

The logo for 'acre' is a solid black circle with the word 'acre' in a white, lowercase, sans-serif font centered within it.

acre

# STATEMENT OF ENVIRONMENTAL EFFECTS

**1771 Perricoota Road, Moama**

(Lots 21 & 23 DP285882)

**Deep Creek Marina**

Modification to DA 169/03 for a 53 lot community subdivision and holiday resort to amend the unit design of lots 21 & 23

A stylized map graphic in shades of teal and white, showing a grid of streets and building footprints. A white circle highlights a specific location on the map. The graphic is partially obscured by a black diagonal shape in the bottom left corner.

February 2024

Prepared for Agility  
Finance Pty Ltd

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## Executive Summary

This report is prepared on behalf of Agility Finance Pty Ltd to modify previously approved *DA 169/03 for a 53 lot community subdivision and holiday resort*.

The intent of this modification application is to modify the endorsed unit design for lot 21 & 23 of *DA 169/03 (lots 21 & 23 DP285882)*.

The site is zoned SP3 – Tourist under the Murray Local Environmental Plan 2011. This Statement of Environmental Effects provides an assessment of the proposal against relevant Environmental Planning Instruments including but not limited to relevant Statement Environmental Protection Policies (SEPP's), Murray Local Environmental Plan 2011, Murray Development Control Plan 2012 and the matters for consideration at Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*.

The report concludes that the proposed modification to the unit designs is appropriate taking into account the sites zoning, characteristics and planning constraints. The proposal is considered to be in the public interest and will not result in any adverse environmental, social or economic outcomes.

This report recommends that the proposal be supported by Council subject to any conditions deemed appropriate.

## Site Description

The original development approval for The Deep Creek Marina development was *DA 169/03 for a 53 lot community subdivision and holiday resort*. The subdivision component of the development has been completed with infrastructure and lots created, and some holiday units have been constructed. Infrastructure includes a lake, internal road network and private sewer and water treatment plants.

Lots 21 & 23 are cleared flat sites developed within the Deep Creek Marina development. Both sites are currently vacant. They have frontage to an internal bitumen road and adjoin a man made lake at the rear.

Both lots 21 & 23 are approximately 322sqm.

Figure1 – The Site



Figure 2 – Site Photos





## Planning Summary

Table 3 below summarises the key planning controls applicable to the Site and surrounding land.

**TABLE 3: ZONING AND PLANNING CONSTRAINTS**

<b>ZONE</b>	SP3 - Tourist
<b>MAXIMUM BUILDING HEIGHT</b>	N/A
<b>FLOOR SPACE RATIO</b>	N/A
<b>CONSTRAINT MAPPING</b>	BFPL
<b>FLOOD PRONE LAND</b>	Yes



## Proposal

The original development approval for The Deep Creek Marina development was *DA 169/03 for a 53 lot community subdivision and holiday resort. The subdivision component of the development has been completed with infrastructure and lots created, and some holiday units have been constructed. There have been several modifications to the original DA, generally to amend the design of the approved units.* The intent of this modification application is to modify the endorsed unit design for lot 21 & 23 of *DA 169/03*.

It is proposed to modify the endorsed plans to reflect new unit designs for lots 21 & 23 only which will be single storey, 3 bedroom with an open plan living area and alfresco area to the rear. They will be clad in colorbond. The proposed units will have a front setback of 3.5m, rear setback (lake) of 7.75m, southern side setback of 1m and northern side setback of 4.3m. 2 tandem car spaces are provided within the side setback, consistent with the previously endorsed unit design.

The unit design currently endorsed on sites 21 & 23 is a significantly larger double storey dwelling, with 4 bedrooms, 2 living areas and 2 deck /alfresco areas. An enclosed tandem garage is located on the ground floor. The modified design proposed is significantly smaller and single storey, reducing the bulk and scale of the development and having no greater environmental impact.

The units will be manufactured off site and will be subject to a s68 approval.





