



Planning Proposal

Kooyong Park

Lot 2 DP1078090 and
Lots 1 – 17 DP11228353
Cnr Moama Street & Holmes Street
MOAMA



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Murray River Council

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Environment Design Management

Town Planning Surveying Engineering Environmental Planning Building Design Project Management

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INTRODUCTION

This planning proposal has been prepared on behalf of Murray River Council in support of an amendment to the Murray Local Environmental Plan 2011 (MLEP) so as to facilitate the development of land known as “Kooyong Park”, Moama within a community title scheme (Figure 1).

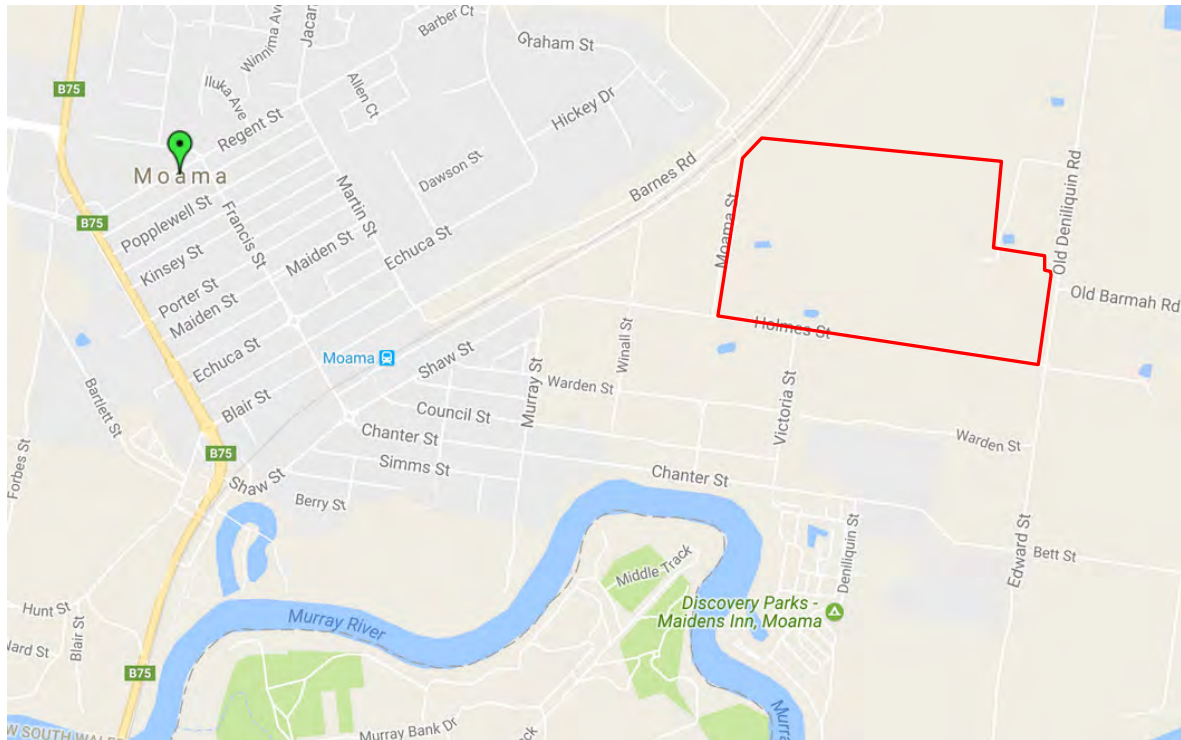


Figure 1: Location of subject land (source Nearmap)

Consistent with the provisions of Section 55 (2) of the *Environmental Planning and Assessment Act 1979* (the Act) this planning proposal includes the following components:

- Part 1– A statement of the objectives and intended outcomes of the proposed instrument;
- Part 2 – An explanation of the provisions that are to be included in the proposed instrument;
- Part 3 – The justification for those objectives, outcomes and the process for their implementation;
- Part 4 – Maps, where relevant, to identify the intent of the planning proposal and the area to which it applies; and
- Part 5 – Details of the community consultation that is to be undertaken on the planning proposal.
- Part 6 – Project timeline

1.1 Proposal

The proposal is essentially a mixed use residential / commercial development focussed on sustainability outcomes. In summary it is envisaged that the overall development will comprise a number of key components, namely:

- Residential development within a community title scheme with lot sizes up to 1000m²;

- Large lot residential development within a community title scheme with lot sizes > 2000m²;
- A 'Function Centre / Restaurant (Community development lot);
- Recreation, open space and conservation reserve areas held as Neighbourhood property (Community property vested in the community association).

Having regard to the above the proposal seeks to rezone land from Zone RU1 Primary Production and Zone E3 Environmental Management to Zone R2 Low Density Residential. The amendment also proposes via a future development control plan to make a reference to an agreed masterplan to guide future subdivision as well as to allow for function centre and restaurant landuses as an 'additional permitted use' in Schedule 1 of the MLEP.

1.2 Subject Land

The subject land is identified as Lot 2 DP 1078090 off Moama Street and Lots 1 - 17 DP 1228353 Cadell Street, Moama being a total area of approximately 39.1ha.

The land comprises two components. Firstly Lots 1 -16 DP1078090 which form a small residential low density residential estate known as "Kooyong Parklands". This subdivision provides 15 fully serviced residential allotments ranging in size from 2,000m² to 2,636m² and a lot for communal raw water supply purposes. The second component comprises 2 large parcels being balance farm land with a total area of 36.27ha (ie Lot 2 DP 1078090 & Lot 17 DP 1078090)

Apart from roads, fencing and a water pump house within "Kooyong Parklands" the subject land is currently largely cleared land situated approximately 2km to east of the Moama Post Office (Maps 1 & 2).

The Township of Moama is the largest in the Murray River Council area in terms of population; accommodating a significant proportion of the Council's social and community infrastructure. The 'Twin Town' of Echuca located on the southern side of the Murray River also accesses and supports facilities in Moama.

Located to the north east of the subject land is the "Kooyong Park" homestead lot being Lot 1 DP1078090 and 6.34ha in area.

Situated to the west of the subject land across Moama Street is the rail corridor which also acts as a flood levee. Further west across Barnes Road is the Moama Industrial Estate.

In summary relevant site characteristics include the following:-

- located within the 60km/hr speed limits in relatively close proximity of the Moama town centre;
- has frontage to Moama Street to the west, and Holmes Street to the south. To the west the property also has frontage to Old Deniliquin Road
- largely protected by an existing rural levee bank system (Map 9);
- landuses to the east of the railway line in the vicinity of the subject land include a mixture of farming, rural residential, rural living, and holiday homes/tourist developments;
- the property is generally flat terrain draining from south to north at a grade of around 0.5%;
- some scattered paddock trees across the property; and
- native vegetation largely constrained to the road reserves around the site.

PART 1 – OBJECTIVES OR INTENDED OUTCOMES

The objectives are to:

1. rezone “Kooyong Parklands” estate being Lots 1 -16 DP 1228353 Cadell Street, Moama from Zone E3 Environmental Management to Zone R2 Low Density Residential to reflect the existing approved large lot residential subdivision of the land;
2. rezone part of Kooyong Park being Lot 2 DP 1078090 & Lot 17 DP 1078090 from part Zone RU1 Primary Production and part Zone E3 Environmental Management to Zone R2 Low Density Residential;
3. introduce specific provisions to facilitate additional permitted uses on Lot 17 DP 1078090 for function centre and restaurant purposes; and
4. introduce specific provisions for “Kooyong Parklands” that includes reference to a development control plan that will reflect a future agreed masterplan providing for residential, function room and restaurant development within an overall Community Title scheme. This will cater for the variations in lot size envisaged across the estate, allowing future DA's to be considered on a merits basis having regard to the overall agreed layout.

PART 2 – EXPLANATION OF PROVISIONS

It is firstly noted that the subject land straddles the boundary of two Land Zoning Maps. Having regard to this situation the Amendment of the Murray Local Environmental Plan 2011 (“the MLEP”) will comprise a number of components namely:

1. amending the Land Zoning Map LZN_006 in the MLEP to show the subject land zoned as R2 Low Density Residential.
2. amending the Land Zoning Map LZN_006B in the MLEP to show the subject land zoned as R2 Low Density Residential.
3. amending the Minimum Lot Size Map LSZ_006 in the MLEP to indicate no minimum lot size for subdivision of the subject land;
4. amending the Minimum Lot Size Map LSZ_006B in the MLEP to indicate no minimum lot size for subdivision of the subject land.
5. inserting Additional Permitted Uses Map APU_006 in MLEP to identify the subject land.
6. inserting Additional Permitted Uses Map APU_006B in MLEP to identify the subject land.
7. by inserting the following clause in the MELP

7.9 Development of certain land in Holmes Street, Moama (known as “Kooyong Parklands”)

(1) This clause applies to land identified as “Kooyong Parklands” on the Additional Permitted Uses Map.

(2) The consent authority may grant development consent to the subdivision of land to which this clause applies to create a lot of any size if:

- (a) the development comprises subdivision of individual lots in a community title scheme yielding no more than a total of 226 principal dwellings;
- (b) the overall density of development has an average of not less than 1 principal dwelling per 1730m² ,
- (c) the community title subdivision occurs in a logical and cost-effective manner, in accordance with a staging plan and only after a development control plan that includes specific controls has been prepared for the land.

(3) Development consent must not be granted for development on land to which this sub-clause applies unless a development control plan that provides for the following matters has been prepared in relation to the development:

- (a) an agreed master planned layout,
- (b) visual impacts, view corridors and design principles for the development,
- (c) the identification of any recreation, community and social facilities on the land,
- (d) traffic, pedestrian and cycle networks,
- (e) the identification of an area for a function centre and restaurant;
- (f) the staging and sequencing of the development on the land,
- (g) the identification of landscape areas for revegetation, and
- (h) sustainable stormwater management, including water re-use,

(4) The Council shall not consent to development on land to which this clause applies unless it has made an assessment of the degree to which the development:

- (a) exhibits a high architectural standard,
- (b) is sympathetic to the existing landscape features, and
- (c) is likely to achieve agreed sustainable development outcomes including water sensitive urban design and energy efficiency gains.

(5) The Council shall not consent to the erection of a dwelling, on land to which this clause applies unless the land is surrounded by an urban standard levee constructed with a crest level equal to the Flood Planning Level of 96.0 to 96.08 metres above sea level.

8. by inserting in Schedule 1 Additional Permitted Uses the following:

2. Use of certain land known as “Kooyong Parklands”

- (1) This clause applies to land identified as Lot 17 DP1228353 Holmes Street, Moama
- (2) Development for the purpose of a function centre and a restaurant is permitted with development consent.

PART 3 – JUSTIFICATION

This section of the Planning Proposal sets out the justification for the intended outcomes and provisions, and the process for their implementation. The questions to which responses have been provided are taken from the Department of Planning and Environment's (DPE) *A guide to preparing planning proposals* (August 2016) ("the Guide").

SECTION A – NEED FOR THE PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

This Planning Proposal stems from a very lengthy strategic planning process outlined as follows.

In 2005, Council commenced a review of its Local Environmental Plan (LEP). As part of that process Council prepared a Strategic Land Use Plan (SLUP) in early 2007 and this document was placed on public exhibition.

Over the course of the preparation of the draft LEP, the SLUP was amended several times as policy responses were being refined and developed. Among other things the SLUP in 2007 (version #10) had been amended to indicate that "Kooyong Park" was a:

"Potential development site subject to further investigation (including extension of town flood levee.)"

Council supported the preparation of a subsequent Local Environmental Study (LES) to determine whether the property was suitable to be rezoned as part of the ongoing review of the draft Murray LEP. The LES undertaken by Coomes Consulting (Feb 2008) concluded among other things that

"... the site is suitable for a combination of urban (including residential and commercial/tourism), semi-urban and conservation land uses, based on available information".

The LES also made recommendations in respect of further investigation and studies that were required.

Following a meeting in 2009 with the then NSW Department of Planning, Council officers considered Department concerns with respect to the progress of the overall LEP. This resulted in a report being presented to Council in relation to four development properties, namely:

- 24 Lane, Moama;
- 2040 Perricoota Road, Moama;
- Kooyong Park, Old Deniliquin Road, Moama; and
- Deep Creek.

It was concluded within the Council Officer's report to the Council meeting of 21 July 2009 that:

"... the LES proposal known as "Kooyong Park", Old Deniliquin Road, Moama should not be included in the Shire wide LES as such contradicts the direction taken by the SLUP as adopted by Council. The basis for this comment is that the proposed site is fragmented to the east of the Moama township, situated in and/or surrounded by flood effected lands and requires the extension of Council infrastructure. In summary there are more suitable parcels of land which from a planning aspect should take priority over this site."

Notwithstanding the above, Council again reconsidered its position in respect of "Kooyong Park" and at its meeting of 3 August 2010 resolved to review the

previous Council resolution of 21 July 2009 to remove the “Kooyong Park” planning proposal from the draft Murray LEP. Council at that time noted the draft LEP was a priority and that if the site specific LES was capable of being supported upon review that the proposal could instead be considered as a “spot” rezoning via the Gateway process.

The subsequent review report completed by Salvestro Planning in 2011 effectively concluded that the rezoning process in respect of “Kooyong Park” was incomplete. This was largely due to:

“... Council’s failure to have properly considered all documents (most importantly the LES) when the decision to remove Kooyong Park from the draft LEP was made. Further the applicant was not given the opportunity to respond to the outstanding issues particularly those raised by the Department of Planning.”

The Salvestro Planning review recommendations were presented to Council at its meeting of 21 June 2011 as follows;

- 1. The “Kooyong Park” Urban Development Proposal be reconsidered for inclusion in the Murray Shire LEP based on the recommendations of the LES and further reports noted below:*
- 2. The applicant be given the opportunity to submit additional studies and reports, as detailed by the Department of Planning in its correspondence of 14/5/09 and noted in the LES, including a site specific flood risk management plan, as addendums to the final LES, to enable final determination of proceeding with the draft LEP.*
- 3. Considering the importance of not stalling the introduction of the Shire-wide new LEP, this matter proceeds as a LEP amendment under the “gateway system” of the DoP.*
- 4. Site specific development control plan guidelines be prepared to compliment the proposed LEP, as noted in the LES, to ensure an environment living character is achieved that is clearly distinct from general residential.*

The Council subsequently resolved as follows:

- *that the applicant be given the opportunity to submit additional studies and reports, as detailed by the Department of Planning in its correspondence of 14/5/09 and noted in the Local Environmental Study (LES), including a site specific flood risk management plan, as addendums to the final LES, to enable Council to consider the “Kooyong Park” site as a ‘planning proposal’.*
- *that should the applicant desire, a “site specific flood risk management plan” is to be prepared and submitted as an addendum to the LES and that this plan, must be prepared by a suitably qualified independent consultant engaged by Council, in consultation with the applicant, and that this plan be funded fully by the applicant.*
- *that following the completion and submission of the outstanding documents, the “Kooyong Park” Urban Development Proposal be reconsidered for inclusion in the Murray Shire Local Environmental Plan (LEP) including consideration of the LES recommendations and the further submitted reports.*
- *that Council note the following recommendations from Salvestro Planning and will take them into consideration should the “Kooyong Park” Urban Development progress further:*
 - *Considering the importance of not stalling the introduction of the Shire-wide new LEP, this matter proceeds as a LEP amendment under the “gateway system” of the Department of Planning.*
 - *If permissible by the Department of Planning, as a part of Conditions of Consent (if a rezoning is approved in the future), site specific development control plan guidelines be prepared to compliment the proposed LEP, as noted in the LES, to ensure an environment living character is achieved that is clearly distinct from general residential.*

In response to the above the proponent then commissioned Advanced Environmental Systems (AES) to prepare a range of specialist reports to address a range of environmental and land constraint issues. Relevant to this Planning Proposal are the following reference documents:

- *Aboriginal and European Cultural Heritage – Kooyong Park Stage 2 (Oct 2011)*
- *Soil Contamination Assessment (SEPP 55) – Kooyong Park Stage 2 (Nov 2011)*
- *Bush Fire Assessment – Kooyong Park Stage 2 (Nov 2011)*
- *Flora & Fauna Assessment – Kooyong Park Stage 2 (Nov 2011)*
- *Groundwater and Flood Assessment – Kooyong Park Lot Consolidation (Revised Jan 2012)*
- *Preliminary Water & Sewer Servicing Report for proposed development of Kooyong Park Moama (Oct 2012)*

At its meeting of 15 May 2012 Council reconsidered all the available material and resolved to support a proposal in principle to facilitate the rezoning of land known as “Kooyong Park” for mixed residential / commercial development.

