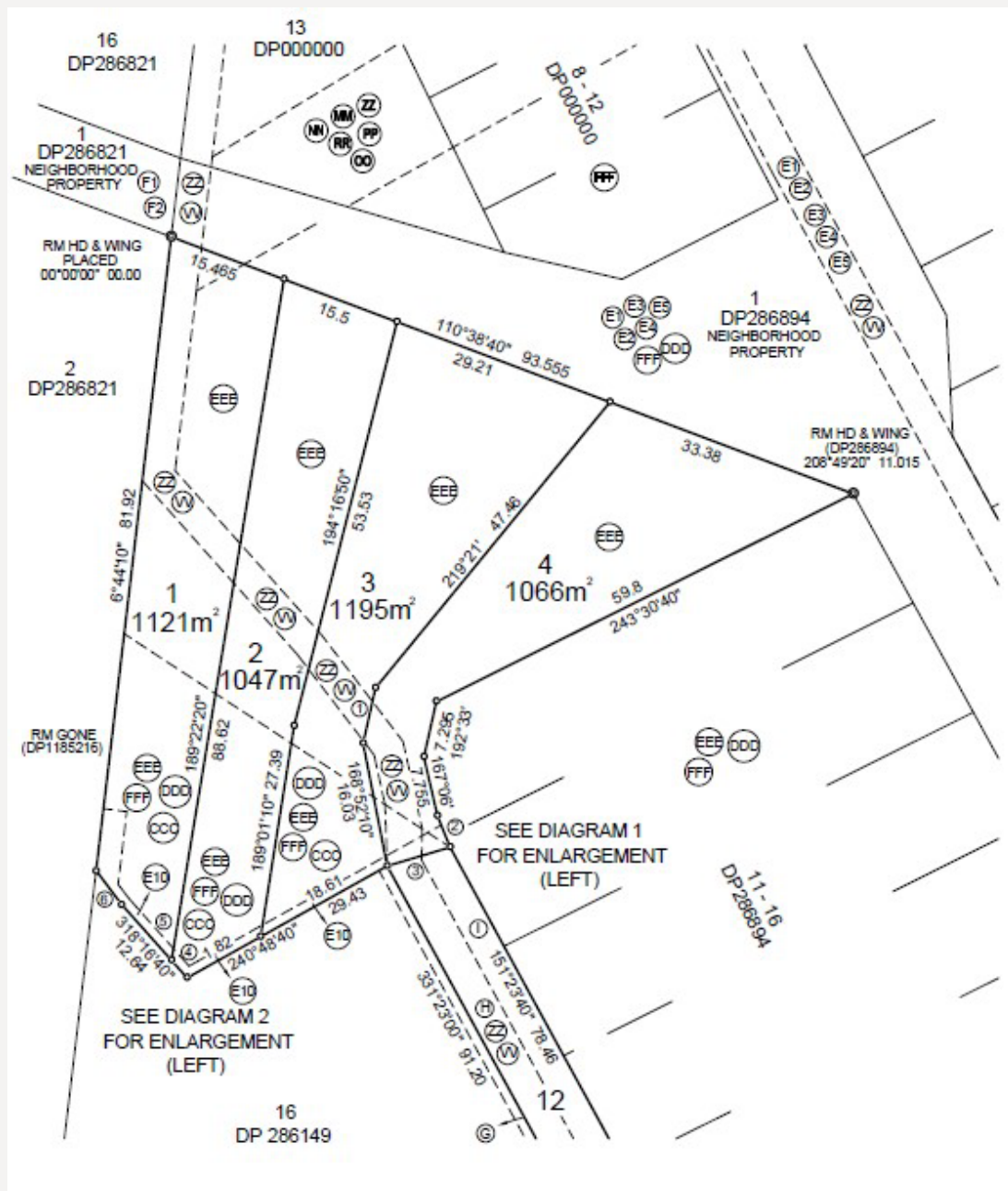


Figure 3 – Proposed subdivision plan Lots 1 – 4

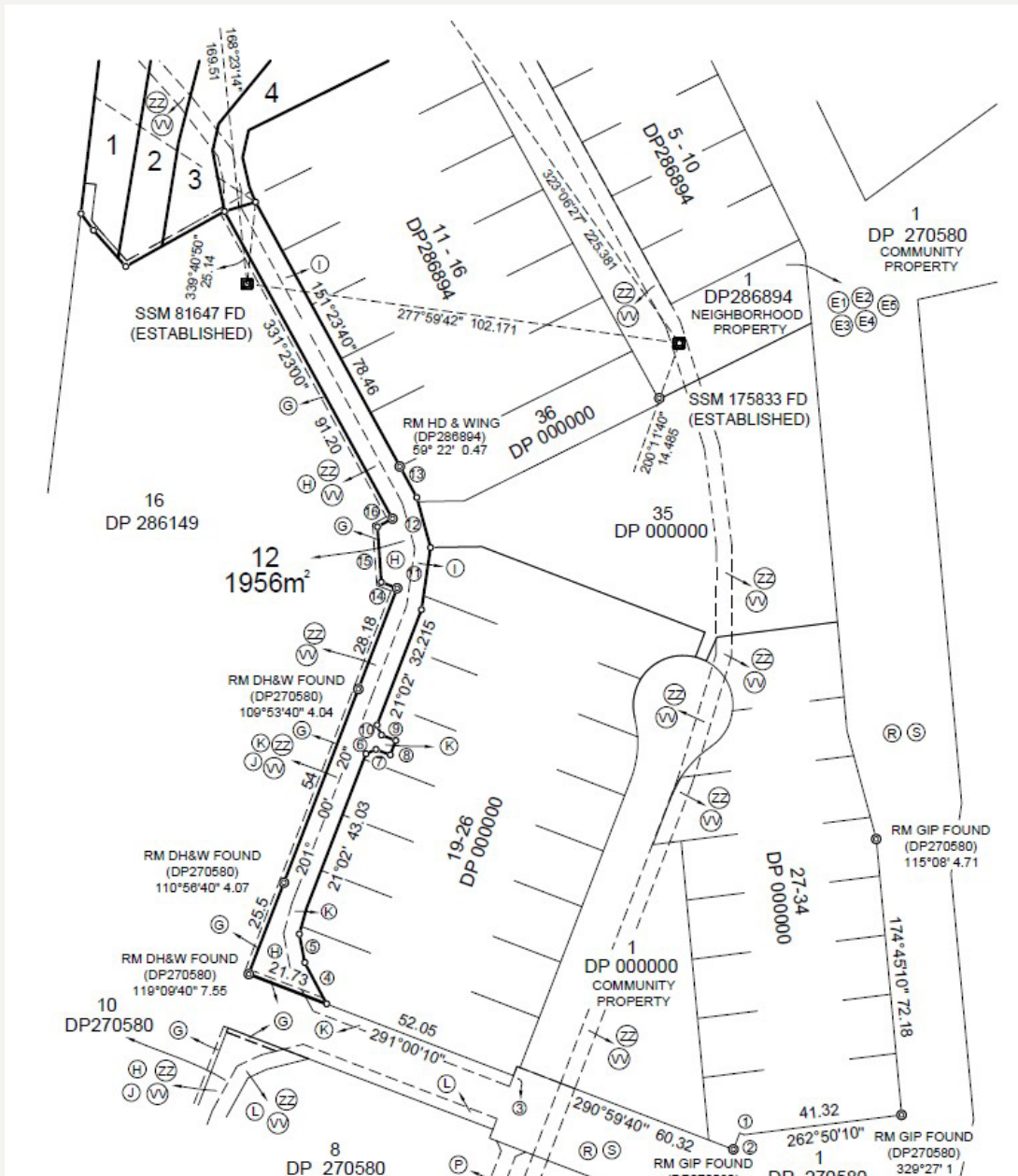


Figure 4 – Proposed subdivision plan Lot 12 (common association lot)

3.2. Subdivision (Stage 2.3)

Approval is sought for the stage 2.3 subdivision of Lot 2 in DP286984 and Lot 10 in DP270580 into four (4) development Lots. The subdivision will establish vacant serviced development lots with a Neighbourhood Association to enable future tourist and visitor accommodation.

The proposed lots range in size from 1,047m² up to 1,195m² and will have irregular rectangular forms. The lots will gain access to established road reserves contained within the neighbourhood property (DP286894) and have access to all applicable utilities and services.

A summary of the proposed Lots and their sizes are provided in Table 1 below.

Table 2 – Proposed subdivision lot summary

Allotment	Site Area	Subdivision	Purpose
Lot 1	1121m ²	Community Title	Development Lot - tourist and visitor accommodation
Lot 2	1047m ²	Community Title	Development Lot - tourist and visitor accommodation
Lot 3	1195m ²	Community Title	Development Lot - tourist and visitor accommodation
Lot 4	1066m ²	Community Title	Development Lot - tourist and visitor accommodation

All Lots are encumbered with a 4meter wide and variable services and underground electricity easement. The easement is necessary and does not preclude the ability of development in the site. A variable width water supply easement also extends around the southern boundary of the site along the water's edge.

3.3. Access, Utilities, and Infrastructure

The subject land is located in an emerging waterfront tourist zone area of Moama and already has access to all essential services including reticulated water, sewerage, electricity, drainage and telecommunications.

The newly created lots can be appropriately connected to these services and easements will be established to protect the infrastructure on the subject land.

4. Planning Assessment

Under Section 4.15(1) of the EP&A Act when considering an application for development, the consent authority must take into consideration the relevant environmental planning instruments. This section details and responds to the relevant planning framework applicable to the proposal.

4.1. Applicable Environmental Planning Policies, Instruments and Controls

- Environmental Planning and Assessment Act 1979
- State Environmental Planning Policy (Resilience & Hazards) 2021
- State Environmental Planning Policy (Transport & Infrastructure) 2021
- State Environmental Planning Policy (Biodiversity & Conservation) 2021
- Murray Local Environmental Plan 2011
- Murray Development Control Plan 2012

Compliance with the applicable legislation and policies is discussed below.

4.2. Environmental Planning and Assessment Act 1979

Section 4.15 of the EP&A Act 1979 sets out the statutory matters for consideration against which the proposed development is to be evaluated. The matters for consideration under Section 4.15 are as follows:

(1) *Matters for consideration—general*

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

- (i) any environmental planning instrument, and*
- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
- (iii) any development control plan, and*
- (iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*
- (v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates,*
- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) the suitability of the site for the development,*
- (d) any submissions made in accordance with this Act or the regulations,*
- (e) the public interest.”*

The matters for consideration identified in Section 4.15(1) of the EP&A Act 1979 are addressed in the following section. Subsections (b) to (e) of Section 4.15(1) of the EP&A Act 1979 are addressed in Section 5 of this Statement of Environmental Effects.

4.1. Division 4.8 – Integrated Development

The application is confirmed Integrated Development under Section 4.46 of the Environmental Planning and Assessment Act 1979 as the subject development requires concurrence under the following Acts:

- **Rural Fires Act 1997 (s100B)** – authorisation under section 100B in respect of bushfire safety for subdivision of land that could lawfully be used for residential or rural residential purposes. As the development application proposes subdivision for the purpose of tourist and visitor accommodation on bushfire prone land, concurrence is required from the NSW Rural Fire Service.

Before granting development consent to an application for consent to carry out the development, the consent authority must, in accordance with the Regulations, obtain from each relevant approval body the general terms of any approval proposed to be granted by the approval body concerning the development.

A Bushfire Assessment Report has been prepared and is provided attached at Appendix B.

4.2. State Environmental Planning Policy (Resilience & Hazards) 2021

4.2.1. Chapter 4 – Remediation of Land

Chapter 4 of *State Environmental Planning Policy Resilience & Hazards 2021* sets out considerations relating to land contamination across the state. The intention of the SEPP is to establish 'best practice' guidelines for managing land contamination through the planning and development control process.

In the context of this application, clause 4.6 of the SEPP generally requires that consideration be given to whether or not land proposed for development is contaminated and fit for use for its intended purpose.

The subject land has been previously developed for a Marina and tourist and visitor accommodation and is not known to be contaminated, nor is it expected to be at risk of contamination given the surrounding native landscape and riverine environment and historical rural land use setting. A site inspection of the property was conducted that did not identify any potentially contaminating uses and the land did not display signs of contamination.