## Assessment

### Environmental Planning and Assessment Act 1979

#### 4.55 – Modifications of Consent, generally

This section of the EP&A Act outlines matters for consideration by Council prior to approving a modification to a Development Application.

This application proposes to make use of subsection 4.55(1a) to seek approval – modification involving minimal environmental impact.

In accordance with the requirements of subsection 4.55(1a) the modified development will have minimal environmental impact and will remain substantially the same as the development originally approved.

The DA consent includes GTAs from NSW RFS and NSW EPA. The proposed modification to the unit design will not affect the general terms of approval provided by either approval body, therefore notification to these bodies is not required as per the provisions of Clause 109 of the EP&A Regs 2021.

## SEPP

### State Environmental Planning Policy (Biodiversity and Conservation) 2021

#### Chapter 5 River Murray lands

The proposed modification will not increase the impact of the development on the Murray River. Accommodation structures were already approved on the sites, this modification is simply modifying the design of the units. Setbacks from the river of the proposed units exceeds 100m and the approved land use for tourist accommodation will continue.

Compliance of the Deep Creek Marina development with the provisions of this SEPP will not be impacted by the modified unit designs.

### State Environmental Planning Policy (Resilience and Hazards) 2021

#### Chapter 4 Remediation of Land

The land has been approved for ‘tourist accommodation’ purposes.

Consideration of contaminated lands would have been satisfied at the DA stage for the subdivision which created this allotment in 2003. No known contaminating activities have been undertaken at this property. Accordingly, it is submitted that the land is unlikely to be contaminated and is suitable for the proposed tourist accommodation development.



## Murray Local Environmental Plan 2011

### 2.3 Zone objectives and Land Use Table

#### Zone SP3 Tourist

##### Objectives of zone

- *To provide for a variety of tourist-oriented development and related uses.*

The proposed modification to the unit designs will not alter the approved land use for 'holiday units' (tourist and visitor accommodation). The development will continue to provide tourist accommodation. The proposed modification will not impact the DAs consistency with the objectives of the SP3 Zone.

The proposed use of the units will remain to be 'holiday units' (tourist and visitor accommodation), as per the approved use of DA consent 169/03.

Condition (f) of DA169/03 – Amendment 5 states:

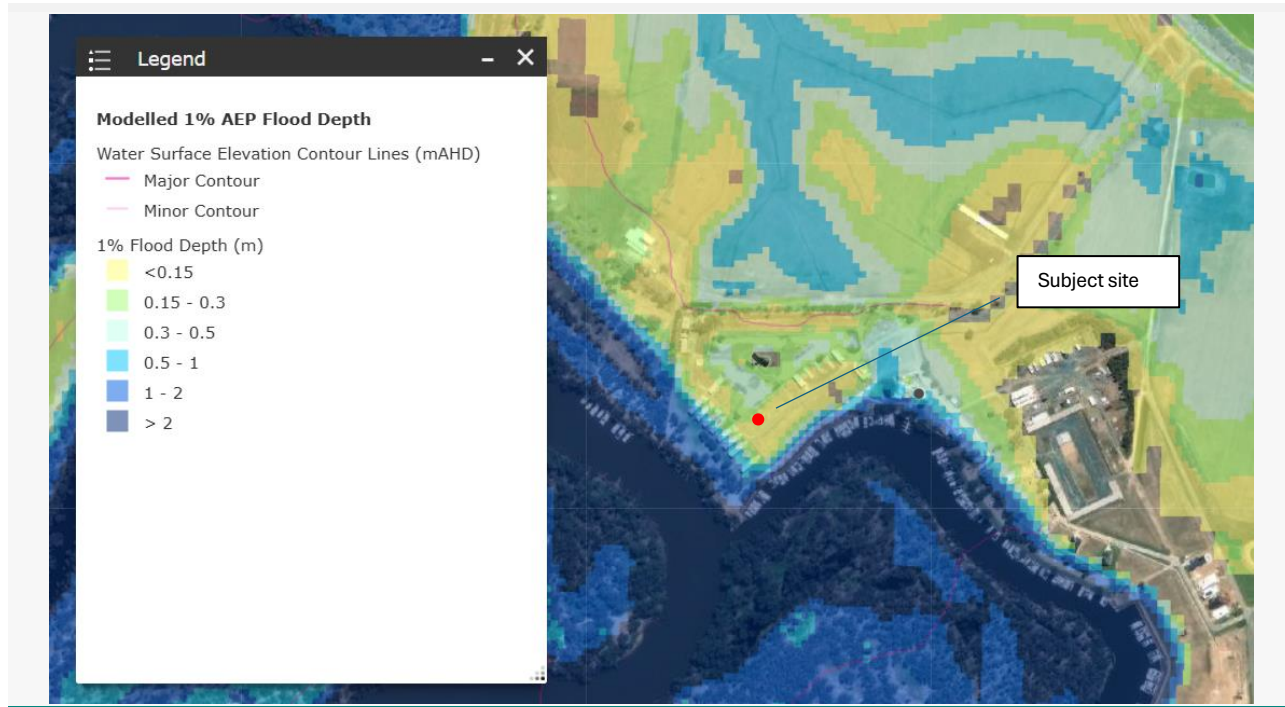
- f) That each unit cannot be occupied by the same person or group of persons for more than 8 weeks in any 6 month period. A register is to be maintained on site and publicly available at all times indicating occupiers of units and duration of stay.**