EDM Group was subsequently engaged by Council in 2014 to undertake an independent assessment of the planning proposal. This assessment process identified a number of issues which needed to be resolved in order for the application to progress, namely:

- The lack of strategic justification within the Murray DCP 2012 – Chapter 6 (Strategic Land Use Plan).
- The need for a comprehensive response to the issues raised within the NSW Department of Planning letter dated 14th May 2009 which appear to remain outstanding.
- The need to reconsider and respond where appropriate to the long list of recommendations as outlined within the Coomes LES.
- The need for an independent flood assessment prepared by a suitably qualified practitioner.

In September 2015 a comprehensive Site Specific Review report prepared by EDM Group (August 2015) was considered by Council at its meeting of 20 October (Appendix 2). In response Council resolved among other things to amend the Murray DCP Chapter 6 to reinstate notation over the subject land as follows:

“Potential development site subject to further investigation (including extension of town flood levee.)”

The DCP Amendment was subsequently exhibited and following consideration of submissions received, Council resolved at its meeting of 2 February 2016:

“That the Council approves the amended draft version of the Development Control Plan (Murray Development Control Plan (DCP) 2012 – Amendment 5) in the form which it was publicly exhibited.”

As noted at Figure 2 below the subject land is now once again identified within SLUP as an area for potential development subject to further investigation (including extension of town flood levee).

In further response to Council’s resolution of 20 October 2015, the landowner also subsequently engaged Water Technology to complete the necessary flood investigation.

The draft Flood Report for Kooyong Park Planning Proposal (August 2016) documented a flood assessment of existing conditions flood behaviour for a 1% AEP flood event on the Murray River system at Kooyong Park, Moama, and the impacts of further developing the rural ring levees surrounding the property to an urban levee standard.

Following consideration of this Flood report and having regard to the previous thorough review of the numerous detailed background documents relating to the Kooyong Park proposal, Council at its meeting of 15 November 2016 resolved as follows:

- i. That the report be received and noted.
- ii. That Council instruct the EDM Group to continue with the preparation of the required Planning Proposal in respect of "Kooyong Park".
- iii. That a Planning Proposal be submitted back to Council for consideration prior to lodging with the Department of Planning and Environment for a Gateway Determination.

Subsequent to this recommendation the draft Flood Report was referred to DPI – Water for preliminary feedback prior to progressing the Planning Proposal. In response to comments received the report has now been finalised and the Flood Report for Kooyong Park Planning Proposal (June 2017) is attached as a reference document. In summary it is noted that:

"The proposed development meets the required performance criteria of NSW floodplain management policy. There are no floodplain related issues which should impact on Council's decision to accept this development proposal."

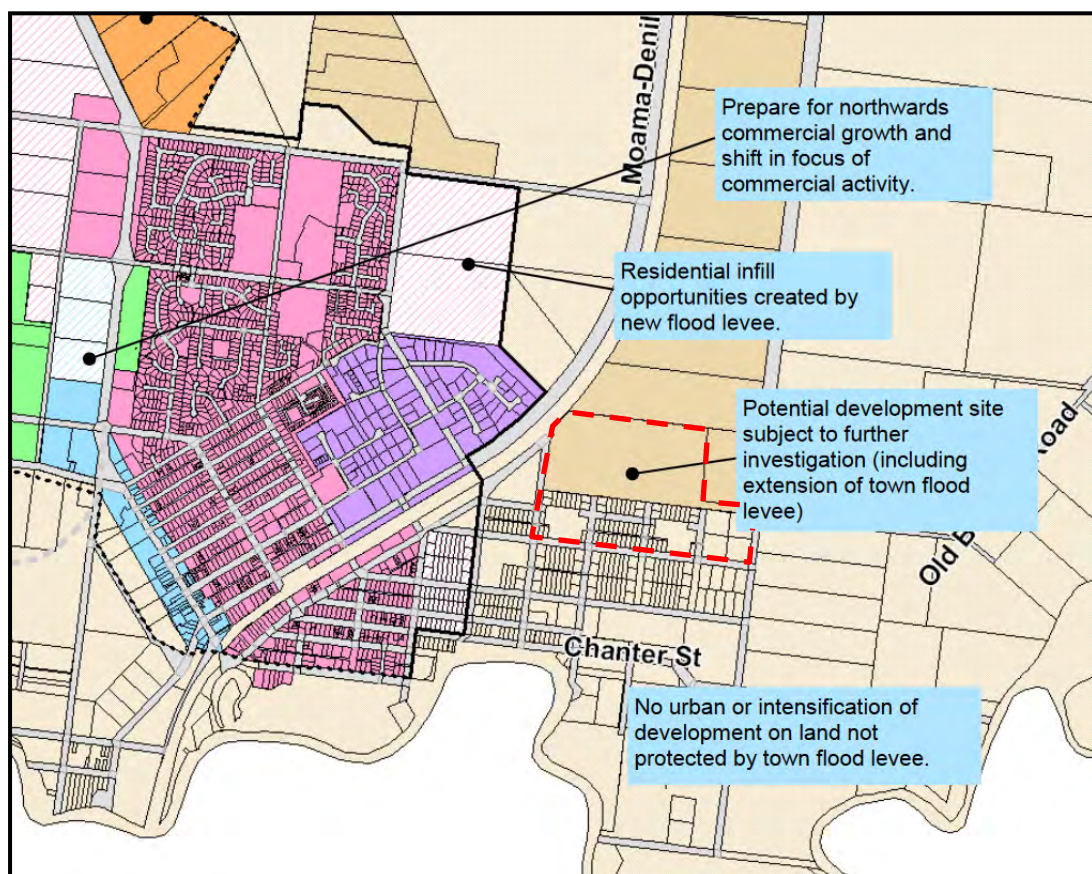


Figure 2 - Extract of Murray DCP 2012 (Chapter 6 - Strategic Land Use Plan)

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

The subject land is currently within the RU1 Primary Production zone and E3 Environmental Management zone and has a minimum lot size of 120 hectares for subdivision and dwelling houses. Consequently the current zone and lot size provisions do not either apply to the existing residential development of the land (ie “Kooyong Parklands” estate Lots 1 -16 DP1228353) and/or allow for the type of subdivision and residential development sought on the subject land.

Having regard to the above the objective of catering for the housing needs of the community within a low density residential environment on the subject land can only be achieved through an amendment to the MLEP via a Planning Proposal.

The application to rezone the land to R2 Low Density Residential is consequently considered to have merit in that it will result in an orderly planning outcome that is consistent with the objectives of the EP & A Act (Section 5). This particular zone provides the most appropriate objectives and purpose notwithstanding existing Minimum Lot Size provisions within the MLEP.

In conjunction with the rezoning it is also proposed to remove the subject land from the Minimum Lot Size Map and to introduce an additional clause within the LEP to address specific development issues relevant to the subject land. Such an approach will result in a more robust outcome than rezoning alone.

[NOTE: Such an approach is consistent with a number of other LEPs around the state.]

3. Is there a net community benefit?

The community benefit of the proposal will be positive, as the eventual development of the land for residential as well as commensurate commercial purposes will improve opportunities for housing choice in an attractive ‘greenfield’s’ location in relatively close proximity to the Moama town centre.

The construction and building works associated with a residential development will also provide temporary employment opportunities

Rezoning of the land will facilitate an orderly extension of Moama and the use of land for a range of lot sizes within a low density environment will cater for a different market sector to residential lots provided within either R1 General Residential Zone or R5 Large Lot Residential Zone. An increase in the town’s population will also support existing services as well as creating opportunities for new local community and commercial services.

SECTION B – RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including exhibited draft strategies)?

The Riverina Murray Regional Plan 2036 (RMRP) has been recently approved providing a 20 year blueprint for the Riverina Murray.

Among other things the RMRP provides a framework and context to guide the preparation of new LEP’s. This overarching document builds on an earlier draft Strategy (Murray Regional Strategy - October 2009).

Relevant to this Planning proposal it is noted that the RMRP promotes an outcome of whereby strong regional cities are supported by a supported by a network of interdependent centres, including local centres, towns and villages. This is evidence by the stated goals of the RMRP which include:

GOAL 4 – Strong, connected and healthy communities

Under this Goal the following directions and nominated actions are of some relevance namely:

DIRECTION 25: Build housing capacity to meet demand.

ACTION 25.2 Facilitate increased housing choice, including townhouses, villas and apartments in regional cities and locations close to existing services and jobs.

ACTION 25.3 Align infrastructure planning with land release areas to provide adequate infrastructure.

DIRECTION 27: Manage rural residential development.

ACTION 27.2 Locate new rural residential areas:

- *in close proximity to existing urban settlements to maximise the efficient use of existing infrastructure and services, including roads, water, sewerage and waste services and social and community infrastructure;*
- *to avoid or minimise the potential for land use conflicts with productive, zoned agricultural land and natural resources; and*
- *to avoid areas of high environmental, cultural and heritage significance, important agricultural land or areas affected by natural hazards.*

While the strategic focus of the RMRP is clearly aimed at the three largest cities within the region, namely Albury, Wagga Wagga and Griffith the plan also includes discussion relevant to smaller settlements including the following commentary:

Population growth across the region will not be evenly distributed, with Albury, Wagga Wagga and Griffith projected to experience the highest rates of growth, followed by the Murray River Local Government Area. Investment in major services, facilities and industrial activity will drive growth in these places, distributing benefits across the region.

The population across other smaller towns and villages is likely to remain relatively stable or, in some cases, decline. However, these numbers don't reflect the dynamic nature of some communities, with high levels of transient workers and populations that fluctuate at different times of the year.

In respect of rural residential development the RMRP notes:

Rural residential housing is a popular lifestyle housing option. This type of housing has the potential to create land use conflicts with productive agricultural land and industrial land, or with other potentially productive land uses, such as areas with mineral or renewable energy potential.

Managing this type of development and its cumulative impacts will become increasingly important as the regional economy diversifies and as development pressure for this type of housing increases.

In response it is firstly acknowledged that demand for rural residential style development is frequently driven by the desire for a rural lifestyle in close proximity to larger settlements or to scenic features such as the Murray River. It is also to be noted that poorly located rural residential development can result in the loss or alienation of agricultural lands, socially isolate residents, increase the demand and cost for services and facilities, and adversely affect the environment.

The “Kooyong Park” Planning Proposal relates to an outcome that seeks to direct some of the future growth of Moama to a suitable location that can sustain additional housing and is readily capable of being fully serviced. In achieving this outcome it is submitted that the Planning Proposal will create an opportunity for residential development of varying lot sizes within a community title scheme in an area in close proximity of the Moama Town Centre consistent with the SLUP. That is consistency with RMRP can be achieved through a number of development attributes, namely:

1. The subject land is not regarded as being isolated or unplanned within the context of the SLUP. The proposal is supported through a comprehensive strategic planning process.
2. “Kooyong Park” is located in close proximity to an existing urban settlement that will facilitate the efficient use of existing infrastructure and services, including water, sewer and waste services.
3. The proposal will not lead to an outcome that increases the potential for land use conflicts with productive, zoned agricultural land and natural resources.
4. The proposal will not impact upon any areas of high environmental, cultural and heritage significance, regionally important agricultural land or areas where any natural hazards are unable to be adequately addressed.
5. “Kooyong Park” will provide outcomes for alternative housing choice and will complement the semi-rural character of the area.

In addition to the above it is expected that the proposal will:

- cater for additional planned population growth;
- manage and co-ordinate growth in a “green field” location adjacent to an established “twin towns” urban area;
- not affect land assessed as being of high conservation value;
- pursue an opportunity for additional growth in proximity of the existing township of Moama.

5. Is the planning proposal consistent with the local Council’s Community Strategic Plan or other local strategic Plan?

The site is identified on the SLUP as a candidate area for investigation for residential development. Relevant strategic work has been undertaken by the landowner and duly considered by Council as forming a basis for the Planning Proposal to be considered by Council prior to lodging with the Department of Planning and Environment for a Gateway Determination

In respect of Council’s Community Strategic Plan 2015/2016-2024/25 Strategic Area (D) the following objective is of relevance:

Promote the Murray Shire area as an attractive and viable area for rural, residential, commercial, industrial, recreational and tourism pursuits to ensure community sustainability.

The Planning Proposal is considered to be consistent with this objective creating an opportunity for a new low density residential precinct with commensurate commercial uses (ie function centre and restaurant) in close proximity of Moama.

The overall aim of the development is to facilitate a future urban form that maximises sustainability goals.

The Planning Proposal is also consistent with feedback received from the various community workshops undertaken as a preliminary component of the SLUP preparation wherein it was identified that there was a need for new residential development that could help stem population decline by taking advantage of lifestyle and amenity opportunities in proximity of the river, social infrastructure and recreation facilities.

Lastly the strategic work associated with preparation of the SLUP necessarily factored in issues of land supply for the life of the SLUP. The subject land appears to have been removed in 2009 from the SLUP not because of this consideration, but more particularly as a consequence of the unresolved flooding issues as they applied at that time. On the assumption that flooding has now been appropriately addressed as concluded within the Flood Report prepared by Water Technology (June 2017), it would seem that there was no oversupply scenario that would be reintroduced into the overall Moama market place.

Further as was acknowledged in the Salvestro Report (2011) as well as the Coomes LES (2009), the Kooyong Park Development could actually be regarded as not being standard residential rather it is more akin to a mixed use outcome that is directed at a different market sector than currently addressed in the Moama context.

6. Is the planning proposal consistent with applicable State Environmental Planning Policies?

The following provides an assessment of the Planning Proposal against all State Environmental Planning Policies (SEPP's). In summary, the majority of SEPP's are not applicable to Murray River Council and those that are, are generally not applicable to the circumstances of the Planning Proposal.

(i) SEPP – Rural Lands

Clause 7 of the SEPP sets out 8 “Rural Planning Principles” that must be considered in preparing any LEP amendments affecting Rural Lands.

- (a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,*
- (b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,*
- (c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,*
- (d) in planning for rural lands, to balance the social, economic and environmental interests of the community,*
- (e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,*
- (f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,*
- (g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,*
- (h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.*

COMMENT: *The proposed rezoning addresses relevant SEPP principles as follows:-*

- *The proposal seeks to facilitate opportunities for settlement and housing in a planned and orderly manner that will contribute to the social and economic welfare of the Moama Township.*

- *The proposal will not adversely impact upon the existing productive potential of adjacent farm land or the capacity of farm land in the general vicinity of the subject land.*
- *The site has not been identified as being “Sate Significant” agricultural land or as being of regional significance for farming activities.*
- *No natural resources or areas of significant biodiversity or native vegetation would be adversely impacted by the proposal;*
- *The site has no forestry value or forestry industry potential;*
- *The site is within relatively close proximity of an established urban area and can be fully serviced with reticulated services with adequate spare capacity.*
- *The proposal is not inconsistent with RMRP 2036.*

Further to the above it is noted that Clause 8 of the SEEP is not relevant in this instance. Assessment is only applicable in respect of minimum lots sizes on land within a rural or environment protection zones which is not applicable in this case because the land is being rezoned to a residential zone namely R2 Low Density Residential.