Lastly, the subject land is not identified in either the Council's or the EPA's contaminated land register. Consequently, the land is not expected to be contaminated and is considered to be fit for purpose.

4.3. State Environmental Planning Policy (Transport & Infrastructure) 2021

4.3.1. Chapter 2 – Infrastructure

Chapter 2 of *State Environmental Planning Policy (Transport & Infrastructure) 2021* provides a consistent and flexible planning system to facilitate the delivery of infrastructure and services. The policy identifies environmental assessment categories for types of infrastructure, matters to consider when assessing development adjacent to infrastructure and provides for consultation with relevant public authorities.

The Chapter 2 contains provisions relating to approval processes and assessment requirements for infrastructure proposals according to the type or sector of infrastructure. It outlines land-use zones

where types of infrastructure are permissible with or without consent and identifies certain works as exempt and complying development.

There are several Clauses under the SEPP that trigger referral and concurrence matters. These are addressed in the table below for consideration.

Table 3 – Matters for Consideration

Matter for consideration	Response
Clause 2.48 – Determination of development applications – other development	<p>This clause applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following—</p> <ul style="list-style-type: none"> (a) <i>the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,</i> (b) <i>development carried out—</i> <ul style="list-style-type: none"> (i) <i>within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or</i> (ii) <i>immediately adjacent to an electricity substation, or</i> (iii) <i>within 5m of an exposed overhead electricity power line,</i> (c) <i>installation of a swimming pool any part of which is—</i> <ul style="list-style-type: none"> (i) <i>within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level, or</i> (ii) <i>within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool,</i> (d) <i>development involving or requiring the placement of power lines underground unless an agreement with respect to the placement underground of power lines is in force between the electricity supply authority and the council for the land concerned.</i> <p>Comment:</p> <p>Referral under Clause 2.48 will be required to the relevant electricity supply authority due to the proximity to electrical infrastructure and propose easement.</p>
Clause 2.118 – Development with frontage to a classified road	<p>The objectives of this clause are—</p> <ul style="list-style-type: none"> (a) <i>to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and</i> (b) <i>to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.</i> <p>Comment:</p>

Matter for consideration	Response
	The development does not front a classified road, as such referral to TfNSW is not required.

4.4. State Environmental Planning Policy (Biodiversity & Conservation) 2021

4.4.1. Chapter 4 – Koala Habitat Protection

Chapter 4 of the SEPP aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.

The provisions of this SEPP apply as the Murray River Local Government Area is listed within Schedule 1 of the Koala SEPP as a relevant local government area. Clause 4.9 applies to the subject development as there is no approved koala plan of management for the land, and the land has an area of at least 1ha. Before a council may grant consent to a development application for consent to carry out development on the land, the council must assess whether the development is likely to have any impact on koalas or koala habitat.

The proposed development complies with the requirements of the Koala SEPP as it does not seek to remove any trees or vegetation on-site as part of the proposed subdivision. Similarly, no previous recordings of sightings of koalas have occurred on-site and therefore the development will not affect the ongoing viability of koala populations.

4.4.2. Chapter 5 – Murray River Lands

Chapter 5 of State Environmental Planning Policy (Biodiversity and Conservation) 2021 applies to the subject development. The aims of the SEPP are to conserve and enhance the riverine environment of the River Murray for the benefit of all users.

The objectives of the Chapter are:

- (a) to ensure that appropriate consideration is given to development with the potential to adversely affect the riverine environment of the River Murray;
- (b) to establish a consistent and coordinated 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.

Clause 5.8 & 5.9 requires Council to take into account a number of general and specific principles when considering development proposals to which the plan applies. These controls generally relate to the protection of the River Murray. These are addressed in Table 4 and Table 5 below.

Table 4 – Consideration of Planning Principles in Chapter 5

General principles to be taken into account	Compatibility of proposal
<i>(a) the aims, objectives and planning principles of this plan.</i>	Satisfaction against the general objectives can be determined by the assessment against the specific principles below.

General principles to be taken into account	Compatibility of proposal
<i>(b) any relevant River Management Plan</i>	There are no relevant river management plans that apply to the subject land.
<i>(c) any likely effect of the proposed plan or development on adjacent and downstream local government areas.</i>	The proposal is not expected to have any adverse impacts on adjacent and downstream local government areas given the minor nature of the proposed development.
<i>(d) the cumulative impact of the proposed development on the River Murray.</i>	The development is not considered to increase the cumulative impact of development on the River Murray.

Table 5 – Consideration of Specific Principles of Chapter 5

Specific principles to be taken into account	Compatibility of proposal
Access	
<i>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.</i>	Not applicable. The subject land does not directly abut the Murray River and does not obstruct access to the Murray River.
<i>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.</i>	Not applicable. The subject land does not directly abut the main channel of the Murray River.
<i>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.</i>	Not applicable. The subject land does not directly abut the main channel of the Murray River.
Bank disturbance	
<i>Disturbance to the shape of the bank and riparian vegetation should be kept to a minimum in any development of riverfront land.</i>	The development does not propose any works that would disturb or reshape the bank of the waterway or riparian vegetation.
Flooding	

Specific principles to be taken into account	Compatibility of proposal
<p>Where land is subject to inundation by floodwater:</p> <ul style="list-style-type: none"> (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. 	<p>Noted.</p> <p>The establishment of the marina is deemed to have considered the specific flooding principles, as they apply under this clause.</p> <p>The proposed subdivision is not contrary to these principles.</p>
<p>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</p>	<p>Not applicable. The proposal does not include any flood mitigation works.</p>
<p>Land degradation</p>	
<p>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.</p>	<p>The development will not exacerbate land degradation.</p>
<p>Landscape</p>	
<p>Measures should be taken to protect and enhance the riverine landscape by maintaining native vegetation along the</p>	<p>No trees are to be removed as part of the development and hence no revegetation works are required.</p>

