

**23 & 24 Bayaderra Court and 66 Merool Road,  
Moama, New South Wales: Aboriginal cultural  
heritage plan of management**

**Dated: 09 May 2024**

**Prepared for Kangabar P/L**

**Authored by John Gilding**

## Report Information

Bligh Gilding Consulting	Report to: Brett Sands, Kangabar Pty Ltd			
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## Table of Contents

Report Information.....	i
<b>Disclaimer</b> .....	i
Table of Figures .....	ii
Table of Tables .....	iii
1. Introduction .....	1
1.1 The proposed activity.....	1
1.2 Location and cadastre .....	1
1.3 Basis and structure for this management plan .....	4
1.4 Limitations.....	4
2. Legislation and project ACH management documents .....	5
2.1 National Parks and Wildlife Act 1974 and Regulations 2019 .....	5
2.2 Environmental Planning & Assessment Act 1979.....	6
2.3 23 & 24 Bayaderra Court and 66 Merool Road, Moama New South Wales: Aboriginal Cultural Heritage Assessment .....	6
3. Cultural heritage values .....	9
3.1 Merool Lane Burial, Moama AHIMS 59-2-0047.....	9
3.2 Merool Lane Earth Mound AHIMS 59-2-0127 .....	9
3.3 The cultural heritage significance.....	9
4. Impacts on cultural heritage .....	10
5. Management and mitigation measures.....	10
5.1 Aboriginal cultural heritage avoidance and harm mitigation.....	10
5.2 Management plan communication and dissemination .....	10
5.3 Changes to the activity.....	11
5.4 Unanticipated finds contingencies .....	11
5.5 Heritage management plan checklist .....	11
References .....	12
Appendix A: Return of Development Application Letter, Murray River Council .....	13
Appendix B: Heritage NSW advice .....	16

## Table of Figures

Figure 1 Location 23 & 24 Bayaderra Court and 55 Merool Road, Moama (Firth and Monk 2022). ....	2
Figure 2 Plan of proposed subdivision.....	3
Figure 3 Management plan area with subdivision overlay and ACH site locations (Firth and Monk 2022: 36). ....	8

Figure 4 North-east view of Merool Lane Earth Mound (AHIMS 59-2-0127) looking south (Firth and Monk 2022: 27) ..... 9

Table of Tables

Table 1 tabulated information on Merool Lane Aboriginal objects, Moama from the ACHAR (Firth and Monk 2022: iii). ..... 10

## 1. Introduction

23 & 24 Bayaderra Court and 66 Merool Road, Moama, New South Wales (NSW) is currently a single block, comprising two adjacent lots, between Merool Road and the Murray River (Figure 1). Located between Merool Road and the Murray River, the proponent – Brett Sands (Kangabar Pty Ltd) – is proposing to subdivide a portion of the land for residential purposes.

As part of the proposed development, Kangabar submitted a Development Application (DA: PAN-280621) to Murray River Council (MRC). The DA included an Aboriginal Cultural Heritage Assessment Report (ACHAR) undertaken by Austral Archaeology (Firth and Monk 2022).

Subsequently MRC responded to the DA with a request for further information to support the application in a 'Return of Development Application' letter (O'Brien 2022) – letter attached Appendix A. A component of the request for further information was development of an "appropriate Plan of Management".

The letter (O'Brien 2022) also recommended that Heritage NSW be contacted regarding the application, as that agencies concurrence would be required due to it being classed as an Integrated Development.

This management plan being the output from these requirements and reflecting outcomes from engagement with relevant consent authorities.

### 1.1 The proposed activity

The proponent intends on creating a residential subdivision within the subject land (refer to Location and cadastre section) at Bayaderra Court and Merool Road, Moama. The development will include:

- Subdivision of land into a 12 lot residential subdivision (Figure 2)
- Extension of Bayaderra court along its existing north-west axis approximately 120m to service the new residential lots (Figure 2);
- Construction of stormwater and drainage;
- Installation of service utilities; and
- Any other activities required to facilitate the development as directed by relevant consent and approval authorities.

### 1.2 Location and cadastre

The activity area for development includes all of 23 Bayaderra Court (Lot 12 DP 159705 and Lot 13 DP 1259705) and 66 Merool Road (Lot 2 DP 1206253), Moama, NSW. The activity is within the Parish of Moama, County of Cadell, Murray River Council Local Government Area (LGA).