The proposed use of the subject units will adhere to the condition (f) requirement ensuring the cabins are not permanently occupied and to comply with the permissibility provisions of the SP3 Zone. 'Tourist and visitor accommodation' is permitted with consent in this zone.

#### 5.21 Flood planning

The subject sites (lot 21 & 23) are identified as being impacted by the 1 in 100 year flood pursuant to Echuca Moama Flood Study Report and mapping (Water Technology, 2024) with a flood depth of <0.15m. The proposed cabins will be constructed with a FFL 700mm above ground level, that is 550mm above the identified flood level (Echuca Moama Flood Study Report 2024). The proposed units will not detrimentally impact flood behaviour. Figure 3 below shows the location of dwelling against the most recent flood mapping, with the location having a predicted flood height of <0.15m.

Figure 3 – Flood Mapping



## 7.1 Essential services

Both lots 21 & 23 have a sewer, water and electricity connection point – as shown on site plans submitted. An internal bitumen road provides access to each of the sites.

Stormwater will be directed to the lake as per the requirements of condition (g) of DA169/03 – Amendment 5:

- g) All stormwater and run-off from hard surface areas is to be directed and retained in the artificial lake system. The lake is to provide a freeboard equivalent to a 1 in 10 year storm event.**

Sewer and water within the development is managed via a private Sewerage Treatment Plant (STP) and Water Treatment Plant (WTP) of which the subject units will utilise. Condition 5 on page 9 of DA consent DA169/03 – Amendment 5 (below) requires evidence of operation status of STP & WTP prior to issue of occupation certificate for each structure – this will be provided at this stage.

***(5) Prior to the issue of the Occupation Certificate for each approved structure, Council must be provided evidence that both an appropriate sewerage treatment plant (and / or an alternate approved sewerage treatment process), and an appropriate water supply to service the development, are***



*operating to all required guidelines and conditions. Details of the effluent disposal system and water supply must be submitted to and approved by Council prior to the release of any Occupation Certificate.*

***Reason: To ensure the proposed development can be appropriately serviced and to ensure the development does not compromise the environmental health of the subject site and surrounding area.***

Regardless, there has been a long history of issues between Council and the developer regarding the status of the private plants. In preparation of this application we have been advised by the developer that the Water Treatment Plant (WTP) located at Lot 40 DP 285882 is fully operational and providing services to its paid-up customers. The developer has confirmed that the land owner of Lots 21 & 23 has paid for this service. The developer has provided material to Council demonstrating that NSW Health are satisfied with the quality of the water available to supply to the lot owners.