Specific principles to be taken into account	Compatibility of proposal
<i>riverbank and adjacent land, rehabilitating degraded sites and stabilising and revegetating riverbanks with appropriate species.</i>	
River related uses	
<i>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</i>	Satisfactory. Notwithstanding the site is not located adjacent to the River Murray, the subdivision seeks to facilitate future tourist and visitor accommodation and is deemed satisfy this clause.
<i>Development which would intensify the use of riverside land should provide public access to the foreshore.</i>	Not applicable. The development does not intensify the land beyond that anticipated by the establishment of the marina and previous approvals.
Settlement	
<i>New or expanding settlements (including rural-residential subdivision, tourism and recreational development) should be located:</i> <i>(a) on flood free land,</i> <i>(b) close to existing services and facilities, and</i> <i>(c) on land that does not compromise the potential of prime crop and pasture land to produce food or fibre.</i>	<p>The proposed development is within close proximity to existing services and facilities. Each proposed Lot will be serviced.</p> <p>Whilst the development is not on flood free land, the development has been designed to be compatible with the flood function and will allow future tourist and visitor accommodation to be built above flood hazard and flood planning level.</p>
Water quality	
<i>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.</i>	The proposed land use will not cause 'salt and nutrients' to enter the river.
Wetlands	

Specific principles to be taken into account	Compatibility of proposal
<p><i>Wetlands are a natural resource which have ecological, recreational, economic, flood storage and nutrient and pollutant filtering values.</i></p> <p><i>Land use and management decisions affecting wetlands should:</i></p> <ul style="list-style-type: none"> <i>(a) provide for a hydrological regime appropriate for the maintenance or restoration of the productive capacity of the wetland,</i> <i>(b) consider the potential impact of surrounding land uses and incorporate measures such as a vegetated buffer which mitigate against any adverse effects,</i> <i>(c) control human and animal access, and</i> <i>(d) conserve native plants and animals</i> 	<p>The subject land where the development is proposed is not defined as a wetland.</p>

4.5. Murray Local Environmental Plan 2011

The *Murray Local Environmental Plan 2011* ("the LEP") is the principal planning instrument that guides development within the Murray River LGA.

4.5.1. Clause 2.3 – Zone Objectives and Land Use Table

The subject land is zoned SP3 Tourist under the LEP where the objective is to provide for a variety of tourist-oriented development and related uses.

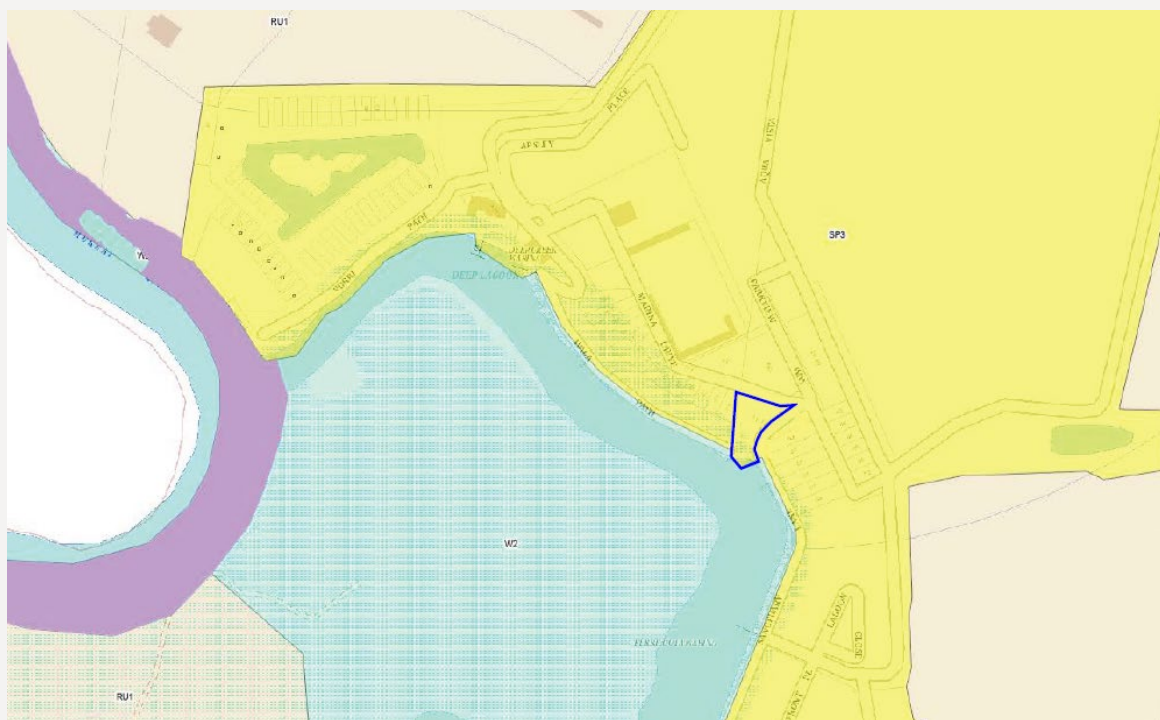


Figure 5 – Subject site: SP3 zone for Lot 2/DP286894

Tourist and visitor accommodation is a permitted land use in the SP3 zone, and the development is consistent with the objective of the zone.

4.5.2. Clause 2.6 Subdivision – Consent requirements

Land to which this Plan applies may be subdivided, but only with development consent. Subdivision is permissible under this clause and this application seeks development consent.

4.5.3. Clause 4.1 – Minimum subdivision lot size

Clause 4.1 applies to a subdivision of any land shown on the Lot Size Map that requires development consent. It requires that the size of any lot resulting from a subdivision of land is not to be less than the minimum size shown on the Lot Size Map in relation to that land.

The subject land has a 120hectare minimum Lot size. Pursuant to subclause 4, however the minimum lot size does not apply to any kind of subdivision under the *Community Land Development Act 2021*. The application proposes subdivision pursuant to the *Community Land Development Act 2021* and the minimum subdivision lot size requirements do not apply.

4.5.4. Clause 5.10 – Heritage conservation

Clause 5.10 of the LEP relates to heritage conservation and seeks to conserve the environmental heritage of the Murray River LGA, including archaeological sites and Aboriginal objects and places of heritage significance.

It is confirmed that the subject land is not identified as a heritage item, nor is it located within a heritage conservation area following a review of Schedule 5 and the Heritage Map of the LEP.

Similarly, clause 5.10 addresses matters regarding Aboriginal Cultural Heritage, which is required by the National Parks and Wildlife Act 1974 (NP&W Act). The NP&W Act is the primary legislation for the protection of Aboriginal cultural heritage in NSW. Part 6 of the NP&W Act provides specific protection

for Aboriginal objects and places by making it an offence to harm them and includes a 'strict liability offence' for such harm. Defences against the 'strict liability offence' in the NP&W Act include the demonstration of 'due diligence'. It is noted this is not a requirement of the EP&A Act or any environmental planning instrument.