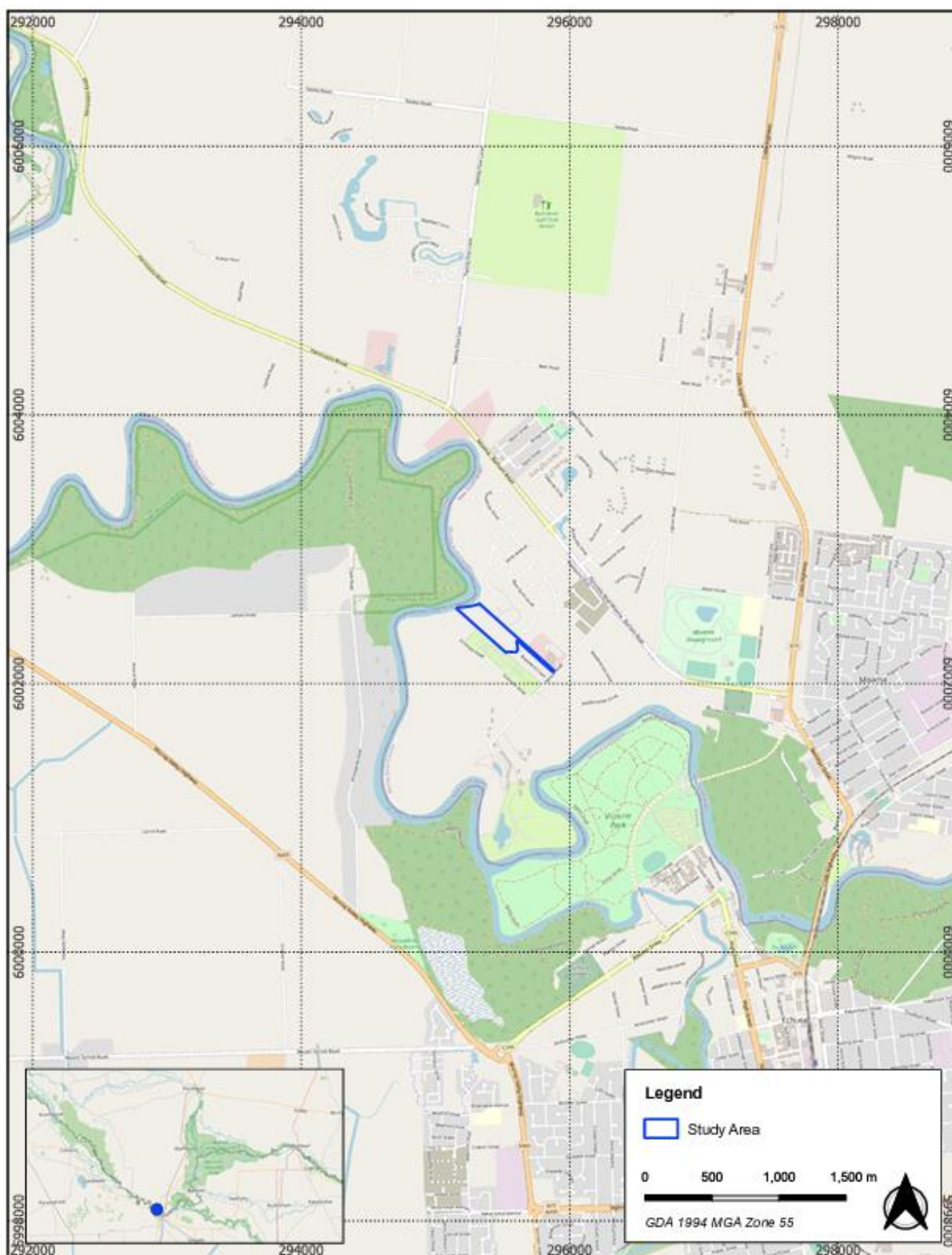


Figure 1 Location 23 & 24 Bayaderra Court and 55 Merool Road, Moama (Firth and Monk 2022).