(ii) Murray Regional Environment Plan (REP) No 2

The Murray Regional Environment Plan (REP) No 2 - Riverine Land (“the REP”) is a deemed SEPP that applies to the riverine environs of the River Murray including land within the former Shire of Murray. Gazetted in 1994 the REP seeks to ensure that the river and its floodplain are able to support a range of productive land uses. The objectives of this plan are:

- (a) to ensure that appropriate consideration is given to development with the potential to adversely affect the riverine environment of the River Murray, and*
- (b) to establish a consistent and co-ordinated 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 9 provides a number of general principles that need to be considered namely:

- (a) the aims, objectives and planning principles of this plan,*
- (b) any relevant River Management Plan,*
- (c) any likely effect of the proposed plan or development on adjacent and downstream local government areas,*
- (d) the cumulative impact of the proposed development on the River Murray.*

Clause 14 of the REP also provides specific controls in respect of Building setbacks providing as follows:

(2) Building setback

All buildings outside land zoned for urban purposes under a local environmental plan should be set well back from the bank of the River Murray. The only exceptions are buildings dependent on a location adjacent to the River Murray.

The objectives of siting buildings away from the River Murray are to:

- *maintain and improve water quality,*
- *minimise hazard risk and the redistributive effect on floodwater associated with the erection of buildings on the floodplain,*
- *protect the scenic landscape of the riverine corridor,*
- *improve bank stability, and*
- *conserve wildlife habitat.*

The REP also provides special provisions in respect of effluent disposal and landscaping.

COMMENT: The current planning proposal is considered to be consistent with the relevant provisions of the Murray REP No.2. In respect of the General principles the following matters are noted:

- *In framing the Moama SLUP Council has given appropriate consideration of the aims, objectives and planning principles of the REP in concluding that the eventual development of the subject land for residential purposes in proximity of the Murray River environs is an appropriate landuse representing an orderly and proper planning outcome.*
- *There are no relevant River Management Plans affecting the land.*
- *The likely development of the land for residential purposes will not have any adverse impact on adjacent and downstream local government areas.*
- *Possible cumulative impacts of the planning proposal have been taken into account by Council in the preparation of the Wakool SLUP.*

Further to the above the following comments also in support of the proposal, namely:

- *The subject land is well setback from the river frontage ensuring any development will not impinge upon the scenic landscape of the riverine corridor as viewed from the river.*
- *The development will not be evident from the riverine corridor in proximity of the river itself.*
- *The development if approved will not have an adverse impact on the riverine environment. The likely future design and siting of the development have been framed with an intent to reflect the particular landscape setting and to complement rather than conflict with any riverside land.*
- *No aspect of the development will adversely impact upon bank stability.*
- *No existing public river views will be impeded by the development.*
- *Effluent generated by the development is to be treated via reticulated services, at the expense of the applicant.*
- *Water sensitive urban design principles will ensure that the water quality of the River is not impacted upon as a consequence of stormwater run-off.*
- *The subject land is already protected by a rural levee that is capable of upgrade to urban standards consistent with the Moama Township levee located to the east of Meninya Street.*
- *No issues are raised in respect of the redistribution of flood waters. As concluded within the Water Technology Flood Report (2017):*

The assessment shows that the floodplain surrounding the proposed development can be categorised as low hazard storage in a 1% AEP flood event. Depths in a 1% AEP flood event are lower than 1m to the south and west of the site, and around 0.3m to the north and east. The velocities in a 1% AEP flood event are low, less than 0.2m/s.

(iii) SEPPs

In respect of all other SEPP's that are applicable to the Murray River Council LGA the following comments are provided in Table 1.

State Environmental Planning Policy	Comment
SEPP No 21—Caravan Parks	Not applicable. No caravan park or camping grounds are proposed as part of the overall development masterplan.

State Environmental Planning Policy	Comment
SEPP No 30—Intensive Agriculture	The Planning Proposal does not seek to deviate from any relevant SEPP aims, strategies, development consent, assessment and location provisions. There are however no cattle feed lots, piggeries or compost facilities proposed. Further it is noted that 'intensive agriculture' is prohibited in the R2 zone
SEPP No 33—Hazardous and Offensive Development	The Planning Proposal does not seek to deviate from any relevant SEPP aims, strategies, development consent, assessment and location provisions. The land however has never been used for hazardous or offensive industry, Further it is noted that industry is prohibited in the R2 zone
SEPP No 36—Manufactured Home Estates	The Planning Proposal does not seek to deviate from any relevant SEPP aims, strategies, development consent, assessment and location provisions. The proposal does not contemplate "suitable zones, locations and provisions" for caravan parks, camping grounds and/or manufactured homes estates. It is noted that MHEs are not permitted in RU1, E3 or R2 Zones.
SEPP No 44— Koala Habitat Protection	There are no significant trees required to be removed from the subject land as a consequence of the subdivision of the land. Further the subject land does not constitute core koala habitat. As a consequence the planning proposal is seen as complying with SEPP 44.
SEPP No 50—Canal Estate Development	Not applicable. No canal development proposed.
SEPP 52 Farm Dams	The Planning Proposal does not seek to deviate from any relevant SEPP aims, strategies, development consent, assessment and location provisions. There are however no artificial waterbodies as defined proposed.
SEPP No 55—Remediation of Land	As previously noted above, the proponent commissioned a Soil Contamination Assessment (Nov 2011) prepared by AES. Following soil sampling across the development site and subsequent analysis, the report concludes that no agricultural pesticide or herbicide contaminants were found in concentrations exceeding relevant health or environmental levels being well below the Limit of Reporting (LOR). The report also concludes that there is no cause for soil contamination concerns in relation to the proposed development site.
SEPP No.62 – Sustainable Aquaculture	The Planning Proposal does not seek to deviate from any relevant SEPP aims, development consent requirements and assessment criteria for sustainable aquaculture.
SEPP No 64—Advertising and Signage	The Planning Proposal does not seek to deviate from any relevant SEPP aims, development consent requirements and assessment criteria for advertising and signage

State Environmental Planning Policy	Comment
SEPP No 65—Design Quality of Residential Flat Development	The Planning Proposal does not seek to deviate from any relevant SEPP aims, development consent, assessment, information and notification requirements.
SEPP (Affordable Rental Housing) 2009	The Planning Proposal does not seek to deviate from any relevant SEPP aims. Nothing in the proposal seeks to specifically discriminate against the provision of affordable housing including affordable rental housing.
SEPP (Building Sustainability Index: BASIX) 2004	All future dwelling houses will be required to be designed and sited to comply with identified BASIX commitments.
SEPP (Exempt and Complying Development Codes) 2008	The Planning Proposal does not seek to deviate from any relevant SEPP aims and functions with respect to exempt and complying development provisions. Part 3 – General Housing Code will apply.
SEPP (Housing for Seniors or People with a Disability) 2004	The Planning Proposal does not seek to deviate from any relevant SEPP aims, development standards, and information requirements.
SEPP (Infrastructure) 2007	The Planning Proposal does not seek to deviate from any relevant SEPP aims, and/or requirements relating to infrastructure.
SEPP (State Significant Precincts) 2005	Not applicable
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Not applicable
SEPP (Miscellaneous Consent Provisions) 2007	The Planning Proposal does not seek to deviate from any relevant SEPP aims, and/or requirements relating to temporary structures.
SEPP (State and Regional Development) 2011	Not applicable as the Planning Proposal is not for State significant development
SEPP (Urban Renewal) 2010	Not applicable as the subject land is not within a nominated urban renewal precinct

Table 1: State Environmental Planning Policy Assessment

7. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The Minister for Planning, under section 117(2) of the EP&A Act may issue directions that a Council must follow when preparing planning proposals for new LEPs. The directions cover the following broad categories:

- employment and resources
- environment and heritage
- housing, infrastructure and urban development
- hazard and risk
- regional planning
- local plan making.

The relevant s117 directions applicable in this instance are discussed as follows:

Direction	Consistency with Direction
1.2 Rural Zones	<p>Inconsistent. This direction applies in relation to a planning proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary). The Direction provides that a planning proposal must not rezone land from a rural zone to a residential zone.</p> <p>The inconsistency is justified in accordance with (5)(b) in this instance as the planning proposal is identified within the Moama DCP Chapter 6 – Strategic Landuse Plan as a candidate site for investigation for rezoning for residential purposes. This outcome is further supported by a range of Strategic Planning work that has been commissioned in respect of the subject land dating back to 2009.</p>
1.5 Rural Lands	<p>Consistent. This direction notes among other things that rural areas are increasingly under pressure for lifestyle housing opportunities. This demand for rural housing has both social and economic advantages and disadvantages for rural communities. The direction provides that planning should identify a range of housing choices within rural areas including urban areas and that housing opportunities should be determined through a strategic planning process to avoid land use conflict, avoid constraints, fragmentation of rural land and provide access to appropriate infrastructure and services.</p> <p>The site has been identified as being a candidate area potentially suitable for expansion of the residential area of Moama and consistent with Council's proposed Standard Instrument the land is to be rezoned accordingly.</p> <p>The proposal has been considered against the Rural Planning Principles listed in State Environmental Planning Policy (Rural Lands) 2008.</p> <p>As the land is to be rezoned and the land will not remain within a rural or environment protection zone no assessment is required against the the Rural Subdivision Principles listed in State Environmental Planning Policy (Rural Lands) 2008.</p>
2.1 Environment Protection Zones	<p>This Direction provides that a planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</p> <p>Although the proposal seeks to rezone land zoned E3 Environmental Management, the planning proposal includes provision for conservation and open space reserve areas within a Master Planned layout aimed at contributing to sustainable development outcomes. Further to the above a Flora & Fauna Assessment – stage 2 (Nov 2011) prepared by Advanced Environmental Systems (AES) has concluded that no Threatened Species as listed under relevant State and Commonwealth legislation was found on site. No matters requiring specific environmental protection were identified as well.</p> <p>Given the existing cadastre that until recently affected this land the proposed subdivision layout will not lead to any inconsistencies with the intent of Direction 2.1.</p>
2.3 Heritage Conservation	<p>Consistent. The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p> <p>An Aboriginal and European Cultural Heritage Assessment (Oct 2011) prepared by AES concludes notes that there are no known items of aboriginal cultural heritage registered on the land. There are also no items of Environmental Heritage listed in Part 1 Schedule 5 of the Murray LEP 2011 affecting the land. Appropriate DA conditions at the time of subdivision will provide contingencies in the event that any unknown Aboriginal Cultural Heritage and/or human remains are found during the course of development works within the activity area.</p>

Direction	Consistency with Direction
2.4 Recreation Vehicle Areas	Not applicable. The planning proposal does not advocate the designation of the subject land as a recreation vehicle area pursuant to an order in force under section 11 (1) of the Recreation Vehicles Act 1983.
3.1 Residential Zones	Consistent. This planning proposal relates to residential development that will: <ul style="list-style-type: none"> (a) broaden the choice of building types and locations available in the housing market, and (b) make more efficient use of existing infrastructure and services. The provision of residential land in this case is considered to be in line with evolving lifestyle and demographic trends.
3.2 Caravan Parks & Manufactured Home Estates	Not applicable. The proposal does not contemplate “suitable zones, locations and provisions” for caravan parks, camping grounds and/or manufactured homes estates. It is also noted that caravan parks are a landuse that is prohibited in the R2 Zone.)
3.3 Home Occupations	Consistent. Home occupations will be permitted to be carried out in dwelling houses without the need for development consent.
3.4 Integrating Land Use and Transport	Inconsistent, This direction applies where a planning proposal will create a zone or a provision relating to urban land, including land zoned for residential, or village purposes. The inconsistency is justified in this instance as the planning proposal is identified within the Moama SLUP as a candidate area for future residential development subject to appropriate strategic support including flooding analysis.
3.6 Shooting Ranges Not relevant – same as mine Subsidence. Just not relevant	Not applicable. No shooting ranges are located adjacent or adjoining the subject land.
4.3 Flood Prone Land	Inconsistent with 4.3 (5). As the proposal seeks rezoning of Rural and Enviro Protection Zoned land within a flood planning area to residential. Inconsistent with 4.3(6)(c) –as the proposal will permit a significant increase in development of the land. Notwithstanding Direction (4.3) the Murray SLUP has acknowledged that the subject land may be a candidate for development subject to detailed flood assessment. This particular Direction seeks to ensure that the provisions of an LEP on flood prone land are commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land. The subject land is largely protected by an approved rural flood levee without restriction on in relation to width or height that can be readily upgraded to urban standards. This position is supported by the Flood Report for Kooyong Park Planning Proposal (June 2017) which documents a flood assessment of existing conditions flood behaviour for a 1% AEP flood event on the Murray River system at Kooyong Park, Moama, and the impacts of further developing the rural ring levees surrounding the property to an urban levee standard. Two dimensional hydraulic modelling was undertaken to assist with characterising the impact of flood behaviour across the Murray River Floodplain, including the Kanyapella basin to approximately 7km downstream of Echuca/Moama. The flood modelling results were then assessed against appropriate NSW planning policy and best practice floodplain management principles, providing information to support the application for the proposed development. In summary the report concludes: <i>“The assessment shows that the floodplain surrounding the proposed development can be categorised as low hazard</i>

Direction	Consistency with Direction
	<p><i>storage in a 1% AEP flood event. Depths in a 1% AEP flood event are lower than 1m to the south and west of the site, and around 0.3m to the north and east. The velocities in a 1% AEP flood event are low, less than 0.2m/s.</i></p> <p>With the proposed levee constructed the site will be protected during a large flood. Flood modelling has demonstrated that the proposed levee upgrade does not significantly alter flood levels and flood behaviour in the surrounding floodplain.</p> <p>In an extreme flood event evacuation may be necessary. Evacuation routes have been assessed and have been shown to be low hazard during a 1% AEP flood event. When considering the long flood warning time afforded to Moama, safe evacuation of the proposed development site can be achieved if necessary.</p> <p>There is expected to be very little, if any, environmental, social and economic adverse issues associated with the proposed development.</p> <p>The proposed development meets the required performance criteria of NSW floodplain management policy. There are no floodplain related issues which should impact on Council's decision to accept this development proposal."</p> <p>In respect of levee upgrade, the report also notes that the current approved alignment of the existing levee has no restrictions in relation to width and height. The report subsequently recommends that the levee crest be designed at the Flood Planning Level of 96.0 to 96.08m AHD, which is based on the 1% AEP flood level plus 0.5m freeboard.</p> <p>The Flood report suggests that given the degree of levee protection that dwellings be constructed above ground level with consideration given to local Stormwater issues only. . Further flood investigation will also likely ensure as part of the Stormwater Management for the proposed estate at the DA stage.</p> <p>The Flood report also states:</p> <p><i>"In an extreme flood event evacuation may be necessary. Evacuation routes have been assessed and have been shown to be low hazard during a 1% AEP flood event. When considering the long flood warning time afforded to Moama, safe evacuation of the proposed development site can be achieved if necessary".</i></p> <p>Council at its meeting of 15 November 2016 duly considered the findings and recommendations of the Flood Report for Kooyong Park Planning Proposal and is of the opinion that it forms an adequate basis to justify the above mentioned inconsistencies in this instance.</p>
4.4 Planning for Bushfire Protection	A Bushfire Risk Assessment Report (November, 2011) prepared by AES in respect of the Stage 2 Development indicates that part of the site is bushfire prone largely as a consequence of being affected by buffer requirements to adjacent roadside native vegetation. The report also notes however, that the relevant Bushfire Attack Level (BAL) is 19 and that an Asset Protection Zone of 10m can be easily achieved wholly on site for residential development around the perimeter of the Estate..
5.1 Implementation of Regional Strategies	Consistent. There are no issues of inconsistency with the goals, directions or strategic intent of the Riverina Murray Regional Plan 2036 (RMRP).
6.1 Approval and Referral Requirements	Consistent. The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development. The planning proposal will be referred to any Minister or Public Authority and will be exhibited subject to the gateway determination being issued under clause 56 of the Act 1979.