Consequently, as part of the development application process it is appropriate to consider the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales ("the Code") to ascertain the potential for items of Aboriginal cultural heritage being present.

A review of the Aboriginal Heritage Information Management System (AHIMS) was undertaken to identify all recorded Aboriginal sites on or within a 50metre radius of the subject land. It is noted that no sites or places were identified during this process.

Notwithstanding, it is still appropriate to consider the potential impacts on Aboriginal heritage and an assessment has been undertaken as outlined in Table 5 below.

Table 6 – Aboriginal archaeology due diligence assessment

Due Diligence steps	Response
<i>Will the activity disturb the ground surface or any culturally modified trees?</i>	Yes, minor works only through the provision of and connection of services.
<i>Are there any:</i> a) <i>Relevant confirmed site records or other associated landscape feature information in AHIMS? And/or</i> b) <i>Any other sources of information of which a person is already aware? And/or</i> c) <i>Landscape features that are likely to indicate presence of Aboriginal objects?</i>	<p>There are no archaeological sites or places recorded on the AHIMS database or on the Heritage Map in the LEP within or near the subject land. The land is heavily disturbed through the establishment of the Marina and ongoing land use.</p> <p>No remnant trees or vegetation is proposed for removal or disturbance and there are not works proposed in any natural watercourse.</p> <p>There are no other landscape features on-site that would indicate presence of Aboriginal objects.</p>
<i>Can harm to Aboriginal objects listed on AHIMS or identified by other sources of information and/or can the carrying out of the activity at the relevant landscape features be avoided?</i>	Not relevant. The subject land does not contain any known Aboriginal objects or landscape features that warrant avoiding.
<i>Does a desktop assessment and visual inspection confirm that there are Aboriginal objects or that they are likely?</i>	No, see above for further details.
<i>Further investigation and impact assessment</i>	Not required having regard for the response to Steps 2-4 above.

4.5.5. Clause 5.21 – Flood Planning

This clause aims to minimise the flood risk to life and property associated with the use of land, to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change, avoid adverse or cumulative impacts on flood behaviour and the environment, and to enable the safe occupation and efficient evacuation of people in the event of a flood.

The subject site is susceptible to flooding however the proposed lots encompass elevated areas of the site for the purpose of future tourist accommodation. The lots are designed to be elevated to minimise the risk of flood inundation during flood events. The low hazard, mainstream flooding is compatible with the proposed Lot layout and the development will not adversely affect flood behaviour in any way.

The lots will permit the safe occupation and efficient evacuation of people in the event of a flood and will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses. The flood hazard is therefore considered a low-risk and compatible with the development.

4.5.6. Clause 7.1 – Essential services

Clause 7.1 of the LEP refers to essential services and requires that consent must not be granted to development unless the consent authority is satisfied that services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required.

The proposal satisfies the requirements of this clause where it maintains existing access and connection to reticulated water, sewer, electricity, and access to Perricoota Road.

Stormwater will continue to be managed by internal infrastructure including a series of pit and pipe infrastructure and controlled outflows.

4.5.7. Clause 7.3 – Biodiversity protection

The objective of this clause is to maintain aquatic and terrestrial biodiversity by protecting native fauna and flora and the ecological processes necessary for their continued existence and encouraging the recovery of native fauna and flora and their habitats.

The subdivision proposes to establish development Lots anticipated by the Marina development for the purpose of future tourist and visitor accommodation. It is designed and sited to ensure any works can be managed to avoid adverse environmental impacts including vegetation disturbance and runoff to the nearby waterway.

4.5.8. Clause 7.4 – Development on river front areas

This clause seeks to support natural riverine processes and protect and improve the bed and bank of the Murray River. It also seeks to maintain and improve the water quality and protect the amenity, scenic landscape and heritage values, protect public access to their riverine corridors, and conserve and protect the riverine corridors of those rivers, including wildlife habitat.

Notwithstanding the development is not located on the banks of the Murray River, the subdivision does propose Lots within 40metres of Deep Lagoon – a tributary to the Murray River. The proposed Lots however have been designed to ensure future development is not located on the riverfront area or within 40metres of the lagoon.

The subdivision does not involve works in the river front areas and are not works that will compromise the values of any riverfront land. The subsequent development of the proposed Lots envisaged by the subdivision is similarly envisaged by the zone and is considered to contribute to the value of the area and provide high quality tourist and visitor accommodation.

4.5.9. Clause 7.5 – Riparian land and Murray River and other watercourses—general principles

The objective of this clause is to protect and maintain the water quality within the Murray and Wakool Rivers and other watercourses, and the stability of the bed and banks of those rivers and other watercourses, aquatic riparian habitats, and ecological processes within those rivers and other watercourses and riparian areas.

Before determining a development application, the consent authority must consider whether or not the development:

(a) is likely to cause any adverse impact on the following—

- (i) the water quality and flows within a watercourse,
- (ii) aquatic and riparian species, habitats and ecosystems,
- (iii) the stability of the bed, shore and banks of a watercourse,
- (iv) the free passage of fish and other aquatic organisms within or along a watercourse,
- (v) any future rehabilitation of a watercourse and riparian areas, and

(b) will increase water extraction from a watercourse.

All works associated with the subdivision is considered to be of a minor scale a relate only to the service provisioning of the proposed Lots. These works will be carried out entirely outside of the river front area and will include measures to minimise the potential for erosion and sediment loss or create any bank instability that could potentially impact upon any water course or riparian land.

4.5.10. Clause 7.7 – Wetlands

The objective of this clause is to ensure that natural wetlands are preserved and protected from the impacts of development.

Whilst the parent lot encroaches the mapped wetland overlay, all subdivision works, and the development pads anticipated by the subdivision is located outside of the mapped wetlands area. The development will not remove or destroy any native flora or fauna, habitat or characteristics of the site critical to the survival of the wetlands area. Measures will be implemented during establishment and service provisioning to ensure adverse impact are avoided.