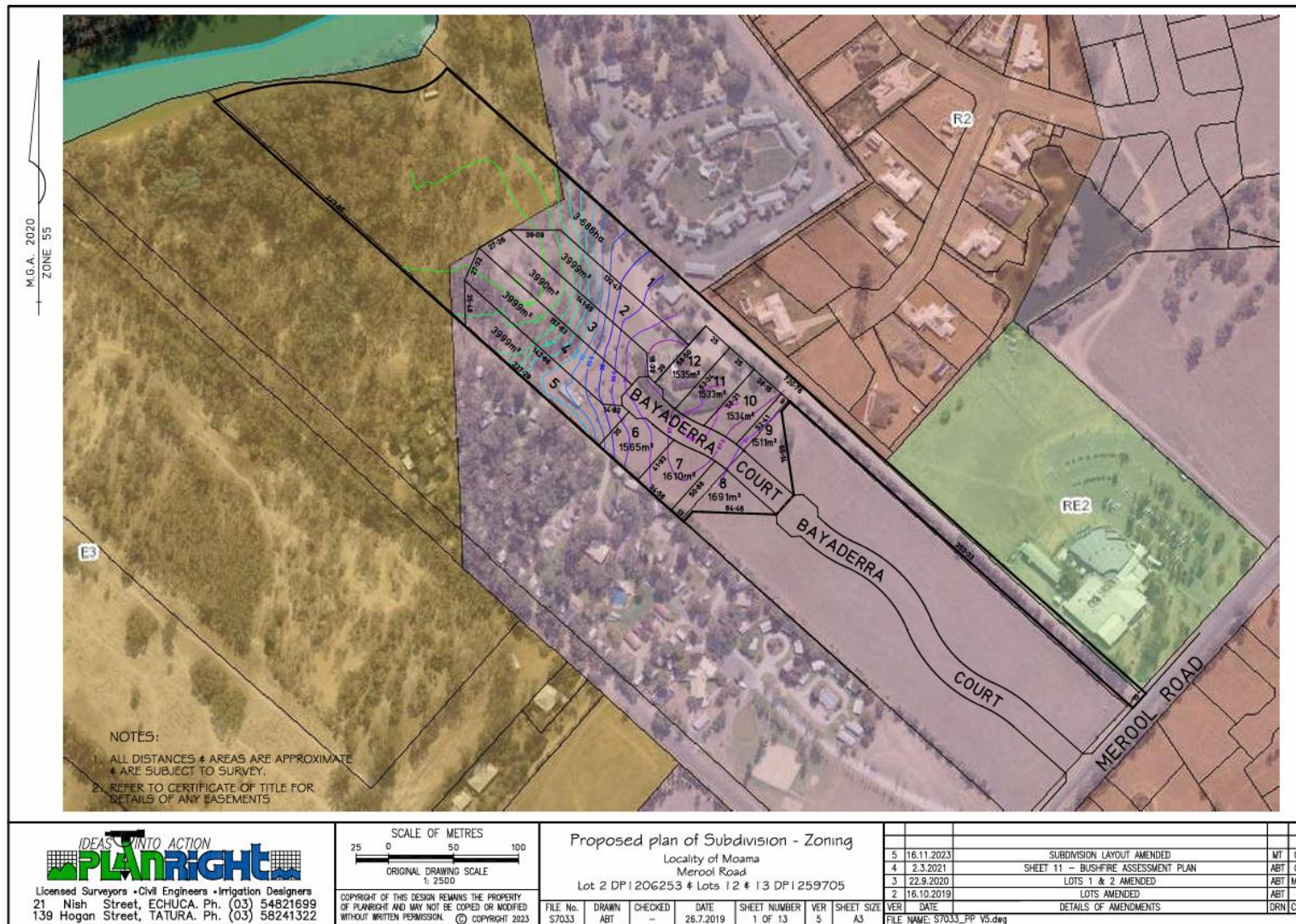


Figure 2 Plan of proposed subdivision

### 1.3 Basis and structure for this management plan

The main reason for this management plan is to address requirements from Murray River Council:

*“An appropriate Plan of Management regarding how impacts to Aboriginal Cultural Heritage as a result of creating additional allotments over known Aboriginal sites is also required to be provided.”*

*“It is also recommended to contact Heritage NSW directly to discuss this application, as the application will be classed as Integrated Development with Heritage NSW and requires their concurrence.” O’Brien (2022 as presented in Appendix A).*

An ancillary reason influencing this management plan is to interpret the Aboriginal Cultural Heritage Assessment Report (ACHAR) produced by Austral Archaeology (Firth and Monk 2022) in relation to the National Parks & Wildlife Act 1974, and provide clearer management guidance for the proponent.

Outside of an Aboriginal Place Management Plan (the subject area not being an AP), management of Aboriginal objects/sites is through an Archaeological Report (AR), an ACHAR and/or an Aboriginal Heritage Impact Permit (AHIP).

NSW legislation does not provide for a ‘Plan of Management’ and there is no guidance materials or policy documents for production of such a document in this context. Murray River Council has not provided any formal ‘requirements for this management plan’ (Appendix A), outside of recommending that the Aboriginal Cultural Heritage (ACH) regulator – Heritage NSW – be contacted for opinions and inputs due to it being an Integrated Development.

To this end, Heritage NSW were contacted via email with a brief of (Appendix B):

- Nature of the development;
- ACH content of the proposed development area;
- Synopsis of outcomes from Austral Archaeology ACHAR (Firth and Monk 2022); and
- Advice from Murray River Council.

Heritage NSW were asked to provide comments regarding the DA and requested to provide any stipulations they may have in relation to the development of the management plan. Copies of relevant documents referred to in the email were provided so that Heritage NSW could provide informed directions or requests (Appendix B).

Subsequently Heritage NSW responded, providing advice on options for which council could seek General Terms of Approval (GTA’s) through the NSW Planning Portal. Heritage NSW did not address any of the contents of the original email sent to them.

As such, development of this plan of management has been done without any substantive, or meaningful, inputs from Heritage NSW.

### 1.4 Limitations

The following limitations should be acknowledged concerning development of this management plan and its implementation:

- Plan development was based on available documents as identified within this document.



- No fieldwork, site visits, site meetings or other onsite activities were undertaken by BGC during the development of the plan of management. The plan was developed based off outputs from previous fieldwork as documented within this document.
- This plan of management has been developed pursuant to the level of engagement and inputs from relevant stakeholders as identified within this document.
- It is not BGC's role or responsibility to critically analyse other third parties work or documents – this is the responsibility of regulatory and consent authorities - therefore information presented is as it is from the source, uninterpreted.

## 2. Legislation and project ACH management documents

As part of development of this plan of management Bligh Gilding Consulting examined the ACHAR (Firth and Monk 2022) and relevant legislation. These are presented following.

### 2.1 National Parks and Wildlife Act 1974 and Regulations 2019

The *National Parks and Wildlife Act 1974* is the main piece of legislation regulating management of Aboriginal heritage in NSW.

Aboriginal Objects and Places cannot be harmed (s86) without a defence – s90 AHIP, a Due Diligence assessment under the Regulations (s87), or a low impact or omission under the Regs (s87).

It is common for developments to be required to undertake some form of ACH assessment dependant on the nature of the activity, whether ACH is present (or likely to be present) and whether it can, or cannot be avoided. Assessments can range from:

- Due Diligence (*National Parks & Wildlife Regulations 2019*): with meaning exactly as is commonly known – to inform feasibility and requirements;
- Archaeological assessment producing an Archaeological Report (NPW Act 1974) and stopping at this stage if nothing is found, or harm can be avoided; and
- Archaeological assessment producing an ACHAR in support of an AHIP application where sites are present and harm cannot be avoided.