Direction	Consistency with Direction
6.2 Reserving Land for Public Purposes	Consistent. The planning proposal does not create, alter or reduce existing zonings or reservations of land for public purposes
6.3 Site Specific Provisions	Consistent. The planning proposal imposes additional requirements in accordance with the relevant clauses of the principle LEP.

Table 2: Section 117 Direction Assessment

SECTION C – ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The subject land can be generally described as a cleared parcel of land that has been used for agriculture for more than 100 years.

There is a small stand of remnant vegetation along the northern boundary adjacent to unnamed road reserve as well as a few scattered paddock trees. These trees are however isolated from other remnant vegetation and thus don't function as a habitat corridor for native fauna. Consequently the likelihood these trees are providing habitat for threatened species etc is very low to non-existent.

In addition it is also to be noted that a Flora and Fauna Assessment – Stage 2 (November, 2011) prepared by Advanced Environmental Systems has concluded that no Threatened Species as listed under relevant State and Commonwealth legislation was found on site. Further that although suitable habitat could occur if grazing were to be removed, and that some species of birds and other fauna may transit the site on occasion, the development would not impact upon any areas of critical habitat and will be highly unlikely to impact upon any threatened species, populations or ecological communities, or their habitats.

9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Levee upgrades etc. will be required in order to avoid environmental affects regarding flooding (Water Technology 2017). There are no other environmental effects resulting from the proposal that would preclude the Planning Proposal.

10. Has the planning proposal adequately addressed any social and economic effects?

Relevant issues in relation social and economic effects have been take into account with the strategic work undertaken by Council which concluded that the subject land as being suitable for further investigations for additional residential development in conjunction with opportunities for commercial and tourist related development within a master planned estate (NOTE: A Preliminary Concept Plan for a possible future master planned layout is provided at Map 8).

Dwellings will be planned around open communal areas, so owners have access to a full range of services, without the associated maintenance difficulties. These communal areas are anticipated to be open parks, with shared facilities such as a tennis courts, bbq areas and a community sheds and gardens. Similar dwellings will also be located around the function centre / restaurant complex grounds.

The scale and location of the subject land site offers the community a positive opportunity to undertake a series of innovative environmental initiatives across the overall development. The strategy will work towards create an integrated community title development with a mix of high quality residential and commercial elements. Core to the development plans are the long term environmental and residential outcomes.

Benefits to the Moama area will also be derived from increased housing choice as well as increased investment in the local community through subdivision and housing construction plus increased social and economic activity as a consequence of commercial and tourist initiatives within the estate.

SECTION D – STATE AND COMMONWEALTH INTERESTS

11. Is there adequate public infrastructure for the planning proposal?

There is sealed public road access from the Moama Street, Old Deniliquin Road and Holmes Street Rd. To determine impacts upon the public road network it is anticipated that a traffic study will be required to accompany any future DA so as to determine possible impacts on the surrounding road system.

In the event that any upgrades of the adjoining public road network including Old Deniliquin Road are deemed to be required, these will be constructed at the expense of the developer to the satisfaction of Council.

All internal roadways within the Kooyong Park development will also be constructed at the expense of the developer to the satisfaction of Council.

The application proposes a sewer strategy that is acceptable in its concept form to Council however more detailed design work will be required at development application stage.

All other utilities are available to the site. Any upgrades to Council services will be required to be provided at the expense of the developer to the satisfaction of Council.

Electricity, gas and telecommunications facilities with spare capacity can also be readily provided to the development.

Other essential services such as health, education and emergency services are available within the township area and are of adequate capacity to meet the future needs of the proposal.

12. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Preliminary consultation with officers of the NSW Department of Planning and Environment as well as NSW Department of Primary Industries (Water) have occurred during the preparation of this report.

It is anticipated that following referral of the matter to the Department that any possible Gateway Determination will specify those Authorities and agencies that are to be consulted with under section 56(2)(d) of the Act.

PART 4 – MAPS

The following maps are provided in support of the Planning Proposal.



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Map 1: Locality Plan (source SIX Viewer)



Drawing No. 140114_DAO2_14Jul17
Scale 1:3000
SHEET 1 OF 1
Original Sheet A3
© EDM Group

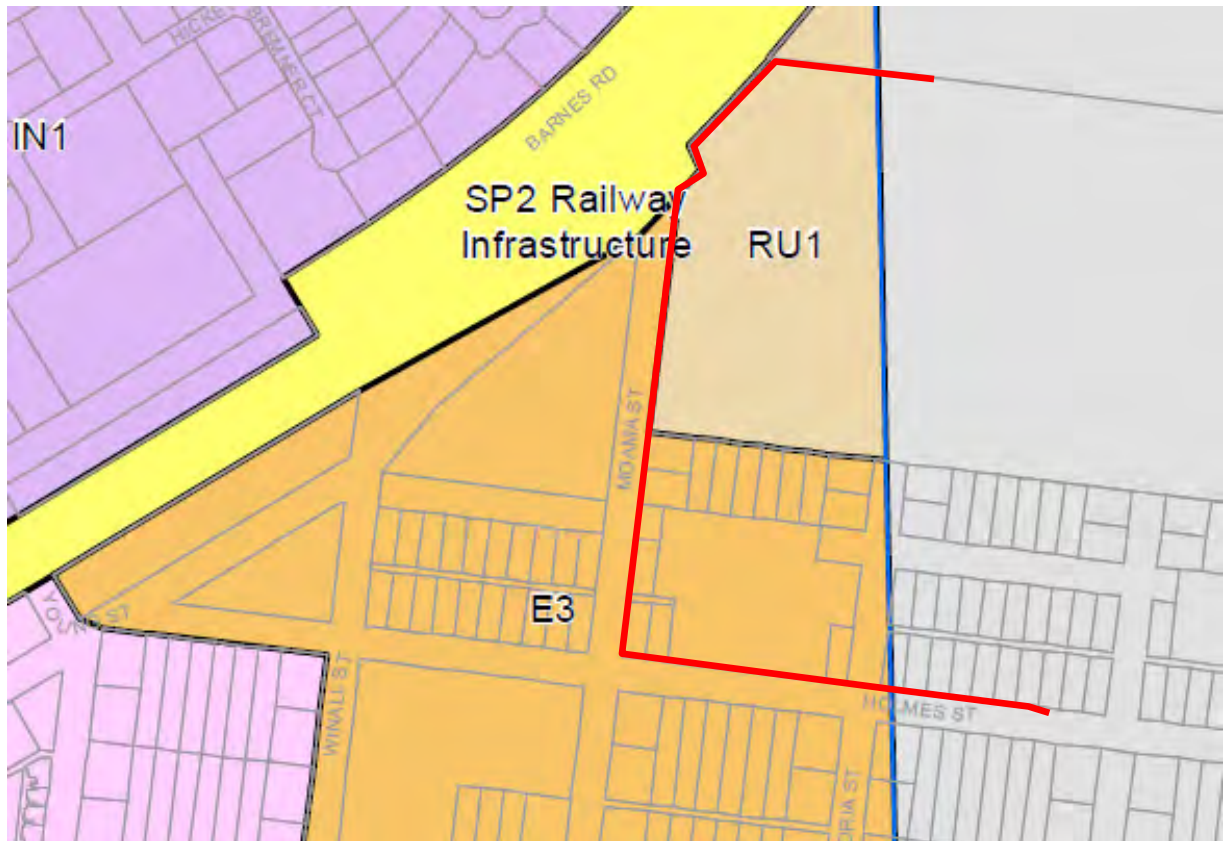
SITE CONTEXT PLAN
LOTS 1 & 2 DP1078090 AND
LOT 17 DP1228353
HOLMES STREET
MOAMA 3731

NOTE:
The cadastral has been laid over an aerial image for presentation purposes only.
The aerial image is intended as a visual aid only and may not be an accurate representation of ground conditions. Title survey must be undertaken to accurately verify the location of any boundary shown hereon.

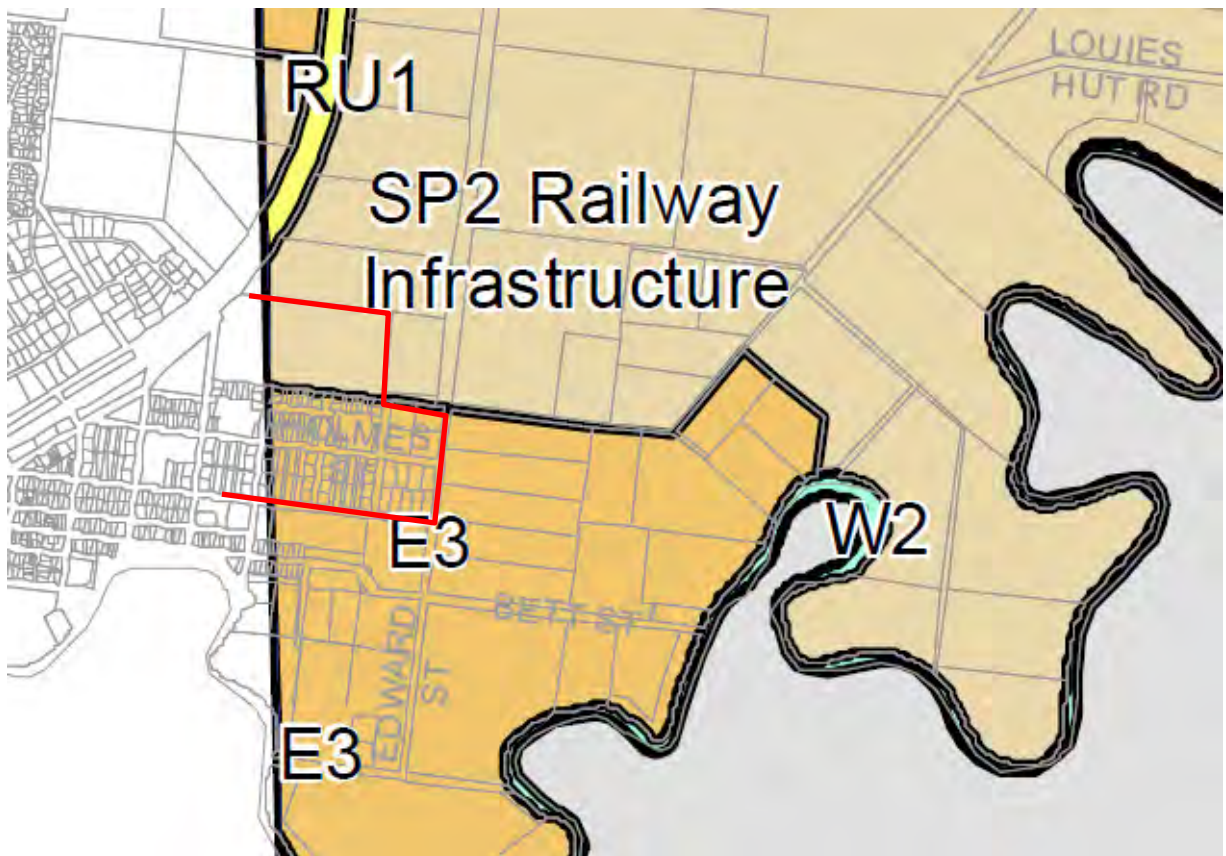
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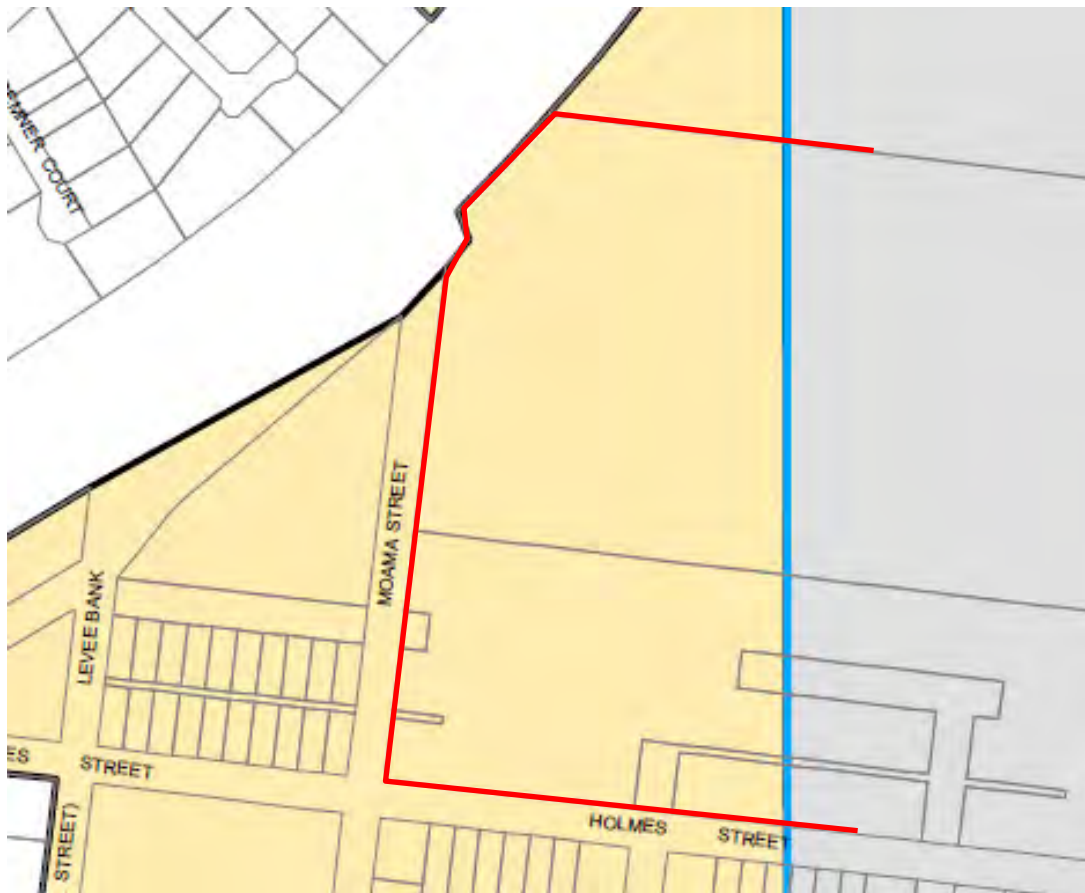
Map 2: Site Context