4.6. Murray Development Control Plan 2012

The Murray Development Control Plan 2010 (“the DCP”) provides specific requirements for development within the LGA, including the subject site.

The following chapters of the DCP are applicable to the proposed works:

- Chapter 7 – Subdivision
- Chapter 12 – Notification Policy

These matters are addressed in the following sections below.

4.6.1. Chapter 7 – Subdivision

This Part of the DCP applies to the subdivision of land in the Murray River Shire. Compliance with Part 7 is addressed in Table 5 in the DCP assessment table at Appendix D.

4.6.2. Chapter 12 – Notification Policy

Chapter 12 of the DCP provide details on Council’s policy for notifying development matters.

The proposal is not identified as a type of development exempt from notification (Part 12.2 of the DCP) and therefore will be notified in accordance with the requirements of this chapter and as specified in the DCP.

5. Assessment of Environmental Impacts

This section of the SEE identifies potential impacts which may occur as a result of the proposed development and are relevant matters for the consideration of the DA under Section 4.15(1)(b) to (e) of the EP&A Act 1979.

These impacts and mitigating measures have been identified following comprehensive analysis of the site and the proposed plans.

The analysis and impact identification under this section is informed by:

- Site analysis and visual inspection of the subject land and surrounding properties.
- Analysis of the proposed plans for development (provided attached for reference)
- Desktop review of applicable Environmental Planning Instruments
- Consideration of the Councils Development Plans and Policies including the DCP
- Assessment of relevant strategic planning documents.
- Consultation with Council and other authorities

5.1. Context and Setting

The subject land is located on the northwestern fringes of Moama where the surrounding rural zoned land generally comprises riverine land and extensive livestock agricultural land uses.

The development is consistent with, and supportive of the current land use in terms of its ongoing use, scale and serviceability and will ensure that the predominantly tourist focused land use continues to operate in a safe and efficient manner.

The subdivision is considered to represent a preferred design outcome having regard to its context and development opportunity. The lot sizes are considered to be generally consistent with the surrounding context and compatible with the waterfront setting. The creation of additional allotments is considered appropriate for the location as it increases land availability and variety for tourism and visitor accommodation.

5.2. Access, Traffic & Parking

Matters regarding traffic and access have been considered and are appropriate in this instance.

The subject land is located within an established setting of the Marina and is currently accessed directly from Perricoota Road. Access is achieved via an internal road network capable of accommodating the expected volumes for the future occupation of the development Lots.

The proposed subdivision is expected to result in a minor increase in traffic given the scale of the proposal and the number of lots proposed. Construction works, would be limited to the supply of materials for establishing new accommodation and is unlikely to increase traffic and parking requirements in the short-term.

5.3. Infrastructure

The subject land is already serviced by all essential services, including electricity, reticulated water, sewerage and telecommunications and the proposed lots can be appropriately connected to these services.

The proposed subdivision will not affect these existing service arrangements.

5.4. European Heritage

There are no heritage items or heritage conservation areas affecting the land or immediate surrounds.

5.5. Aboriginal Cultural Heritage

The subject land is a disturbed site, has been altered from maintenance and civil works and has very little likelihood of containing any items of cultural heritage due to the level of previous disturbance. The subject land also does not contain any other significant landscape features that would indicate the presence of Aboriginal items of significance.

A search completed on the NSW AHIMS database on 30/08/23 confirmed that there are no recorded cultural sites/places within a 50m radius of the subject site.

In the unlikely event that the applicant does identify or uncover archaeological items during works, the items will be left in place and appropriate protocols for dealing with such instances will be observed ('unexpected finds protocol').

5.6. Soils & Erosion

The subdivision will require small scale domestic service connection works which may include minor site disturbances with the installation of services. These works will be appropriately secured and managed by the appointed contractors to avoid any impact on drainage infrastructure and nearby waterways.

The site has extensive grassy ground cover and potential erosion and sediment losses are low, however, the risk will be minimised by use of sediment control and stabilisation measures where required, both before and after construction.

The subject land is within an establishing tourist and visitor areas and where rural and private recreation activities have formed the historical land uses of the site. There are no known activities or storage processes that were potentially contaminating. Consequently, there is a high degree of confidence that the land is not potentially contaminated.

5.7. Flora & Fauna

The subdivision does not require the removal of any trees. The property contains some remnant vegetation which will be retained and not compromised by the subdivision works.

The development is not expected to have any adverse impact on biodiversity or habitat values.

5.8. Flooding

The subject land is located within a flood planning area and is susceptible to low hazard main stream flooding. The proposed lots however are designed to encompass elevated areas of the site for the purpose of future tourist accommodation. The lots are designed to be elevated to minimise the risk of flood inundation during flood events. The low hazard, mainstream flooding is compatible with the proposed Lots layout and the development will not adversely affect flood behaviour in any way.

The lots will permit the safe occupation and efficient evacuation of people in the event of a flood and will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses. The flood hazard is therefore considered a low-risk and compatible with the development.

5.9. Social & Economic Impacts

The proposed subdivision will contribute to the variety of lot sizes and tourist and visitor accommodation opportunities with high amenity, environmental and recreational values. The proposed lots are suitably sized to support future accommodation development whilst maintaining consistency with the surrounding character and compatibility with the flood hazard and environmental values of the area.

The proposal also represents investment in tourist and visitor accommodation opportunities and demand for such uses in the region.

The proposed lots are expected to provide opportunity for increase visitor stays and economic injections into the regional economy in close proximity to the Moama town centre.

5.10. The Public Interest

The public interest is a broad consideration relating to many issues and is not limited to any one particular issue. Taking into account the full range of matters for consideration under Section 4.15C of the Environmental Planning and Assessment 1979 (as discussed within this report), it is considered that approval of the application is consistent with the public interest.

The development of land in an orderly and economic way is in the public interest.

6. Conclusion

The DA seeks consent for a four (4) lot community title subdivision on land described as Lot 2 in DP286894 and Lot 10 in DP270580 at Marina Drive, Moama.

The application seeks development consent under Part 4 of the EP&A Act and has been assessed against the provisions of Section 4.15(1) of the EP&A Act.

As demonstrated by the detailed assessment above, the proposal satisfies the intent of the provisions of the applicable EPIs and will result in a positive development outcome in terms of social, environmental, and economic impacts.