These documents – Due Diligence (DD), AR, ACHAR and AHIP – produced by the assessment process provide (or should provide) clear strategies for management of ACH values relevant to their nature. This could include anyone, or combination of:

- Unanticipated finds protocols and contingencies;
- Harm avoidance measures;
- Preservation and conservation requirements; and
- Authority to destroy in either whole or part.

Any act that would constitute harm to a known Aboriginal object requires an AHIP. This often includes modification for the purposes of conservation.

In this instance the level of assessment undertaken was a formal archaeological assessment, including mandatory Aboriginal community consultation in compliance with the NPW Act 1974, with the output being an ACHAR (Firth and Monk 2022).

As detailed it should be recognised that a standalone management plan, in regards to developments, are not a regulated aspect of ACH management, planning and approvals. Normally the ACHAR (Firth

and Monk 2022) would act as the management plan *per se*, in conjunction with an Aboriginal Heritage Impact Permit (AHIP) if harm to an ACH values could not be avoided.

## 2.2 Environmental Planning & Assessment Act 1979

Approval of the Merool Rd Subdivision is being undertaken as an Integrated Development (ID) under the *Environmental Planning and Assessment Act 1979* (EP&A Act). An integrated development is an activity that requires approval from one or more regulatory agencies, however, does not qualify as being State Significant or a complying development. For this project Appendix A (Return of Development Application letter) details regulatory approvals required by the consent authority.

In relation to ACH the EP&A Act (s4.46) identifies that approval from the ACH Regulator is required for an ID where an AHIP (NPW Act 1974 s90) is required.

The ACHAR (Firth and Monk 2022: 39) identifies that an AHIP is not required for subdivision approval stage, however, may be required by individual future lot holders, dependant on how they develop the land.

## 2.3 23 & 24 Bayaderra Court and 66 Merool Road, Moama New South Wales: Aboriginal Cultural Heritage Assessment

Beginning in July 2021 and concluding in September 2022 Austral Archaeology undertook an archaeological assessment of ACH in the proposed development area. The output of which was an ACHAR (Firth and Monk 2022).

Firth and Monk (2022) identified two Aboriginal objects within the activity area. The first was a previously recorded site: Merool Lane Burial (AHIMS 59-2-0047); and the second was a new site Merool Lane Earth Mound (AHIMS 59-2-0127) (Figure 3).

Discovered during excavation of a swimming pool in 1997, Merool Lane Burial, Moama (AHIMS 59-2-0047) was an accumulation of Aboriginal ancestral remains located on a dune crest. These remains were collected and repatriated to the representative body at the time – Yota Yota (Yorta Yorta) Local Aboriginal Land Council – for reburial (Johnston 1997). Therefore, it would appear that the site is no longer extant at this, its original, location. However, Firth and Monk (2022: 32) stated that there is some possibility of further skeletal material being present.

Merool Lane Earth Mound, Moama (AHIMS 59-2-0127) was identified during the assessment of the subdivision area as part of the ACHAR process. Located within a dune crest, the site was identified by Firth and Monk (2022) in an eroding A Horizon section associated with the landform (Figure 4). This site comprised a single flaked quartz artefact and heat retainers.

The results of the significance assessment for both of these sites was that their significance was indeterminate (Firth and Monk 2022: iii and 32). The main factor influencing this outcome was that no subsurface testing was undertaken as part of the ACHAR – which was acknowledged as a limitation by Firth and Monk (2022: 28) in their assessment.

Austral Archaeology concluded from their impact assessment and considerations of s90K that:

- Ground disturbance works associated with the development will have negative cumulative impacts on ACH in the study area (Firth and Monk 2022: 35 and 38)
- The proposed rezoning and development of roads will not harm any known ACH within the activity area (Firth and Monk 2022: 35 and 38).

- Merool Lane Earth Mound is located within a flood prone zone where further development is unlikely to be supported (Firth and Monk 2022: 38)

The ACHAR produced by Austral Archaeology concluded that no further assessment was required, works for the extension of roads must remain within the design footprint proposed, and that if future landholders undertake works at Merool Lane Burial (AHIMS 59-2-0047) and Merool Lane Earth Mound (AHIMS 59-2-0127) then they will need to apply for an AHIP (Firth and Monk 2022: 39).