Map 3: Murray LEP 2011 – Land Zoning Map LZN_006B Extract



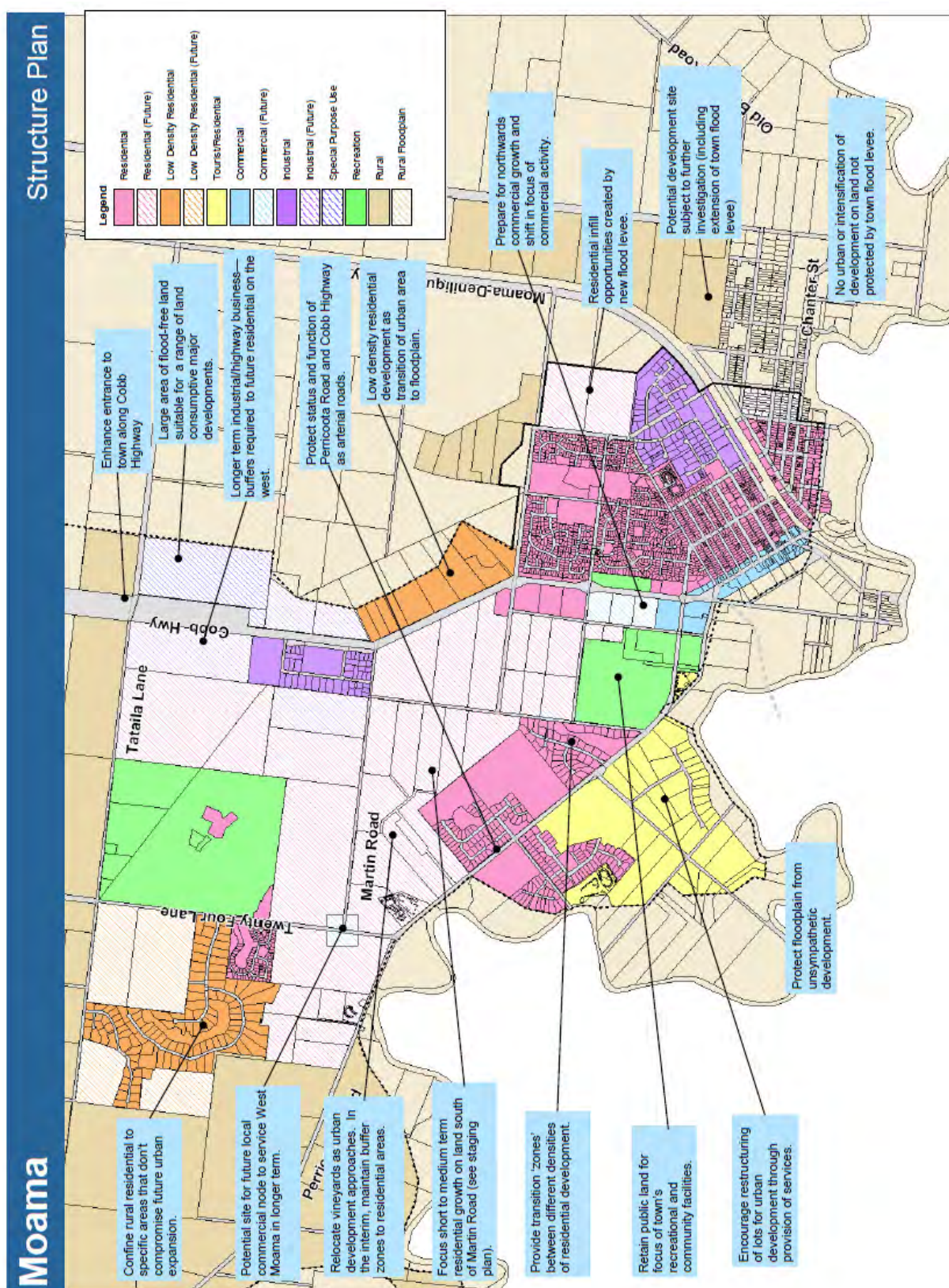
Map 4: Murray LEP 2011 – Land Zoning Map LZN_006 Extract



Map 5: Murray LEP 2011 – Lot Size Map - LSZ 006B Extract



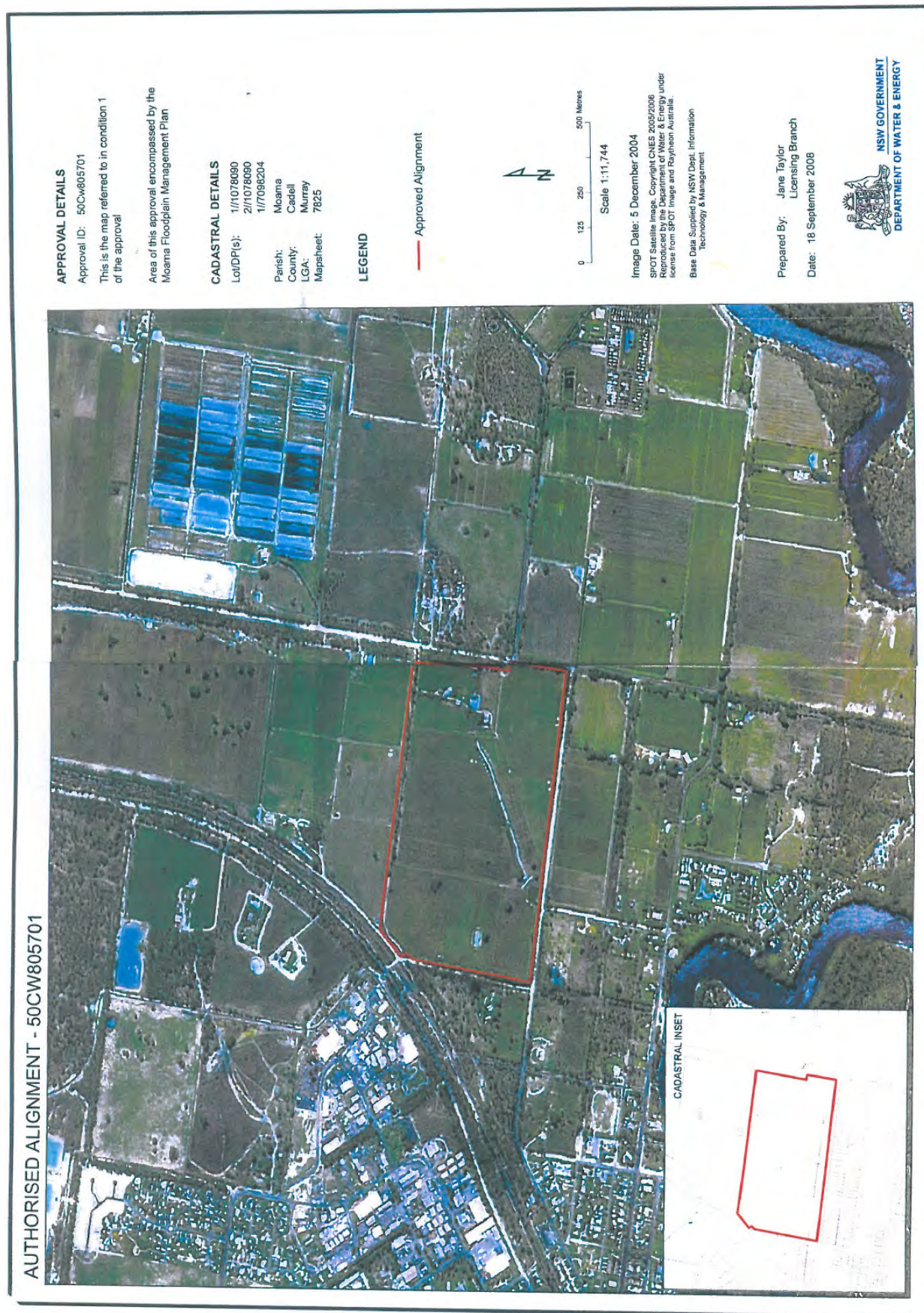
Map 6: Murray LEP 2011 – Lot Size Map - LSZ 006 Extract



Map 7: Moama Strategic Landuse Plan – Murray DCP 2012 – Chapter 6



Map 8: Preliminary Concept Masterplan



Map 9: Existing Rural Levee



Map10. Subject Land proposed to be rezoned Low Density Residential (R2)



Map 11: Delete subject land from Lot Size Map - LSZ 006B



Map 12: Delete subject land from Lot Size Map - LSZ 006

PART 5 – COMMUNITY CONSULTATION

The proposal is considered to be low impact as described in the Guide and as a consequence an exhibition period of 28 days is considered appropriate.

Consultation will be carried out in accordance with the statutory requirements set by the EP & A Act and its regulation.

The proposed consultation strategy for this proposal will include:

- written notification to landowners adjoining the subject land;
- consultation with relevant Government Departments and agencies, service providers and other key stakeholders, as determined in the Gateway determination;
- public notices to be provided in local media, including in a local newspaper and on Councils' website;
- static displays of the Planning Proposal and supporting material in Council public buildings; and
- electronic copies of all documentation being made available to the community free of charge (preferably via downloads from Council's website).

At the conclusion of the public exhibition period Council staff will consider submissions made with respect to the Planning Proposal and prepare a report to Council.

It is considered unlikely that any public hearing would be required under Section 56(2)(e) of the EP&A Act.

PART 6 – PROJECT TIMELINE

The project timeline for the planning proposal is outlined in Table 3.

Typical of the strategic planning process however it needs to be noted that there are indeed many factors that can influence compliance with the timeframe including the cycle of Council meetings, consequences of agency consultation and consequences of public exhibition.

As a consequence the following project timeline in respect of this planning proposal should be regarded as providing an indicative outline only as a mechanism to monitor the progress of the planning proposal through the plan making process.

Milestone	Date/timeframe
Anticipated commencement date (date of Gateway determination)	September/October 2017
Anticipated timeframe for the completion of required studies (if required)	2 months from Gateway determination
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	2 months from Gateway determination
Commencement and completion dates for Commence public exhibition period	3 months from Gateway determination
Dates for public hearing (if required)	Within 2 weeks of public exhibition completion
Timeframe for consideration of submissions	2 weeks following completion of exhibition
Timeframe for the consideration of a proposal post exhibition	1 month following completion of exhibition
Anticipated date RPA will make the plan (if delegated)	2 weeks following consideration of proposal
Anticipated date RPA will forward to the department for notification (if delegated).	1 month following consideration of proposal

Table 3: Suggested Project Timeline

CONCLUSION

The Planning Proposal is to rezone a parcel of land at the corner of Moama Street and Holmes Street, Moama to R2 Low Density Residential, along introducing additional provisions in the LEP. This Amendment comes about following not only a long history of Council deliberations and reporting on this site but also a range of positive outcomes as a consequence of further investigations as provided under the terms of the Moama SLUP.

In summary opportunities for the development can be outlined as follows:

- Land in one ownership
- Proximity to town centre
- Servicing advantages over more remote locations currently zoned for urban uses
- Proximity and access to Murray River and the Echuca-Moama urban areas
- Existing access to the subject land on three sides from sealed public roads
- Surrounding development being of a low density / rural residential nature
- Low risk flooding characteristics of the general area
- Existing levee licence to provide additional protection for the site
- Relatively small amount of work in raising height of levee to an urban standard
- Agricultural activity is less than on other lands nominated for residential uses around Moama
- Area is remote from any serious conflicting land uses
- The site does not have a high visibility from public places
- Land configuration suitable for development proposal

An amendment to the MLEP is necessary for such a development to be considered as the current planning regime for the subject land does not permit it.

In conclusion, the Planning Proposal is considered to have merit because:

- the subject land is within close proximity of Moama;
- the density of development is sustainable for the subject land;
- there will be a net benefit for the Moama community;
- it is not inconsistent with local planning strategy;
- it is generally consistent with the broader planning framework (e.g. State provisions);
- there will no detrimental environmental effects that would preclude development of the land; and
- the subject land can be provided with all urban services with adequate spare capacity.

Appendix 1

Reference Documents

Advanced Environmental Systems (Oct 2011) *Aboriginal and European Cultural Heritage – Kooyong Park Stage 2*

Advanced Environmental Systems (Nov 2011) *Bush Fire Assessment – Kooyong Park Stage 2*

Advanced Environmental Systems (Nov 2011) *Flora & Fauna Assessment – Kooyong Park Stage 2*

Advanced Environmental Systems (Nov 2011) *Soil Contamination Assessment (SEPP 55) – Kooyong Park Stage 2*

Advanced Environmental Systems (Revised Jan 2012) *Groundwater and Flood Assessment – Kooyong Park Lot Consolidation*

Advanced Environmental Systems (Oct 2012) *Preliminary Water & Sewer Servicing Report for proposed development of Kooyong Park Moama*

EDM Group (August 2015) *Planning Report Site Specific Review - Kooyong Park Sustainable Development*

Salvestro Planning (Dec 2010) *Review of Murray Shire Council Resolution to Draft LEP - 'Kooyong Park', Old Deniliquin Road, Moama*

Water Technology (June 2017) *Flood Report for Kooyong Park Planning Proposal*

Appendix 2

Site Specific Review Report

**Planning Report –
Site Specific Review**

Kooyong Park Sustainable Development

**Lot 1 DP1098204, Lot 1 DP1139001 &
Lots 1 & 2 DP1078090**

**Cnr Moama Street & Holmes Street
MOAMA**



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EDM Ref No. 14011400

Date: 17 August 2015

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APPENDIX 1 Draft Moama SLUP Amendment

1. INTRODUCTION

This report comprises a site specific review of Murray Shire Council's Strategic Landuse Plan for Moama and Murray DCP 2012 Chapter 6. The purpose of the review is to provide Council with a sufficient basis to make an informed decision in respect to the suitability of the Kooyong Park site to be rezoned via the Gateway LEP Review process to support a range of residential, commercial and environmental development outcomes.

The Project Brief requires this site specific review to draw upon and address the relevant issues raised within the;

- Coomes Local Environmental Study February 2008; and
- NSW Department of Planning letter dated 14th May 2009

Expected outcomes include:

- Determination of the most suitable zoning for the site;
- Identification of further information and/or studies (if required); and
- If the review supports rezoning of this site, preparation of an amended Moama SLUP / Murray DCP 2012 Chapter 6.

1.1 BACKGROUND

In 2005, Murray Shire Council commenced a review of its Local Environmental Plan (LEP). As part of this process Council prepared a Strategic Land Use Plan (SLUP) in early 2007 and this document was placed on public exhibition.

Over the course of the preparation of the draft LEP the SLUP went through a number of iterations as policy responses were being refined and developed. Among other things the SLUP in 2007 (version #10) had been amended to indicate that Kooyong Park was a:

"Potential development site subject to further investigation (including extension of town flood levee.)"

Council supported the preparation of a subsequent Local Environmental Study (LES) to determine whether the property was suitable to be rezoned as part of the ongoing review of the draft Murray LEP. The LES undertaken by Coomes Consulting (Feb 2008) concluded among other things that

"... the site is suitable for a combination of urban (including residential and commercial/tourism), semi- urban and conservation land uses, based on available information".

The LES also made recommendations in respect of further investigation and studies that were required.

Following a meeting in 2009 with the then NSW Department of Planning, Council officers considered Department concerns with respect to the progress of the overall LEP. This resulted in a report being presented to Council in relation to four development properties, namely:

- 24 Lane, Moama;
- 2040 Perricoota Road, Moama;
- Kooyong Park, Old Deniliquin Road, Moama; and
- Deep Creek.

It was concluded within the Council Officer's report to the Council meeting of 21 July 2009 that:

"... the LES proposal known as "Kooyong Park", Old Deniliquin Road, Moama should not be included in the Shire wide LES as such contradicts the direction taken by the SLUP as adopted by Council. The basis for this comment is that the proposed site is fragmented to the east of the Moama township, situated in and/or surrounded by flood effected lands and requires the extension of Council infrastructure. In summary there are more suitable parcels of land which from a planning aspect should take priority over this site."

Notwithstanding the above, Council again reconsidered its position in respect of Kooyong Park and at its meeting of 3 August 2010 resolved to review the previous Council resolution of 21 July 2009 to remove the Kooyong Park planning proposal from the draft Murray LEP. Council at that time noted the draft LEP was a priority and that if the site specific LES was capable of being supported upon review that the proposal could instead be considered as a "spot" rezoning via the Gateway process.