Having regard for the content of this report, the proposal deserves the support of Council because:

- it is consistent with the relevant environmental planning instruments and development control plan;
- it provides a high-quality development outcome, which will offer greater variety in tourist and visitor accommodation in the Moama and Murray River region;
- it represents an appropriate development outcome within an area already characterised and identified for this typology of tourist accommodation;
- it responds appropriately to the context of the site and the natural and physical characteristics of the area;
- it proposes the use of design features for best practice stormwater and drainage services and is compatible with flood risk
- all existing necessary urban infrastructure is available and can be upgraded and/or extended to serve the new development; and
- it will not create any adverse environmental or social impacts.

In light of the above considerations, it is our opinion that the proposal is appropriate from a planning point of view and is in the public interest. The proposed development warrants support by Council.

Appendix A: Proposed Plans of Subdivision

Appendix B: Bushfire Assessment Report

Appendix C: DCP Assessment Tables

Table 7 – Chapter 5 Tourist Accommodation

DCP Control	Compliance	Comment
<p><i>The specific objectives of the controls are:</i></p> <ul style="list-style-type: none"> <i>to encourage and promote development of tourist accommodation within the Shire;</i> <i>to maximise utilisation and promotion of existing tourist resources;</i> <i>to protect the natural environment;</i> <i>to provide for tourist oriented activities that are appropriately located; and</i> <i>to promote diversification of development types and forms</i> 	Complies	<p>Although the application proposes subdivision only the purpose of the subdivision is for tourist and visitor accommodation at an existing tourist and visitor facility with existing services and infrastructure. The design of the subdivision protects the existing natural environment and promotes development with high levels of amenity.</p>

Table 8 – Chapter 7 Subdivision Compliance Table

DCP Control	Compliance	Comment
<p><i>The purpose of the chapter is:</i></p> <ul style="list-style-type: none"> <i>To encourage a diversity of lot sizes for residential, industrial and commercial development that is compatible with the character of an area and appropriate for the proposed use</i> <i>To provide lots with areas and dimensions which protect environmental features and take account of site constraints.</i> <i>To have regard to energy conservation principles in the orientation of lots where for residential subdivisions at least 70% of the lots will have favourable solar orientation.</i> <i>To ensure public open space, of appropriate quantity and quality, is provided to meet the recreational and social needs of the community.</i> <i>To ensure all public utilities for the development of new lots are adequately planned as part of subdivision.</i> <i>To ensure the provision of utilities and infrastructure meets minimum standards.</i> <i>To provide a road network that places a high priority upon vehicular and pedestrian connectivity, convenience and safety.</i> <i>To encourage the use of other transport modes as an alternative to motor vehicle transport.</i> 	<p>Complies</p>	<p>The application proposes lot size diversity to encourage diverse accommodation types and sizes that are compatible with the riverine setting and the existing marina land use. All lots enable building opportunities above the flood level with elevated views and with access to all relevant services which protect the natural riverine environment. All lots achieve favourable solar orientation and access and have high levels of amenity and is consistent with the purpose of this part.</p>

DCP Control	Compliance	Comment
Clause 7.1 – Context		
<i>Subdivision shall be consistent with the Murray Shire Strategic Land Use Plan</i>	Not applicable	Not applicable
<i>On land to which the Moama North West Masterplan (2008) applies, subdivision shall be consistent with the recommendations of that plan.</i>	Not applicable	Not applicable
Clause 7.2 – Neighbourhood character		
<i>Subdivision to be generally consistent with the theme and character of development relating to the same land use within the vicinity of the subject development.</i>	Complies	The proposed subdivision is considered to be consistent with the theme and character of the existing Mariina development and the desired tourist and visitor accommodation theme. It provides additional accommodation options without compromising the surrounding rural amenity and character of the area.
<i>On land to which the Moama North West Masterplan (2008) applies, consistency with the recommendations of that plan.</i>	Not applicable	Not applicable

DCP Control	Compliance	Comment
<i>Requests to vary minimum lot size on land zoned residential west of Lignum Road will be considered by Council to be inconsistent with the objectives for neighbourhood character.</i>	Not applicable	Not applicable
<p><i>Where land zoned R1 or RU5 adjoins land zoned R2 or R5 Council will regard any of the following as inconsistent with the objectives for neighbourhood character:</i></p> <ul style="list-style-type: none"> - <i>More than two lots in the R1 or RU5 zones adjoining a single lot in the R2 or R5 zones.</i> - <i>A lot with an area of less than 1300m2 in the R1 or RU5 zone adjoining a lot in R2 or R5 zone.</i> 	Not applicable	Not applicable
Clause 7.3 – Staging	Not applicable	The subdivision is not proposed to be staged
Clause 7.4 – Movement Network		
<i>Compliance with the Murray Shire Engineering Guidelines for Subdivisions and Development Standards.</i>	Noted	Noted. The subdivision has been designed to enable compliance with Council's guidelines for subdivisions and developments.

DCP Control	Compliance	Comment
<i>The use of cul-de-sacs in subdivision design should only be contemplated in circumstances where constraints dictate a through street cannot be accommodated.</i>	Not applicable	Not applicable – no cul-de-sacs are proposed.
<i>On land to which the Moama North West Masterplan (2008) applies, consistency with the recommendations of that plan.</i>	Not applicable	Not applicable
<i>Clause 7.5 – Activity centres & community facilities</i>	Not applicable	Not applicable
Clause 7.6 – Public Open Space	N/A	Not applicable – no public open space is proposed as part of the application. The subject land is not identified in the Murray Shire Strategic Land Use Plan as containing land set aside for public open space and does not propose 25 Lots or more.
<i>Compliance with the Murray Shire Engineering Guidelines for Subdivisions and Development Standards.</i>	Not applicable	Not applicable. No public open space is not proposed or required.
<i>Applications for residential subdivision are to address the provision of Public Open Space (POS). All proposed residential subdivisions seeking consent for 25 lots or more are to provide POS on the subject site to the satisfaction of Council, unless Council is satisfied of an alternative solution which does not require additional POS to be provided. Requirement to provide</i>	Not applicable	Not applicable. The application does not propose more than 25 lots.