Similarly the developer has also advised the Sewerage Treatment Plant (STP) is fully operational.

There has been extensive email communication between the developer (Gary Bares) and Jessica McFarlane (Manager Development Services) in the latter part of 2024 attempting to resolve Councils issues with the plant. The email correspondence outlined that regardless of these issues Council were happy to accept applications and assess development within this estate.

The units subject to this DA modification propose to utilise the operational STP & WTP as per the requirements of the original DA approval and will provide the required documentation to satisfy condition 5 (above) at the occupation certificate stage.

## **7.2 Earthworks**

The footings of the 2 units will involve earthworks of a minimal extent. Standard construction management protocols will mitigate any adverse impact.

## **Wakool Development Control Plan 2013**

### **Chapter 5 Tourist Accommodation**

The proposed modification to the cabin designs of lot 21 & 23 will not impact compliance of the development with this chapter of the Murray DCP 2012. See response to the 'matters for consideration' of Chapter 5 as follows:

- a) the modified plans maintain a similar building footprint and setback from the Murray River and will not change the impact of the development on the natural environment;
- b) the modified plans are of a reduced scale with the units being single storey not double storey therefore there will be no increased impact of the development on the built environment or the character of the area.



- c) The modification will not impact the proximity and means of access to an urban centre and facilities;
- d) The land use is not changing therefore the modification will not change the impact of the development on adjoining land use activities and the amenity of nearby residents;
- e) the potential economic benefit of the Deep Creek Marina development will not be impacted by the modified unit designs;
- f) provision of suitable of road access and egress are existing;
- g) provision of a potable water supply is existing;
- h) provision of wastewater disposal facilities is existing (see previous comments);
- i) the availability of electricity and telecommunication services is existing;
- j) The units will be constructed 550mm above the identified flood level (as discussed previously in this SOEE) and constructed to a BAL 12.5 rating.
- k) The modification will have no impact on the endorsed veg removal and landscaping.

## **Chapter 11 Flood Prone Land**

The subject sites (lot 21 & 23) are identified as being impacted by the 1 in 100 year flood pursuant to Echuca Moama Flood Study Report and mapping (Water Technology, 2024) with a flood depth of <0.15m. The proposed cabins will be constructed with a FFL 700mm above ground level, that is 550mm above the identified flood level (Echuca Moama Flood Study Report 2024). The proposed units will not detrimentally impact flood behaviour.



## Matters for Consideration

Clause 4.15 of the *Environmental Planning and Assessment Act 1979* details the matters for consideration required to be used by a consent authority in determining a development application. These are addressed as follows;

***(a) the provisions of—***

***(i) any environmental planning instrument, and***

The provisions of the Murray LEP 2011 and applicable SEPP's have been addressed elsewhere in this report, with the proposal being identified as consistent with the provisions of these environmental planning instruments.

***(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 Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and***

Not applicable. There is no draft EPI relevant to this application.

***(iii) any development control plan, and***

An assessment against the requirements of the Murray DCP 2012 is provided in this document with respect to tourist and visitor accommodation. The proposal is considered to be in accordance with the relevant objectives and controls of this DCP.

***(iii) 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),***

***(v) (Repealed)***

***that apply to the land to which the development application relates,***

Not applicable. There are no Planning Agreement relevant to this application.

***(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,***

The modification is unlikely to result in any adverse environmental, social or economic impacts, as detailed in this Statement of Environmental Effects.

***(c) the suitability of the site for the development,***



The Deep Creek Marina site has already been approved for holiday accommodation with DA consent 169/03. Sites 21 & 23 have connection to all services and the unit design is considered appropriate for the site.

***(d) any submissions made in accordance with this Act or the regulations,***

In the event that submissions are received, these would need to be taken into account in the assessment of this application.

***(e) the public interest.***

Given the nature of the proposed development, being for a modification to the unit design of units 21 & 23 only it is considered that the proposal would be unlikely to result in an unacceptable impact on the wider public interest at this location.