The subsequent review report completed by Salvestro Planning in 2011 effectively concluded that the rezoning process in respect of Kooyong Park was incomplete. This was largely due to:

".... Council's failure to have properly considered all documents (most importantly the LES) when the decision to remove Kooyong Park from the draft LEP was made. Further the applicant was not given the opportunity to respond to the outstanding issues particularly those raised by the Department of Planning."

The Salvestro Planning review recommendations were presented to Council at its meeting of 21 June 2011 as follows;

- 1. The "Kooyong Park" Urban Development Proposal be reconsidered for inclusion in the Murray Shire LEP based on the recommendations of the LES and further reports noted below:*
- 2. The applicant be given the opportunity to submit additional studies and reports, as detailed by the Department of Planning in its correspondence of 14/5/09 and noted in the LES, including a site specific flood risk management plan, as addendums to the final LES, to enable final determination of proceeding with the draft LEP.*
- 3. Considering the importance of not stalling the introduction of the Shire-wide new LEP, this matter proceeds as a LEP amendment under the "gateway system" of the DoP.*
- 4. Site specific development control plan guidelines be prepared to compliment the proposed LEP, as noted in the LES, to ensure an environment living character is achieved that is clearly distinct from general residential.*

The Council subsequently resolved as follows:

- *that the applicant be given the opportunity to submit additional studies and reports, as detailed by the Department of Planning in its correspondence of 14/5/09 and noted in the Local Environmental Study (LES), including a site specific flood risk management plan, as addendums to the final LES, to enable Council to consider the Kooyong Park site as a 'planning proposal'.*
- *that should the applicant desire, a "site specific flood risk management plan" is to be prepared and submitted as an addendum to the LES and that this plan, must be prepared by a suitably qualified independent consultant*

engaged by Council, in consultation with the applicant, and that this plan be funded fully by the applicant.

- *that following the completion and submission of the outstanding documents, the "Kooyong Park" Urban Development Proposal be reconsidered for inclusion in the Murray Shire Local Environmental Plan (LEP) including consideration of the LES recommendations and the further submitted reports.*
- *that Council note the following recommendations from Salvestro Planning and will take them into consideration should the "Kooyong Park" Urban Development progress further:*
 - *Considering the importance of not stalling the introduction of the Shire-wide new LEP, this matter proceeds as a LEP amendment under the "gateway system" of the Department of Planning.*
 - *If permissible by the Department of Planning, as a part of Conditions of Consent (if a rezoning is approved in the future), site specific development control plan guidelines be prepared to compliment the proposed LEP, as noted in the LES, to ensure an environment living character is achieved that is clearly distinct from general residential*

In respect of the abovementioned flooding issue the following extract from the Council officer's report to the Council meeting of 21 June 2011 provided a reasonably accurate summary in respect of relevant issues that continue to linger over this planning proposal.

"Flooding is the main issue of contention in relation to this proposal. From available documentation, the 1:100 flood standard has been accepted as the planning standard for landuse planning purposes in the Shire. The subject site is considered to be flood prone as the height of the land is below the 1 in 100 flood level. The site is also separated from the Moama Township by a floodway. Council originally resolved to "support the proposal in principle (subject to a detailed site specific flood study proving the land is suitable for urban development)". To date a detailed site specific flood study has not been undertaken. A 'Groundwater and Flood Assessment' was undertaken as part of the development application for the consolidation and subdivision of the existing holdings, however, this was very much focused on the development proposed for the south west corner of the property and does not adequately address a number of the strategic considerations such as s117 Direction 4.3 "Flood Prone Land".

The property is afforded some protection by a rural levee and as such the 1 in 100 flood level mapping contained within the Moama Floodplain Management Plan shows the site as being mostly flood free. The 1 in 200 year ARI (equivalent to the 1 in 100 year Victorian flood) flood map shows the site as being inundated in such an event.

Councils Strategic Land Use Plan and draft Murray LEP 2011 shows the land as being subject to flooding as it does not consider land protected only by 'rural levees' as being precluded from flooding issues. It is noted that the Department of Water and Energy (now the NSW Office of Water) indicated that they have "no problems" with an upgrade to the existing levee to urban standards subject the alignment does not change and an application under Part 8 of the Water Act 1912."

A new planning proposal to rezone the Kooyong Park site was submitted to Council on 26/05/2014.

EDM Group was then engaged by Council for an independent assessment of the planning proposal. This assessment process identified a number of issues which needed to be resolved in order for the application to progress, namely:

- *The lack of strategic justification within the Murray DCP 2012 – Chapter 6 (Strategic Land Use Plan).*
- *The need for a comprehensive response to the issues raised within the NSW Department of Planning letter dated 14th May 2009 which appear to remain outstanding.*
- *The need to reconsider and respond where appropriate to the long list of recommendations as outlined within the Coomes LES.*
- *The need for an independent flood assessment prepared by a suitably qualified practitioner. While it is noted that a report prepared by Advanced Environmental Systems – “Flood and Ground Water Assessment – Kooyong Park Stage 2” dated November 2011 has been provided to EDM Group by the proponent there are a number of concerns that lead to a conclusion that this report cannot be relied upon at this point in time. That is there is a need to:-*
 - *Ensure that such an independent report references the current provisions of Murray LEP 2012, Murray DCP 2012 and Moama Strategic Landuse Plan 2010-2030;*
 - *Acknowledge and respond to the draft Murray Regional Strategy;*
 - *Reconcile the current stated Council position that rural levees should not be relied upon to designate land as being flood free;*
 - *Comment on the changes over time to the flood prone land mapping that now includes the land within the area of land subject to inundation by the 1:100 flood.; and*
 - *Discuss the specific works that would be required to protect the site in isolation to town levee standard including:-*
 - *appropriate construction standards*
 - *type of levee construction and associated footprints*
 - *dealing with internal drainage*
 - *access in times of flood*
 - *impact on neighbouring property*
 - *environmental impacts*
 - *land management issues; and*
 - *ongoing operation and maintenance.*

2. SUBJECT LAND

The subject land known as “Kooyong Park” is identified as Lot 1 DP 1098204, Lot 1 DP1139001 and Lots 1 & 2 DP 1078090.



Figure 1: Site context plan (source SIX Viewer)

The property has frontage to Moama Street to the west, and Holmes Street to the south. To the west the property also has frontage to Old Denilquin Road.

As previously noted within various Council reports site characteristics include the following:-

- located less than 2.0km to east of town centre;
- largely protected by an existing rural levee bank system;
- landuses in the vicinity to the east of the railway line include a mixture of farming, rural living, holiday homes/tourist developments;
- the property is generally flat terrain draining from south to north at a grade of around 0.5%;
- a single storey dwelling and associated outbuildings are located in north eastern corner of the property (Lot 1 DP1078090);
- an approved Stage 1 – 17 lot subdivision is being constructed in south western corner of property. Fifteen of these lots are to be developed for residential purposes. Lots are fully serviced and range in size from 1775m² – 2270m²;
- some scattered paddock trees across the property;
- native vegetation largely constrained to the road reserves around the site; and
- evidence of wetland area/low lying natural drainage along southern section.

Located to the west across Moama Street is the rail corridor which also acts as a flood levee. Further west across Barnes Road is the Moama Industrial Estate.

3. PROPOSAL

The proposal is essentially a mixed use residential / commercial development focussed on sustainability outcomes. In summary it is envisaged that the overall development will comprise a number of key components, namely:

- Conventional residential development (ie: lot sizes 500-1000m²);
- Low Density residential development (ie: lot sizes approx 2000m²);
- A 'Tourism/Hospitality' precinct; and
- Conservation and open space reserve areas.

The following is a summary of the proposed "Kooyong Parklands" development as previously reported to Council in 2010.

"The development is proposed on a 'greenfield site' which allows for a comprehensive master plan to be developed. It is proposed that the development will contain a mix of medium and slightly higher density residential property. This will be enhanced with commercial and tourist initiatives.

The scale and location of this site offers the community a unique opportunity to undertake a series of innovative environmental initiatives. The strategy is to integrate community development with a mix of high quality residential and tourist elements.

The development proposes a range on renewable energy initiatives. Kooyong Park's strategy is to construct an integrated energy array over the entire site with it envisaged that an array encompassing approximately 200 residences will allow development to be essentially independent of non-renewable energy sources, except in extreme peak periods.

The development also proposes a number of water initiatives whereas with the energy array, the scale of site wide integrated water array will offer significant commercial and environmental benefits. The array will include grey and rain water management.

The development will also offer a broad range of residential options for the community with a philosophy of providing low maintenance living combined with superior residential amenity. An average of 1000m² to 2000m² of area will be allocated to each new residence to achieve this. Half of the area will be on an independent title on which the residential sites will be located on and the other half of the area will be consolidated into a body corporate owned and managed open green space. This will create a series of open spaces for general amenity and recreational purposes and reduce yard maintenance and water usage on each title. The green spaces will make use of extensive water minimisation design and will be more water efficient to maintain.

The development will comprise at one end, medium density, high quality housing on small low maintenance blocks (approx 500m²) and situated overlooking parklands. These will cater for both the retirees, semi-retirees and those wanting a low maintenance lifestyle with access to open space. At the other end the development will provide a number of 2,000m² allotments primarily for families.

The development concept also includes a commercial component including a restaurant and delicatessen facility designed to be a 'Regional Produce Centre of Excellence'. The venue will provide high quality entertaining, dining and food

shopping options for the community. It is expected that the use of the delicatessen and restaurant as a central show case and outlet for locally grown and manufactured food and wine products. The facility will provide a wide range of employment and community benefits. The facility and grounds will be configured to enable it to host a wide range of functions, cultural events, conferences and large outdoor events.”

4. REVIEW DOCUMENTS

As specified in the Project Brief the site specific review in respect of the Kooyong Park planning proposal will draw upon and address relevant issues raised within the following review documents:

- Coomes Local Environmental Study February 2008; and
- NSW Department of Planning letter dated 14th May 2009

4.1 COOMES LOCAL ENVIRONMENTAL STUDY 2008

The Coomes LES was commissioned by Council for the purpose of assessing the appropriateness of the subject land for rezoning to facilitate the Kooyong Park Development (Figure 1). It was noted within the report that the initial request by the landowner for inclusion of the land within the new Shire wide LEP was lodged in May 2005.

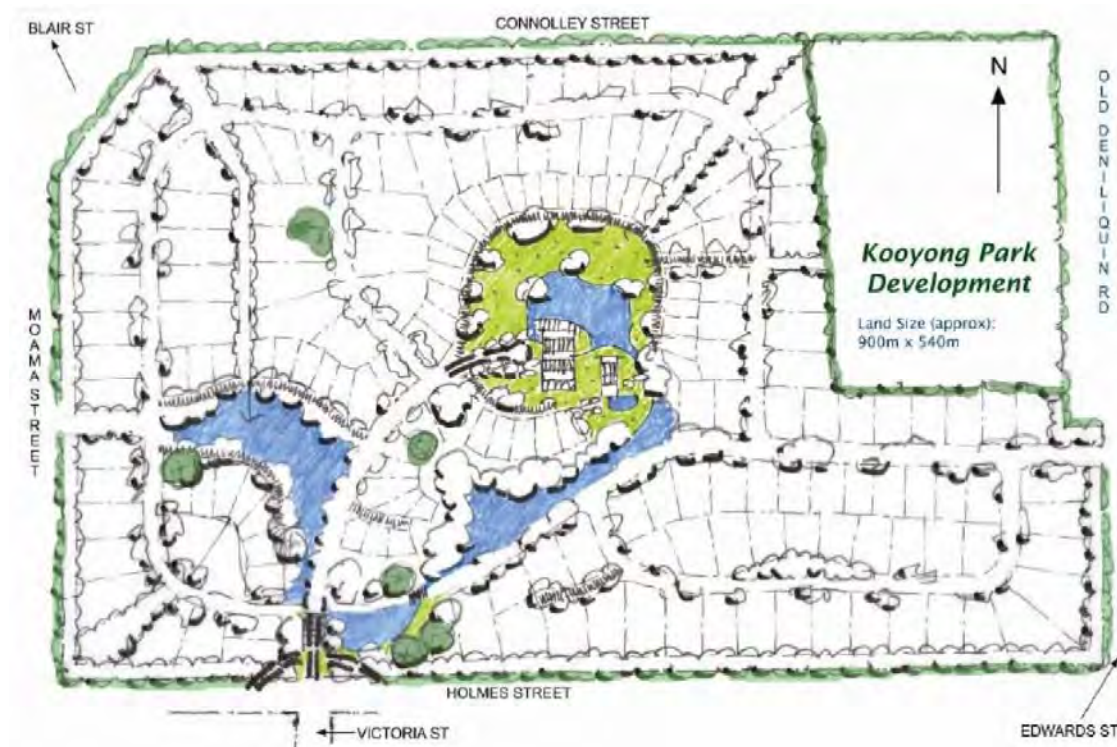


Figure 1: Kooyong Park Development concept layout plan 2007

The LES indicated that there were a range of development constraints applicable at that time, namely:

- Provisions of the current zoning
- Separation from the existing Moama community infrastructure
- The existing rural living style enjoyed by adjoining and adjacent properties
- Need to extend and augment service infrastructure
- Areas of vegetation, particularly on roadsides and adjacent lands
- Murray Regional Environmental Plan 2
- Proximity of site to Murray River and flood and inundation issues

- *Surface drainage at urban capacities and lack of stormwater infrastructure for urban development*
- *Ability to implement a cohesive levee system in the area to ensure access in times of inundation to other urban areas and services and infrastructure*
- *Lack of demographic information to support development*
- *Lack of flora and fauna survey material/seven part test data*
- *Lack of a Bushfire Management Plan for the site and surrounding roads*
- *Lack of archaeological data*
- *Lack of agricultural land use type assessment*

Opportunities for the development were outlined as follows:

- *Land being in one ownership*
- *Proximity to township*
- *Servicing advantages over more remote locations currently zoned for urban uses*
- *Proximity and access to Murray River and the Echuca-Moama urban areas*
- *Surrounding development being of a rural residential nature*
- *The land has some limitation owing to possible low level inundation*
- *Existing levee licence to provide additional protection for the site*
- *Relatively small amount of work (0.5 – 1m) in raising height of levee*
- *Agricultural activity is less than on other lands nominated for residential uses*
- *Area is remote from any serious conflicting land uses*
- *The site does not have a high visibility from public places*
- *Land configuration suitable for development proposal*
- *The site is nominated in Council 2030 Strategic land use strategy as suitable for further investigation*

In respect of development potential the LES noted:

It is considered that the benefits of retaining the site as rural use are outweighed by the proposal to rezone and develop.

One particularly unsatisfactory aspect of the LES accepted by Council was that despite the conclusion that the site was suitable for a combination of urban, semi-urban and conservation landuses the LES then proceeded to identify a wide range of further investigations that would be required to more fully assess any proposed development. That is, despite the land already having being identified within the draft SLUP as a “*Potential development site subject to further investigation*” the Coomes LES essentially reiterates this same position within a lengthy report.

As a consequence, with the benefit of hindsight, it could now be concluded that in many respects the LES was largely inadequate in that it raised more questions rather than providing any definitive answers as to central purpose of the Study namely “*the appropriateness of the subject land for rezoning.*”

This notwithstanding the following discussion is provided in response to each of the specific recommendations of the Coomes LES.

▪ **Demonstration of Development Potential**

23.1 Before any rezoning of the land, the proponent should undertake, and demonstrate to the satisfaction of Council, such work as would be necessary to justify the extent of the development proposed upon the site and the nominated allotment sizing.