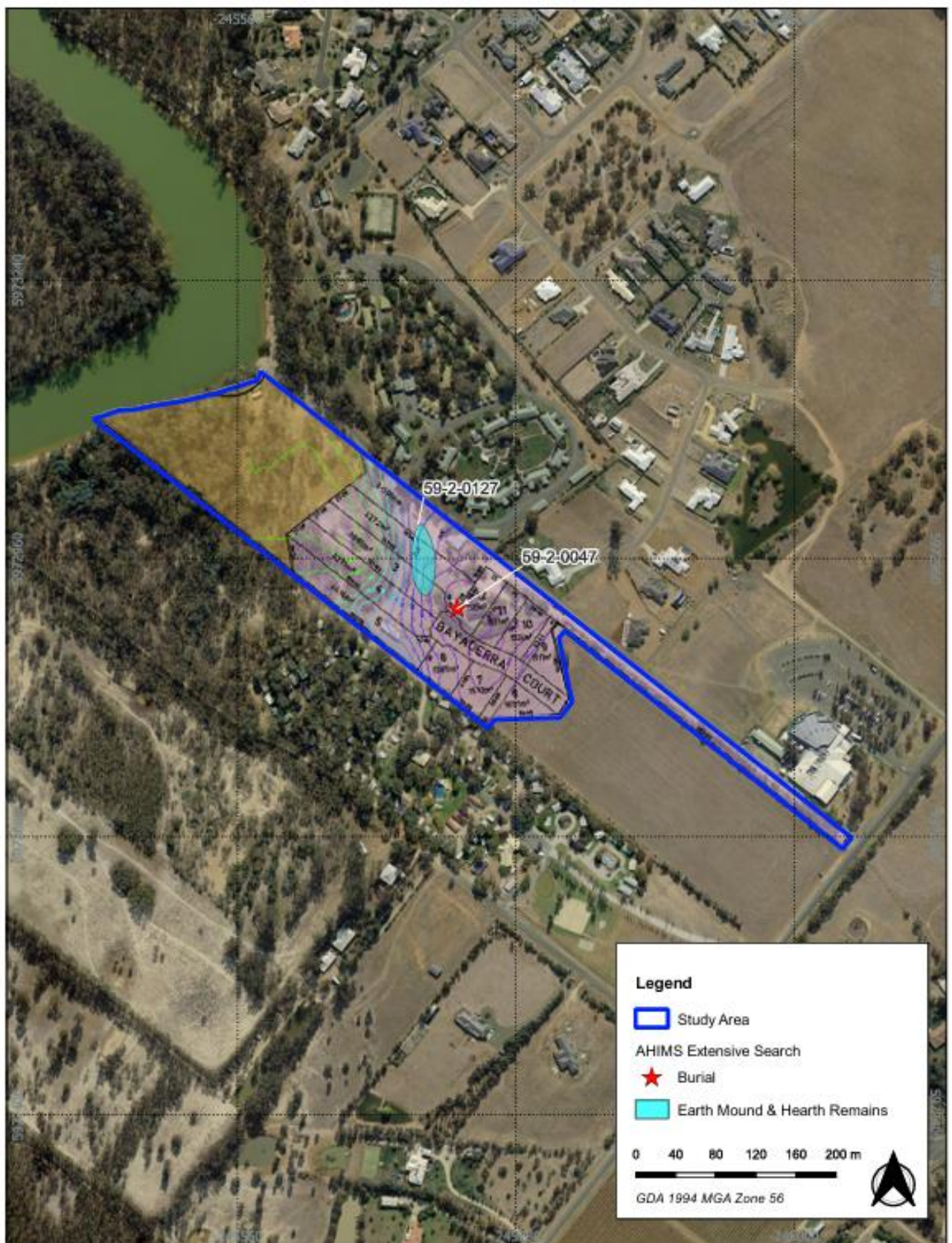


Figure 3 Management plan area with subdivision overlay and ACH site locations (Firth and Monk 2022: 36).



### 3. Cultural heritage values

#### 3.1 Merool Lane Burial, Moama AHIMS 59-2-0047

This burial was discovered in 1997 during excavation of a swimming pool at 66 Merool Road, Moama. The principal investigator of the remains was Harvey Johnston (NSW National Parks & Wildlife Service).

Located within a sand dune at a depth of 1.5 to 1.8m, Johnston (1997) determined the remains were ancestral Aboriginal. The assemblage comprised approximately 67 pieces of bone with elements identified including the right ulna, and the majority of the cranium and mandible. Some of the larger bones were removed from the site under the Coroners Act for analysis. The rest of the remains were relocated from the swimming pool pit and dispersed in spoil piles throughout the property. These were subsequently sieved and all remains retrieved from these piles. All of the remains were then consolidated and returned to the Yorta Yorta traditional owner group for reburial.

#### 3.2 Merool Lane Earth Mound AHIMS 59-2-0127

Merool Lane Earth Mound site is situated within the proposed subdivision. The site is located on a dune crest less than 50m to the northwest of Merool Lane Burial (Figure 3). The site comprises a quartz flaked artefact and heat retainers over an extent of 25m x 15m (Firth and Monk 2022: 26).



*Figure 4 North-east view of Merool Lane Earth Mound (AHIMS 59-2-0127) looking south (Firth and Monk 2022: 27)*

#### 3.3 The cultural heritage significance

As part of the ACHAR process, Austral Archaeology undertook an assessment of significance for both Merool Lane Burial (AHIMS 59-2-0047) and Merool Lane Earth Mound (AHIMS 59-2-0127). Details of the outcomes from this assessment are provided in Table 1.



Table 1 tabulated information on Merool Lane Aboriginal objects, Moama from the ACHAR (Firth and Monk 2022: iii).

Site name / AHIMS No.	Aboriginal cultural heritage values	Significance
Merool Lane Earth Mound, Moama / 59-2-0127	MEROOL LANE EARTH MOUND (AHIMS # 59-2-0127) is located on a sand dune approximately 277m from the Murray River and is an earth mound containing heat retainers and a quartz flake. The site has erosion damage. Further investigations will be required before a significance statement is produced.	Indeterminate
Merool Lane Burial, Moama / 59-2-0047	MEROOL LANE BURIAL, MOAMA (AHIMS # 59-2-0047) is a burial located on a dune crest, 400m from the Murray River. 67 pieces of bone were identified, although some of the major bones have not been located including the right ulna and the majority of the cranium and mandible. Merool Lane Burial, Moama has research potential as burials along the Murray River can provide new information on traditional practices regarding the interment of the dead and skeletal remains can be subject to a number of analyses that provide information on past ways of life. It has been assessed to have high social and spiritual significance to local people.	Indeterminate

#### 4. Impacts on cultural heritage

As detailed within the ACHAR (Firth and Monk 2022: 35 and 38) prior land use and development have altered ACH values within the landscape. The proposed vegetation removal and road construction for the subdivision will cause ground disturbance in proximity to the two known Aboriginal objects (AHIMS 59-2-0047 and 59-2-0127). As long as road construction is maintained within the planned footprint these will not directly impact these sites and there should be no loss of value.