DCP Control	Compliance	Comment
<p><i>POS will be assessed by Council on the merits of the application based on the following:</i></p> <p><i>Proximity of the proposed subdivision to existing POS - No additional POS will be required if the application can suitably demonstrate that the following is safely and easily accessible to the proposed subdivision:</i></p> <ul style="list-style-type: none"> - <i>District parks, consisting of 3 ha minimum area and containing a range of recreation settings, are provided within 2 km of all dwellings within the proposed subdivision; and/or</i> - <i>Large local parks consisting of 0.4-1.0 ha minimum area provided within 500 m safe walking distance of all dwellings within the proposed subdivision; and/or</i> - <i>Small local parks consisting of 0.2 ha minimum area provided they are located within 300 m safe walking distance of all dwellings within the proposed subdivision.</i> - <i>Access to Council's recreation reserves is available within 1km of all the dwellings within the proposed subdivision</i> 		
<p><i>Connectivity of the proposed subdivision to existing POS via walking and cycling paths;</i></p>	Not applicable	Not applicable

DCP Control	Compliance	Comment
<i>Capacity of the existing POS (detailed above) to cater for incoming development (or incapacity).</i>	Not applicable	Not applicable
<i>The requirement to provide new POS as part of new residential subdivisions will be at the discretion of Council.</i>	Not applicable	Not applicable
<i>On land to which the Moama North West Masterplan (2008) applies, consistency with the recommendations of that plan.</i>	Not applicable	Not applicable
Clause 7.7 – Landscaping		
<i>A Landscape Plan is required to be submitted to Council detailing proposed landscaping</i>	Noted	A landscape plan will be prepared with the detailed design of the Lots and submitted to Council for approval with the Subdivision works Certificate.
<i>On land to which Council's Roadside Vegetation Management Plan (2000) applies, consistency with the recommendations of that plan.</i>	Not applicable	Not applicable. No works are proposed in the vicinity of any road side vegetation.
<i>On land to which the Local Environmental Study – 2040 Perricoota Road, Moama (2008) applies, consistency with the recommendations of that study</i>	Not applicable	Not applicable

DCP Control	Compliance	Comment
<i>On land to which any Local Environmental Study has been prepared for Murray LEP 2011 or subsequent amendment, consistency with the recommendations of that study.</i>	Noted	Any relevant plan will be taken into consideration as part of the development of the landscape plan.
<i>On land identified on the Natural Resources Sensitivity Map in the LEP as 'Remnant Vegetation Cover', an assessment of that vegetation for biodiversity value and retention if necessary in any future development.</i>	Noted	The subject land is identified on the Biodiversity Values Maps. The development does not propose or require the removal or disturbance of any vegetation and a BDAR is not required.
Clause 7.8 – Lot Design		
<i>Compliance with the Murray Shire Engineering Guidelines for Subdivisions and Development Standards.</i>	Noted	Noted. The subdivision has been designed to enable compliance with Council's guidelines for subdivisions and developments.
<i>For battle-axe allotments a minimum width of the access handle is to be:</i> – 3.5m for a maximum length 20 metres; – 4m for a maximum length 30 metres; and	Not applicable	Not applicable. No battle-axe Lots are proposed.

DCP Control	Compliance	Comment
– 5m for lengths greater than 30 metres.		
<i>Subdivisions are to be designed to maximise solar access and the number of rectangular shaped allotments</i>	Complies	The subdivision achieves appropriate solar access and provides lots sizes that will also allow appropriate solar access considerations when the lots are subsequently developed with accommodation.
<i>On land to which the Moama North West Masterplan (2008) applies, consistency with the recommendations of that plan.</i>	Not applicable	Not applicable
<i>Subdivisions must demonstrate a building envelope measuring 10 metres by 15 metres on each lot or display a dwelling to be constructed on the lot(s) consistent with the objectives and controls of Chapter 2- of this DCP.</i>	Complies	All lots can achieve a minimum 15x10metre building envelope.
Clause 7.9 – Infrastructure & Services		
<i>Compliance with the Murray Shire Engineering Guidelines for Subdivisions and Development Standards.</i>	Noted	The subdivision has been designed to enable compliance with Council's guidelines for subdivisions and developments.
<i>On land to which the Moama West Infrastructure Strategy (2005) applies, consistency with the recommendations of that strategy</i>	Not applicable	Not applicable

DCP Control	Compliance	Comment
<i>On land to which the Moama North West Masterplan (2008) applies, consistency with the recommendations of that plan.</i>	Not applicable	Not applicable
Clause 7.10 – Natural hazards		
<i>On land mapped as bushfire prone, compliance with the NSW Rural Fire Service document Planning for Bushfire Protection (2006).</i>	Complies	A Bushfire Assessment Report has been prepared and is provided under a separate cover.
<i>On land identified as flood prone in the Moama Floodplain Management Study (1999), compliance with clause 7.8 of the LEP and the State Government's Floodplain Development Manual (2005).</i>	Complies	Refer to summary of assessment at Section 4.4.5 of this SEE
<i>On land to which the Moama Floodplain Management Study (1999) applies, consistency with the recommendations of that study.</i>	Complies	Refer to summary of assessment at Section 4.4.5 of this SEE
<i>On land that is, or has previously been used for viticulture, an investigation of the land for potential contamination in accordance with the requirements of State Environmental Planning Policy No.55 – Remediation of Land. An investigation should be in accordance with the process detailed in the State</i>	Not applicable	Land not known to be previously used for viticulture. Refer to summary of assessment at Section 4.1 of this SEE

DCP Control	Compliance	Comment
<i>Government's Managing Land Contamination – Planning Guidelines SEPP55 Remediation of Land (1998).</i>		
<i>A chemical spray drift buffer is to be provided between existing viticulture activity and residential lots. The applicant is to submit information prepared by a suitably qualified person with the development application that demonstrates an appropriate buffer distance.</i>	Not applicable	Land does not adjoin existing viticulture or broadacre agricultural cropping uses.
Clause 7.11 – Site Management		
<i>Compliance with the Murray Shire Engineering Guidelines for Subdivisions and Development Standards.</i>	Complies	Site management during construction will comply with Council's engineering guidelines for subdivision and development standards and relevant conditions consent as imposed.
<i>The Blue Book – Managing Urban Stormwater: Soils and Construction (2004).</i>	Complies	A Soil and Water Management Plan will be developed and implemented in accordance with the Blue Book requirements.