COMMENT: It is a little difficult to reconcile this recommendation with commentary within the LES itself. That is, the LES notes that the landowner's preliminary strategy for development of the land was seen as being as a:

"...mature and appropriate position to adopt, as it is the outcome of a study, such as has been commissioned, that will eventually provide the basis of an informed and sound decision on the eventual rezoning and development of the land."

The recommendation therefore seems to be circuitous and somewhat at odds with discussion noted above in respect of development opportunities and potential. It is considered that this particular recommendation would be a more relevant outcome in respect of a subsequent Development Application phase where it would be normally expected that more detail of the design response including lot layout and sizing would be provided.

On the basis of the material that has been supplied in support of the planning proposal (except flood information) both at the time of the LES and subsequent to the LES it could only be concluded upon review that there has been a more than adequate demonstration of the development potential of the subject land.

▪ **Infrastructure Provision**

23.2 Before any rezoning of the land, the proponent should demonstrate to the satisfaction of Council, that the expected public outlay for the provision of the services (specifically electricity, street lighting, waste disposal; public road access and water supply) as may be necessary to service the development from an external source, are justified and can be provided at no additional ongoing cost to the Shire's existing community.

COMMENT: Again as with recommendation 23.1 above, it would seem that a detailed analysis of the costs associated with infrastructure provision would be a more appropriate consideration at the Development Application phase. The preparation of a detailed Services Report would precede any such application not only from a developer's due diligence perspective, but to also inform any possible consideration of developer contribution for such development. Ultimately contributions to service providers for relevant headworks would be provided to reflect public outlay. The costs however for extension of services (eg electricity, street lighting, road construction and water supply) would be at the cost of the developer not Council or any other service provider.

Having regard to the above, it is considered that this particular recommendation was unwarranted at that time and should not be regarded as an impediment to the Gateway process.

▪ **Drainage**

23.3 In considering the improvements to on-site drainage to enhance development opportunities the following works are recommended that:

- A hydrological survey be undertaken;*
- An analysis of the catchment area be undertaken;*

- A detailed flood study be undertaken to determine areas of inundation and determine access road levels;
- A stormwater drainage plan be prepared; and
- An environment protection and sediment control plan be prepared.

COMMENT: All matters raised within this particular recommendation are of relevance to the eventual development of the land, but only one, namely the need for a detailed flood study is considered to be relevant to the Gateway process. As previously noted within the Background discussion above at Section 1.1 this work remains outstanding.

▪ **Flora & Fauna**

23.4 In considering the development opportunities for the site, the following works are recommended:

- A comprehensive flora and fauna survey be undertaken, particularly in relation to the road verge adjacent to the site;
- A Seven Part Test should be undertaken, particularly in relation to the road verge adjacent to the site;
- A land use plan be designed to identify and incorporate the findings of the Study.

COMMENT: A Flora and Fauna Assessment – Stage 2 (November, 2011) prepared by Advanced Environmental Systems [AES] has concluded that no Threatened Species as listed under relevant State and Commonwealth legislation was found on site. Further that although suitable habitat could occur if grazing were to be removed, and that some species of birds and other fauna may transit the site on occasion, the development would not.

▪ **Archaeology**

23.5 Prior to a site rezoning, the studies listed below should be undertaken. The findings should then be the basis for any detailed site development plans and identify the development opportunities and constraints for the site:

- A full archaeological survey, the survey is to be both pre and post European settlement focused; and
- The findings of the studies are to be incorporated into the final design parameters for the site.

COMMENT: An Aboriginal and European Cultural Heritage Assessment (October, 2011) prepared by AES concluded that based on site investigation as well as consultation with the Moama Local Aboriginal Land Council that:

1. Development be allowed to proceed at “Kooyong Park Sustainable Development Stage 2” without further archaeological investigation;
2. The property owners should keep the Moama Land Council apprised of any artefacts unearthed and ensure that Aboriginal people have open access to any cultural heritage sites should they be uncovered during the course of the development.

▪ **Sewerage**

23.6 If rezoning is supported and effected, in considering the development opportunities the following works are recommended that:

- An analysis of possible treatment alternatives be undertaken;

- A land capability assessment, if on site disposal is proposed, be undertaken; and
- A preferred system be nominated.

COMMENT: It is not apparent why the Coomes recommendation highlights recommendations associated more appropriately with on-site waste water disposal.

As has been acknowledged by the proponent in submissions to Council dating back to 2007, it is to be expected that the development will be connected to reticulated sewer services, to the satisfaction of Council. Such an outcome should simply have negated the need to comply with this particular recommendation. Nevertheless, it is noted that a Preliminary Water and Sewer Report (October, 2012) has been prepared by DKP Hardiment Pty Ltd.

In respect of Sewer, it is noted that the site is capable of being connected to either the gravity network or alternatively directly into an existing sewer rising main. The report concludes that it is assumed that the existing sewer collection network can be augmented to a level where it can accept sewer discharge from the Kooyong Park Stage 2 development.

▪ **Water Supply**

23.7 If rezoning is supported and effected, in considering the development opportunities the following works are recommended that:

- An analysis of a possible potable supply source be undertaken;
- An analysis of a possible non potable supply be undertaken; and
- A preferred system be nominated.

COMMENT: As with recommendation 23.6 this particular recommendation also relates to any subsequent DA phase and should not have been regarded as an impediment to consideration of support for rezoning. Nevertheless it is noted that the proponent commissioned the abovementioned Water and Sewer Servicing Report (October, 2012 – DKPH), and that this report acknowledges that the Kooyong Park Stage 2 development can be readily connected to the existing Moama reticulated potable water supply network.

▪ **Bushfire Hazard**

23.8 Prior to support for a site rezoning a full Bush Fire Identification of Risk Study should be undertaken. If rezoning is supported and effected, in considering the development opportunities the following works are recommended that:

- Access for fire fighting and protection purposes be provided along the perimeter of the study area. Access is to be a minimum four metres wide with passing opportunities at regular intervals. The access is to be within 20-30m of the boundaries of the site.
- A buffer area of at least 30m wide be established on the boundaries of the site. The area is to be maintained as a fire break with minimal tree planting and easily accessible for annual fuel reduction programmes where appropriate.
- Promote implementation of ecologically sound bush fire control practices while not compromising the protection of lives and property. Consideration should be given to bush fire hazards when designing planting patterns, such as breaks in the vegetation to retard the spread of fire and consideration should also be given to the planting of indigenous fire retardant species.

COMMENT: A Bushfire Risk Assessment Report (November, 2011) prepared by AES in respect of the Stage 2 Development indicates that part of the site is bushfire prone largely as a consequence of being affected by buffer requirements

to adjacent roadside native vegetation. The report also notes however, that the relevant Bushfire Attack Level (BAL) is 19 and that an Assess Protection Zone of 10m can be easily achieved wholly on site.

▪ **Subdivision Matters**

23.9 If rezoning is supported and effected, in considering the development opportunities the following works are recommended:

- *A suitable allotment sizing for the development be adopted;*
- *A suitable chapter be prepared for the Murray Development Control Plan to direct and guide development on the site*
- *Suitable standards for the upgrading of the existing public roads in the area be adopted;*
- *A vegetation survey and Seven Part Test (see above) be undertaken; and*
- *A plan be prepared which nominates the road reserve landscaping with an aim of maintaining the visual amenity of surrounding landowners.*

COMMENT: As with a number of other recommendations, this particular recommendation actually has little relevance to consideration of support for the Gateway Process. It clearly is related to any subsequent Development Application phase.

▪ **Roads & Traffic**

23.10 If rezoning is supported and effected, in considering the development opportunities the following works are recommended that:

- *A flood free public road access be incorporated into the design;*
- *A traffic study be undertaken to identify any potential adverse impacts on the surrounding road systems and measures to minimise the impacts or mitigate them entirely; and*
- *Suitable standards be prepared for road improvements to existing road networks*

COMMENT: As with a number of other recommendations, this particular recommendation actually has little relevance to consideration of support for the Gateway Process. It clearly is related to any subsequent Development Application phase.

▪ **Development Matters**

23.11 If rezoning is supported and effected, in considering the development opportunities the following works are recommended that:

- *A Chapter of the Development Control Plan be prepared to control the redevelopment of the land;*
- *A detailed report be prepared to address the issues nominated in the Murray Regional Plan No 2 and/or the Murray Regional Strategy, as appropriate at that time.*
- *Council and the proponent undertake consultation to achieve an acceptable biodiversity framework to offset any vegetation loss that occurs*

COMMENT: As with a number of other recommendations, this particular recommendation actually has little relevance to consideration of support for the Gateway Process. It clearly is related to any subsequent Development Application phase.

▪ EDM Group Conclusions

It is difficult, even with the benefit of hindsight, to understand why the Coomes LES was not relied upon to support the retention of Kooyong Park within the SLUP. It is clear from an analysis of the various recommendations that the only critical outstanding matter was in respect of the lack of a detailed flood study. Either such a study should have been commissioned at the same time as the LES or alternatively such work should have been required as a matter of priority so as to be included as an addendum to the LES prior to the Council Meeting of 21 July 2009.

Be that as it may, such work still remains outstanding and in terms of any additional detailed site analysis, it clearly remains the responsibility of the proponent to undertake such work.

4.2 NSW DEPARTMENT OF PLANNING

The letter of the former NSW Department of Planning dated 14 May 2009 was received by Council in direct response to the referral of four LES's including the Coomes LES for Kooyong Park. This letter was largely framed in the context of the overall strategic work that was being undertaken in support of the comprehensive LEP. The letter clearly notes that Council was requested to establish:

"it own formal support or otherwise for each of the four sites. In this respect, Council overall LES should consider each of the four sites in the context of its own adopted Strategic Land Use Plan (SLUP) and the additional information requested in the Department's letter dated 4 February, 2009. Following that, Council is requested to provide a justified recommendation of support or otherwise for the four sites to be formally included in the overall SLUP."

The Department's letter also outlined additional information that should be provided to facilitate the completion of appropriately documented LES's for the proposed new release areas including Kooyong Park. In this case it is apparent that the Department's position was largely a reflection of the abovementioned Coomes LES recommendations.

Firstly, it is to be restated that at the time of this letter dated May 2009, the subject land was still included in the SLUP as a potential development site subject to further investigation.

Secondly, although not clearly documented, it is assumed that the conclusion drawn by Council at the time of considering the report to its 21 July 2009 meeting was that there were deemed to be other more suitable parcels of land that should take priority in satisfying land supply requirements for Moama.

This notwithstanding, this current Site Specific Review now requires a considered response to the Department's previous request for additional information. The following comments are therefore provided for the purposes of this current Review.

▪ The proposal is at variance with SLUP

COMMENT: As the subject land was already nominated within the 2009 SLUP as a potential development site the ongoing investigation of the proposal was effectively consistent with the SLUP. As a consequence it can only be concluded that this particular issue as raised by the Department was specifically related to the issue of flooding and the issue of the site's current protection by a rural levee only. In response it has always been understood that an appropriate detailed flood study should be prepared to respond to flood risk. This aspect of site investigation remains outstanding.

In relation to the existing levee, it is noted that DECCW has clearly indicated that the levee can be upgraded to an urban standard, providing adequate protection to the flood standard and minimising risk to an acceptable level.

As a consequence any detailed flood study should also address the specific works that would be required to protect the site in isolation to town levee standard including:

- *appropriate construction standards*
- *type of levee construction and associated footprints*
- *dealing with internal drainage*
- *access in times of flood*
- *impact on neighbouring property*
- *environmental impacts*
- *land management issues; and*
- *ongoing operation and maintenance.*

▪ **The SLUP focuses planned growth to avoid flood affected areas**

COMMENT: Again the issue of impacting upon flood prone land is fundamentally related to the existing rural levee being considered inappropriate. The SLUP at that time however offered opportunity for site development that importantly factored in any necessary levee upgrades. This aspect of site investigation remains outstanding.

▪ **Residential Land Supply Issues**

COMMENT: The strategic work associated with preparation of the SLUP will have necessarily factored in issues of land supply for the life of the SLUP. The subject land appears to have been removed from the SLUP not because of this consideration, but more particularly as a consequence of the flood issue. On the assumption that flooding could be appropriately addressed, it would seem that there was no oversupply scenario that would be reintroduced into the overall Moama market place.

Further as was acknowledged in the Salvestro Report as well as the Coomes LES, that the Kooyong Park Development could actually be regarded as not being standard residential rather it is more akin to a mixed use outcome that is directed at a different market sector than currently addressed in the Moama context.

▪ **Flooding and Bushfire Hazard Issues**

COMMENT: The flooding issue can be largely ameliorated by levee upgrade to urban standard. This is consistent with similar approaches within the region including but not limited to the “Riverlife Estate” at Barham in the neighbouring Wakool Shire LCA.

In respect of bushfire hazard an appropriate assessment has been prepared indicating the development of the site is readily capable of compliance with NSW RFS Guidelines.

▪ **Urban Fragmentation Issues**

COMMENT: The Department letter notes that areas directly to the east appear less constrained by urban fragmentation. This observation seems to ignore the significant development that has essentially “leap frogged” the subject land including “Moama on the Murray Resort”, “Moama Waters”, “Maidens Inn Holiday

Park” and “Deeluxe Riverspa Apartments”. While these are all so called “Tourist Development” sites, it is the case that all could also be characterised as being a form of urban development with residential tenancies varying from casual holiday visits to permanent residents, in detached moveable dwellings.

▪ **S117 Directions**

COMMENT: It is accepted that before any Planning Proposal could proceed to a Gateway Determination that relevant Section 117 Directions, SEPP's and REP's would need to be adequately addressed. This however, is not seen as an impediment to the overall consideration of the matter.

▪ **Agricultural capability issues**

COMMENT: The Coomes LES considered a range of landuse issues including the agricultural quality of the land. At that time the LES noted:

The site is and has for many years been utilised for agricultural purposes.

The current operations upon the land yield cropped hay, after extensive irrigation resources have been utilised. The land has been laser levelled and provided with irrigation for this agricultural purpose.

Adjoining land is not utilised in this manner, and is not held in common ownership with the site.

The existing road patterns in the area are not amenable to site amalgamation beyond the boundaries of the subject site.

The agricultural classification of the land is not in dispute, but rather it is argued that owing to the site's limited area, the subdivisional activity in the immediate vicinity of the site, and the site's proximity to the township of Moama has resulted in the request to rezone, owing to the economic realities that have made farming in the area non viable and unsustainable in the longer term.

Again as previously noted it is accepted that for any Planning Proposal to succeed that relevant Section 117 Directions, SEPP's and REP's would need to be adequately addressed. This would include consideration of State Environmental Planning Policy (Rural Lands) 2008. However as concluded above this issue is not seen as a significant impediment to the overall consideration of the matter.

▪ **Strategic Review of Moama Floodplain Management Strategy**

COMMENT: Issues associated with a need for a detailed flood study in respect of the subject land have already been discussed. Any such work will necessarily consider any impact of the development in accordance with the NSW Floodplain Development Manual.

▪ **Assessment of Environmental and Land Constraints**

COMMENT: Since the release of Coomes LES the proponent has commissioned a range of specialist reports to address a range of environmental and land constraint issues. Relevant reports include:

- *Aboriginal and European Cultural Heritage – Kooyong Park Stage 2 (Oct 2011)*
- *Soil Contamination Assessment (SEPP 55) – Kooyong Park Stage 2 (Nov 2011)*
- *Bush Fire Assessment – Kooyong Park Stage 2 (Nov 2011)*
- *Flora & Fauna Assessment – Kooyong Park Stage 2 (Nov 2011)*
- *Groundwater and Flood Assessment – Kooyong Park Lot Consolidation (Revised Jan 2012)*

- Preliminary Water & Sewer Servicing Report for proposed development of Kooyong Park Moama (Oct 2012)

▪ **Servicing and Infrastructure issues**

COMMENT: This issue simply restates the recommendation of the Coomes LES as discussed above.