#### 5. Management and mitigation measures

As per 1.3 and 2 of this document heritage management strategies are derived from the ACHAR:

##### 5.1 Aboriginal cultural heritage avoidance and harm mitigation

- Road modification and construction should be contained within the existing footprint as per plans provided at the time of the assessment and development of this document (Figure 3). This will avoid direct harm to known ACH values:
  - Merool Lane Earth Mound (AHIMS 59-2-0127); and
  - Merool Lane Burial (AHIMS 59-2-0047)
- If future subdivision landholders plan to undertake works or activities that may harm Merool Lane Earth Mound (AHIMS 59-2-0127) or Merool Lane Burial (AHIMS 59-2-0047) they will need to apply for an AHIP pursuant to s90 NPW Act 1974.

##### 5.2 Management plan communication and dissemination

- Upon approval, a copy of this management plan, along with the ACHAR and any other relevant planning and approvals documents (containing ACH controls or requirements) should be provided to stakeholders:
  - Registered Aboriginal Parties identified in the ACHAR (Firth and Monk 2022: 18):
    - Moama and District Local Aboriginal Land Council
    - Yorta Yorta Nation Aboriginal Corporation
    - Yarkuwa Indigenous Knowledge Centre

- iv. Bangerang Aboriginal Corporation
- v. John Jackson
- b. Any landholders who purchase subdivision land
- 4. The proponent and their development agents/contractors should be aware of the requirements of this management plan. A copy of this document, along with the ACHAR, in either hardcopy or electronic form, should be available onsite during construction phase for reference should it be required.

### 5.3 Changes to the activity

- 5. Changes to the proposed subdivision design. If changes are made to the design then the proponent, or their agent, is responsible for checking whether the variation may impact ACH and also effect the validity of any ACH management documents against a design change.

### 5.4 Unanticipated finds contingencies

- 6. If any suspected human remains are encountered during the activity the NSW Police must be contacted in the first instance as required by the *Coroners Act 2009*. As the lead agency they will coordinate subsequent investigations and determination of the nature of the suspected remains.
- 7. If any ACH deposits are encountered work should cease at the location and no further harm occur. An archaeologist, the Moama Local Aboriginal Land Council and/or Heritage NSW should be contacted to determine the nature of the occurrence and provide appropriate advice as to how to proceed in accordance with the NPW Act 1974.

### 5.5 Heritage management plan checklist

Checklist for reviewing compliance with the management plan		
	Yes	No
<b>Harm avoidance and mitigation</b>		
1. Is road construction within the existing approved footprints?		
<b>Management plan communication</b>		
1. Have relevant stakeholders been provided a copy of ACH planning and approvals documents (i.e. ACHAR and management plan)?		
2. Are agents and contractors involved in development/construction phase aware of the ACHAR and management plan and have copies onsite?		
<b>Changes to the activity</b>		
1. Have there been any changes to the activity and do these potentially effect ACH values?		
<b>Unanticipated finds protocols</b>		
1. Human remains – have the NSW Police been contacted?		
2. Aboriginal objects – have works stopped at the location and advice been sought from a knowledge expert?		

## References

Firth, M. and N. Monk. 2022. '23 & 24 Bayaderra Court and 66 Merool Road, Moama, New South Wales: Aboriginal cultural heritage assessment.' Report produced by Austral Archaeology for PlanRight, Moama NSW.

Johnston, H. 1997. 'Report on an Aboriginal Burial at Moama, NSW'. Unpublished report, National Parks & Wildlife Service, Buronga, NSW.

O'Brien, C. 2022. 'Return of Development Application: PAN-280621.' Unpublished letter from Murray River Council to Claire Tunbridge, PlanRight, Moama NSW.

## Appendix A: Return of Development Application Letter, Murray River Council



Murray River Council  
PO Box 906  
Moama NSW 2731  
p 1300 087 004  
f 03 5884 3417  
e [admin@murrayriver.nsw.gov.au](mailto:admin@murrayriver.nsw.gov.au)  
w [www.murrayriver.nsw.gov.au](http://www.murrayriver.nsw.gov.au)

**Register No:** PAN-280621

25 November 2022

Claire Tunbridge

Harland and Langenbacher Pty Ltd

21 Nish Street

ECHUCA VIC 3564

[ctunbridge@planright.net.au](mailto:ctunbridge@planright.net.au)

Dear Claire

**Subject: Return of Development Application  
PAN-280621  
12 Lot (Torrens Title) Subdivision including ancillary civil works,  
demolition of existing structures, and vegetation removal  
Lot 2 DP 1206253, Lots 12-13 DP 1259705  
66 Merool Road and 23 and 24 Bayaderra Court, Moama**

Reference is made to the above and your Development Application (DA) received by Murray River Council via the NSW Planning Portal (the Portal), apologies for the late correspondence.

Please be advised unfortunately Council is required to return the DA in accordance with Section 24 of the *Environmental Planning and Assessment Regulation 2021* (the Regulations), as the DA is not accompanied by all of the documents and information specified in Application Requirements of the Approved Form issued by NSW Department of Planning and Environment (DPE). The outstanding information is detailed below:

### **Separate Building Envelope Plan**

Due to the significant biodiversity values of the land, in addition to the flood prone and bush fire prone nature of the land, please provide a separate proposed Building Envelope Plan to support the application. This is to include details on location of proposed dwelling houses and ancillary detached development (i.e. outbuildings(sheds)/swimming pools etc.). It is noted Council as the Consent Authority is required to be satisfied the proposed lots are able to accommodate future likely development on the land.

### **Preliminary Engineering Drawings**

The submitted 'Preliminary Services Plan' includes a key with 'drainage' shown in thick red lines. The plan however also shows black lines which appear to branch off from this proposed infrastructure. Please therefore clarify what is proposed, including updating the key if required.

It is further noted the application is required to be referred to Council's Infrastructure Department, who may require additional preliminary servicing information to support the application.

### **Waste Management Plan**

Please provide a Waste Management Plan (WMP) which details waste management for construction and ongoing use of the development site, you can find Council's template on the website linked here:

<https://www.murrayriver.nsw.gov.au/Council/Forms-and-documents/Forms/Waste-ManagementPlan-form>.

### **Bushfire**

Thanks for the submitted Bushfire Assessment Report. It is noted proposed Lots 6 and 12 are partially mapped as Bush Fire Prone Land, however the report does not include BAL assessment for these lots or include a proposed building envelope plan. Please therefore provide an updated report which includes relevant assessment for these lots including updated building envelope plan.

### **Aboriginal Cultural Heritage**

Thank you for the submitted Aboriginal Cultural Heritage Assessment Report. It is noted the Report refers to initial consultation with the local Aboriginal community, however no response is included in the report. Due to the nature of the application, including creating additional allotment boundaries within close proximity to a known Aboriginal Cultural Heritage item, an inspection report from the relevant Local Aboriginal Land Council (LALC) is required. Please see contact details below to arrange a site inspection with this authority:

*Moama Local Aboriginal Land Council  
52 Chanter Street  
(PO Box 354)  
Moama NSW 2731  
T: 03 5482 6071  
E: [admin@moamalalc.com.au](mailto:admin@moamalalc.com.au)*

If no response is received from the relevant LALC, please contact NSW Local Aboriginal Land Council on (02) 6124 3555 for assistance.

An appropriate Plan of Management regarding how impacts to Aboriginal Cultural Heritage as a result of creating additional allotments over known Aboriginal sites is also required to be provided.

It is also recommended to contact Heritage NSW directly to discuss this application, as the application will be classed as Integrated Development with Heritage NSW and requires their concurrence.



### **Biodiversity**

Thank you for the submitted Test of Significance (ToS). It is noted the application proposes a 12 lot subdivision of the residential zoned land, and includes additional lots being created with boundaries contained over existing significant vegetation. The submitted ToS does not address future works which will likely occur as a result of the proposed subdivision, including but not limited to construction of boundary fences which will likely require the removal of vegetation. An appropriate Plan of Management regarding how impacts to biodiversity as a result of creating additional allotments over native vegetation is also required to be provided. Please therefore provide an amended Test of Significance which adequately addresses these matters.

It is noted Section 7.1 'Biodiversity offsets scheme threshold (section 7.4)' of the *Biodiversity Conservation Regulation 2017* outlines the following:

*"... (3) If proposed development is or involves the subdivision of land, the subdivision is taken to involve the clearing of native vegetation that, in the opinion of the relevant consent authority or other planning approval body, is required or likely to be required for the purposes for which the land is to be subdivided. Once that clearing has been taken into account, the clearing for the purposes of the subsequent development of the land for which it was subdivided is not to be taken into account when determining whether the subsequent development exceeds the threshold".*

It is noted depending on the outcome of the revised Test of Significance, the Biodiversity Offsets Scheme may be triggered requiring a Biodiversity Assessment Method (BAM) assessment to be completed by an accredited assessor. This is to be in the form of a Biodiversity Development Assessment Report (BDAR). Please see the following website for more information:  
<https://www.environment.nsw.gov.au/biodiversity/assessmentmethod.htm>.

It is also recommended to contact NSW Department of Planning and Environment – Biodiversity and Conservation Division directly to discuss this application and their requirements, as the application will be referred to this Department for advice.

If you wish to submit a revised application, underneath the 'Completed Tab' in your Portal account, you can click the "Copy to new application" button. A new application will then be created with the content from the previous application pre-populated. You can amend all fields within the document to address the reasons the original application was returned, along with being able to upload the outstanding information outlined above.

The assessment officer for the subject application is **Chris O'Brien**. This authorised officer is your primary point of contact regarding the proposed development and can be contacted on **0429 935 686** during business hours or e-mail [cobrien@murrayriver.nsw.gov.au](mailto:cobrien@murrayriver.nsw.gov.au).

Yours faithfully



Chris O'Brien

**Senior Town Planner**

## Appendix B: Heritage NSW advice

RE: ACH inputs regarding an integrated development: Merool Road, Moama.



Lyndon Patterson <Lyndon.Patterson@environment.nsw.gov.au>

To John Gilding


Reply

Reply All

Forward



Mon 29/01/2024 2:13 PM

 You forwarded this message on 7/02/2024 12:03 PM.

Hi John,

Happy new year, hope you are well.

Your query to the heritage mailbox on Merool Road, Moama has been forwarded to me to respond.

Councils may seek General Terms of Approval (GTAs) or advice in relation to Aboriginal cultural heritage matters on development applications from Heritage NSW through the NSW Planning Portal.

In referring Aboriginal cultural heritage matters to Heritage NSW through the NSW Planning portal, there are two main referral clause options:

- Integrated Development Application under the *National Parks and Wildlife Act 1974* s90 clause – where Aboriginal objects will be harmed and an AHIP is required and Council is seeking GTAs; or
- Non-statutory Aboriginal cultural heritage referral clause – where it unclear if Aboriginal objects will be impacted or not, an environmental planning instrument requires referral for comment on Aboriginal cultural heritage or Council is seeking advice on Aboriginal cultural heritage matters in relation to a development application.

Submission requirements are on the Heritage NSW website, for IDAs:

<https://www.environment.nsw.gov.au/topics/heritage/apply-for-heritage-approvals-and-permits/integrated-development>

For non-statutory Aboriginal Cultural Heritage Development Application Referrals (DAR) under the 'Essential documents to attach with development application referrals' tab: <https://www.environment.nsw.gov.au/topics/heritage/apply-for-heritage-approvals-and-permits/heritage-approvals-guidance-for-local-councils/concurrence-and-referral-process>

I hope this assists with your query.

Regards,  
Lyndon

**Lyndon Patterson**

Senior Assessment Officer

Heritage Assessments

Heritage NSW

**Department of Climate Change,  
Energy, the Environment and Water**

T 02 6022 0619 M 0436 676 791 E [Lyndon.Patterson@environment.nsw.gov.au](mailto:Lyndon.Patterson@environment.nsw.gov.au)

RE: ACH inputs regarding an integrated development: Merool Road, Moama.



Lyndon Patterson <Lyndon.Patterson@environment.n  
To John Gilding

Reply

Reply All

Forward



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**From:** John Gilding <[JohnGilding@blighgilding.com.au](mailto:JohnGilding@blighgilding.com.au)>

**Sent:** Wednesday, 6 December 2023 2:47 PM

**To:** OEH HD Heritage Mailbox <[HERITAGEMailbox@environment.nsw.gov.au](mailto:HERITAGEMailbox@environment.nsw.gov.au)>

**Subject:** ACH inputs regarding an integrated development: Merool Road, Moama.

Dear Heritage NSW,

Murray River Council have recommended that Heritage NSW be contacted regarding this DA (letter attached), as it is an integrated development and will require your agency's inputs.

In brief (the ACHAR provides further details – link provided):

- The proponent is proposing to create a 12-lot residential subdivision off 66 Merool Road, Moama (concept design overlay on arch predictive map attached). This includes extending the existing access road (Bayaderra Court) to service the new lots towards the Murray River.
- Two previously recorded Aboriginal objects have been recorded for the subject land:
  - Merool Lane Earth Mound – AHIMS 59-2-0127; and
  - Merool Lane Burial Moama – AHIMS 59-2-0047.
- Austral Archaeology were engaged to undertake an ACH assessment.
  - Austral did not find any new Aboriginal objects outside of the two sites previously recorded (one quartz artefact was located associated with the earth mound).
  - Austral did not undertake subsurface testing, as it would require an AHIP due to proximity to two previously recorded objects (testing outside of the code of practice)
  - Austral concluded that harm could be avoided based on:
    - detail design, with the extension of Bayaderra Court not intercepting site locations.
    - Merool Lane Earth Mound being located within a flood risk area with further development unlikely to be granted.
    - and therefore, there was/is no constraints to the project regarding ACH:
    - Merool Lane Earth Mound – AHIMS 59-2-0127
  - The ACHAR states that there should be no further ACH constraints as harm will be avoided.
  - The ACHAR recommends that if future landholders plan to undertake works at the location of either site, then they would be required to apply for an AHIP.
  - The ACHAR provides contingencies for unanticipated finds.
- The proponent's agent submitted the DA based on contents of the ACHAR. This was accepted by Murray River Council, followed by a response (DA return – attached) which advised:

- Obtain a site inspection report from Moama LALC (completed and attached).
- Develop an Aboriginal cultural heritage Plan of Management; and
- Contact Heritage NSW to obtain any advice/inputs they may have regarding the application due to it being an integrated development.

As per the final dot point, if Heritage NSW could provide any comments regarding this DA, and any stipulations they may have regarding the plan of management it would be appreciated. The documents provided via attachment and link should support Heritage NSW in making a considered response. Should you require further information please let me know.

Linke to ACHAR:

[https://www.dropbox.com/scl/fi/qc516satqg9gobbwcyn43/21087\\_12-13-Bayaderra-Court-and-66-Merool-Road-Moama-ACHA-FNL.pdf?rlkey=367014ufmhyieqaqso426p030&dl=0](https://www.dropbox.com/scl/fi/qc516satqg9gobbwcyn43/21087_12-13-Bayaderra-Court-and-66-Merool-Road-Moama-ACHA-FNL.pdf?rlkey=367014ufmhyieqaqso426p030&dl=0)

Cheers

JG

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