▪ **Flora / Fauna and Cultural Heritage Assessment**

COMMENT: As discussed above.

▪ **SEPP 55 – Remediation of land**

COMMENT: As noted above, the proponent has since commissioned a Soil Contamination Assessment (Nov 2011) prepared by AES. Following soil sampling across the development site and subsequent analysis, the report concludes that no agricultural pesticide or herbicide contaminants were found in concentrations exceeding relevant health or environmental levels being well below the Limit of Reporting (LOR). The report concludes that there is no cause for soil contamination concerns in relation to the proposed development site.

▪ **Amenity issues associated with adjoining rail corridor**

COMMENT: This seems to be a rather curious local matter to be raised by the Department rather than being related to a broader strategic consideration. It certainly has not been raised within any strategic planning report (eg SLUP, Salvestro Report, Coomes LES) or within any of the lengthy Council officer reports on the Kooyong Park Development. Indeed, it is difficult to see what may have even generated such a concern given in particular, the extent of land zoned Residential that already borders the rail corridor.

If this was in fact a genuine concern, any future DA assessment could consider application of appropriate noise attenuation conditions such as noise barriers or acoustic treatment of dwellings.

▪ **Consideration of alternative sites**

COMMENT: The development proposal relates to the subject land. It is standard planning practice to consider such matters on a merits basis in respect of the proposed development site. It is not acceptable to consider that a proponent would be expected to canvas the availability of other land after an application has already been lodged. Such due diligence would be expected to have already been taken into consideration by the proponent. As a consequence, any proposal will instead either succeed or fail in respect of the subject land in question. Consideration of other sites is irrelevant in the circumstances.

▪ **EDM Group Conclusions**

Upon review it would seem that the abovementioned lack of clarity within the Coomes LES had a direct impact on the subsequent response of the Department of Planning.

Putting aside the range of issues that would be appropriately addressed at any subsequent DA phase it is once again apparent that the single stumbling point for the development proposal is the need for an up to date and detailed flood assessment report. That is, notwithstanding the AES report of November, 2011, any new report needs to:

- Be prepared by a suitably qualified floodplain management practitioner;

- Ensure that such an independent report references the current provisions of Murray LEP 2012, Murray DCP 2012 and Moama Strategic Landuse Plan 2010-2030;
- Acknowledge and respond to the draft Murray Regional Strategy;
- Reconcile the current stated Council position that rural levees should not be relied upon to designate land as being flood free;
- Comment on the changes over time to the flood prone land mapping that now includes the land within the area of land subject to inundation by the 1:100 flood.; and
- Discuss the specific works that would be required to protect the site in isolation to town levee standard including:-
 - appropriate construction standards
 - type of levee construction and associated footprints
 - dealing with internal drainage
 - access in times of flood
 - impact on neighbouring property
 - environmental impacts
 - land management issues; and
 - ongoing operation and maintenance.

5. MURRAY DCP 2012 – CHAPTER 6

Putting aside other strategic considerations as noted above (eg need for an updated independent flood study), the current Moama strategy as expressed within the Murray DCP 2012 – Chapter 6 is considered to be an obstacle for the current planning proposal. This notwithstanding what might otherwise appear to be a range of quite positive merits of the proposed development itself. These include:-

- Good use of what might otherwise be considered to be under-utilised land with high levels of amenity within close proximity of the Moama Town Centre;
- Being located in proximity of existing rural residential style development situated across lots that were formerly part of the ‘Old Moama Township’ area;
- The significant quasi-residential development which has effectively leap-frogged the subject land to the east under the apparent guise of “Tourist Development”;
- The ability to service the land with reticulated infrastructure including water and sewer;
- The potential for augmentation of an existing rural levee to a town levee standard so as to protect the site in isolation;
- The positive social and economic impacts for Moama and the Murray Shire from a well planned residential development that seeks to pursue sustainable environmental outcomes.
- The additional economic benefits from tourism promotion and neighbourhood business opportunities;
- The opportunity to pursue a range of environmental initiatives across an entire estate;
- The clear linkages with the approved Stage 1 in the south western corner of the property which has created 15 residential lots ranging in size from 1,759m² - 2,636m² plus a lot to cater for a Community Raw Water Supply.
- The apparent lack of constraint in terms of Aboriginal and European cultural heritage, flora and fauna considerations, bush fire hazard and soil contamination.

Having regard to this site specific review and analysis in respect of Kooyong Park, it is concluded that a more appropriate outcome at the time of the submission of the final draft Murray LEP to the Minister for approval would have been to have simply left the SLUP containing notation over the subject land stating:

“Potential development site subject to further investigation (including extension of town flood levee)”.

Such a designation would not have committed Council to any premature re-zoning of the land unless and until all necessary information was provided to allow consideration of a site specific rezoning at some future date.

In fact the current zone of the land being RU1 – Primary Production, is perhaps the best “holding” zone in the circumstances, and remains so until such time a Planning Proposal is otherwise supported by Council.

To have deleted this notation from the SLUP largely on the basis of flooding issues seems to have been an ‘overreaction’ to the matters raised within the Department

of Planning & Environment letter dated 14 May 2009. Certainly it appears today that a more considered response would have been to have not altered the SLUP while at the same time recommending the land remain zoned for rural landuse purposes.

On the basis that Council has now reached a point where it is prepared to entertain a fresh Planning Proposal for consideration under the Gateway Process, it is recommended that Moama DCP - Chapter 6 be amended to once again identify the subject land as a "Potential Development Site" as was the case up until the Council resolution of 21 July 2009.

While the SLUP has never been formally endorsed by the Department of Planning and Environment, this recommended course of action remains an appropriate outcome to provide a firmer strategic basis for any subsequent LEP review.

A draft Moama SLUP Amendment is provided at Appendix 1 of this report.

6. LEP AMENDMENT OPTIONS

One key issue that remains outstanding is the consideration of an appropriate possible future zoning of the land.

▪ **E4 Environmental Living & R2 or R5 Residential Zones**

The Coomes LES and as supported in principal by the Salvestro Report recommended that the E4 Environmental Living Zone be applied to the subject land. Despite this, it is clear that based on the information provided to date in respect of the planning proposal that the development would actually be more akin to a rural residential outcome as catered for by the R5 – Large Lot Residential Zone (or possibly the R2 Low Density Residential Zone). The E4 Zone on the other hand is a zone for land with special environment or scenic values where residential development can be accommodated.

As noted within the Department Practice Note (PN09-002) before applying the E4 Zone the environmental values of the land need to be clearly established. Development in this zone is to give priority to preservation of such values. The Practice Note also indicates that the E4 Zone generally needs to be supplemented by detailed provisions in the DCP.

By comparison the R5 Large Lot Residential Zone provides for residential housing in a rural setting while preserving and minimising impact on environmentally sensitive locations and scenic qualities. This was formerly known as a Rural Residential Zone.

The R2 Low Density Residential Zone provides for land comprised mainly of low density single dwelling housing where the planning objective is to protect the locality's character and landscape setting. The zone also allows for a variety of facilities and services to meet the needs of the community and residents.

Under any of these zone options Council would also need to consider whether it was appropriate to nominate a minimum lot size for subdivision purposes.

The issue that arises with Zone selection alone is that the proposal is essentially a mixed use residential / commercial development focussed on sustainability outcomes. As previously noted it is envisaged that the overall development will comprise a number of key components, namely:

- Conventional residential development (ie: lot sizes 500-1000m²);
- Low Density residential development (ie: lot sizes approx 2000m²);
- A 'Tourism/Hospitality' precinct; and
- Conservation and open space reserve areas.

As a consequence apart from consideration of the options for rezoning the land to the above mentioned E4, R2 or R5 Zones it is relevant to also consider a range additional options as provided for within the NSW Standard LEP.

▪ **Special Purpose Zone (SP1 - Special Activities)**

One option to consider would be application the SP1 Zone - Special Activities to the land. This particular zone is already applied under the provisions of the Murray LEP to two separate areas, namely the "*Moonaculla Community*" and "*Cummeragunja Community*" being the sites of former Aboriginal missions.

The objectives of SP1 zone are:

- *To provide for special land uses that are not provided for in other zones.*

- *To provide for sites with special natural characteristics that are not provided for in other zones.*
- *To facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and which minimises any adverse impacts on surrounding land.*

As noted this zone is generally intended for special land uses or sites with special characteristics that cannot be accommodated in other zones. This zoning type can also facilitate development that is in keeping with the special characteristics of the site or its existing or intended special uses by minimising any adverse impacts on the surrounding lands.

Apart from being able to acknowledge sites with special natural characteristics such as land owned and operated by various Aboriginal Land Councils (eg Moonaculla and Cummeragunja Communities as mentioned above and Yarra Bay House Estate in La Perouse, Sydney) other examples around NSW where the SP1 Zone has been applied include specialised activities such as large cemetery / historic precincts, correctional facilities, scientific, defence, communication and large community or religious facilities. These landuses can be located upon either government or non-government owned land and can comprise areas ranging from single parcels up to large land holdings. Due to their nature, special activities are generally situated in areas dominated by alternative land uses (eg. cemeteries within residential areas, airports in rural areas, utility installations in public open space areas.).

In addition it is also noted that the zone has been used by a number of Councils in a more flexible manner. One such example is the application of the SP1 Zone within the Eurobodalla LEP 2012 to land holdings in the vicinity of the Moruya Airport. In that case the SP1 Zone has two additional objectives namely:

- *To ensure the ongoing economic viability and growth of Moruya Airport as a regional transport facility.*
- *To encourage a range of commercial, industrial, recreational and residential land uses that are directly related to and compatible with the use of Moruya Airport.*

Despite the obvious flexibility that might be offered by such a zone it is apparent from recent consultation with the Department of Planning that it is intended that the SP1 Zone is generally to be limited to key infrastructure land or specialised activity areas only; and that there is an opinion that the zone should not be used for a different purpose in the future which cannot generally be accommodated in other zones.

▪ **Special Purpose Zone (SP3 – Tourist)**

Given the mixed use nature of the proposed development which includes as a core element a 'Tourism/Hospitality' precinct a second option to consider would be application of the SP3 Tourist zone. This particular zone is also one of the special purpose zones which in this case aims to encourage tourism related uses.

The objective of the SP3 Zone is:

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

The SP3 Zone is currently implemented under the provisions of the Murray LEP at four sites to the west of Moama including the Deep Creek and Perricoota Vines developments. Interestingly none of the Tourist development sites previously mention at Section 4.2.5 above nor the Perricoota Waters development to the east of Deep Creek have been included within this particular zone.

While this zone is an option it is considered that it would not necessarily be a satisfactory selection on the basis that the planning proposal contains a significant component of residential development on a range of residential lot sizes.

■ **Mixed Use Zone**

Given that the overall development of Kooyong Park would comprise a number of different components, namely:

- Conventional residential development (ie: lot sizes 500-1000m²);
- Low Density residential development (ie: lot sizes approx 2000m²);
- A 'Tourism/Hospitality' precinct; and
- Conservation and open space reserve areas.

it might appear that the Mixed Use Zone was also a viable option to consider. This particular zone is not currently applied within the Murray LEP.

The objectives of the Standard LEP B4 zone are:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

Notwithstanding a plain english interpretation of the name of the zone itself together with the objective to provide for a mixture of compatible landuses the B4 Zone is actually situated within the suite of Business Zones within the NSW Standard LEP. As such the zone essentially seeks to promote a 'live-work' environment by providing for higher density residential development integrated with a range of retail, business, light industrial and community uses.

As a consequence this option should be set aside.

■ **Additional Permitted Uses**

A much more viable option however involves either the maintenance of the existing RU1 – Primary Production Zone over the subject land or alternatively the selection of any other appropriate zone (eg R2 Low Density Residential Zone) but also applying the provisions of Clause 14 of the LEP in respect of "Additional permitted uses for particular land".

The clause is outlined as follows:

- (1) *Development on particular land that is described or referred to in Schedule 1 may be carried out:*
 - (a) *with consent, or*
 - (b) *if the Schedule so provides—without consent, in accordance with the conditions (if any) specified in that Schedule in relation to that development.*
- (2) *This clause has effect despite anything to the contrary in the Land Use Table or other provision of this Plan.*

Schedule 1 of the LEP could simply be amended to identify the subject land either by property description and/or alternatively by identification of an introduced "Additional Permitted Uses Map". In addition nominated development (eg subdivision, dwellings, tourist uses etc) would be outlined as being permitted with development consent.

In relation to Clause 1(b) above there are examples where the bounds of Schedule 1 have also been significantly expanded to essentially take on the form of a specific local provision. Within the Gosford LEP 2014 for example the Schedule 1

provisions in respect of *“Use of certain land at Avoca Drive, Avoca Beach”* includes details in respect of building height, building design, carparking, heritage, urban design as well as the establishment of design review panel and outlining Director-General concurrence provisions.

▪ **Additional Local Provisions**

This option can be considered either in isolation of and/or in conjunction with the above described “Additional Permitted Uses” Option.

That is, the LEP could be amended to include a specific local provision related to Kooyong Park and to introduce a “Development Map” which would identify the subject land as a Development Area. An example of this approach is Clause 7.19 of the Great Lakes LEP 2014 where a clause has been introduced to allow subdivision of particular land holding to any size subject to conditions.

Within the same LEP is an example of the second approach where a land holding is not only the subject of a local provision (ie Clause 7.18) which outlines specific provisions related to residential accommodation but the same land is also included within Schedule 1 as land affected by the “Additional Permitted Uses Map” allowing extractive industry with development consent.

The Lake Macquarie LEP 2014 also includes a number of variations of the above with:

- land included within Schedule 1 and identified within the “Additional Permitted Uses Map” only (with or without specific conditions);
- land included as above but also within an additional local provision clause providing greater detail in respect of development controls (eg Clause 7.18);
- land included within an additional local provision clause but also identified on a “Key Sites Map” (eg Clause 7.13); and
- land affected by a local provision clause only (eg Clause 7.15).

▪ **Minimum Lot Sizes**

The last option to consider is whether or not a minimum lot size should be specified across the whole of the subject land. This becomes a little more complicated if a single zone was to be selected. That is if the planning proposal was to supported by Council it is apparent that an appropriate response for the planning proposal would be one that acknowledges different development outcomes across the development from conventional lots through to low density residential lots.

In response various alternatives to consider would be to:

- select the smallest minimum lot size (eg 500m²) which wouldn't prohibit larger lots;
- select a larger minimum lot size (say 1800m²) which would effectively restrict all development to a low density residential outcome only;
- identify and map two separate precincts across the development site with different minimum lot sizes (eg 500m² and say 1800m²); or
- choose not to identify any minimum lot size across the development site and to instead introduce a local provision to permit subdivision to any size subject to conditions. This could also provide an opportunity for consideration of an overall density of development that might be better regulated by an average lot size across the entire site (eg say 150 residential lots with an overall average lot size of 2,500m² across the development area.) This approach would

facilitate a wider variety of lot sizes catering for housing choice across different market sectors.

6.1 CONCLUDING COMMENTS

As can be determined from the above there are a variety of options that Council could consider as an alternative to the E4 Environmental Living Zone recommended within the Coomes LES and as supported in principal by the Salvestro Report.

It is also noted that at the time of the preparation of the Coomes LES that the relatively new Standard Instrument LEP Program initiated in 2006 by the Department of Planning & Environment sought to create a common format and content for LEP's. The apparent flexibility as now noted above in various LEP's around the State is a more recent outcome that seeks to facilitate a more merits based approach to landuse planning rather than being unnecessarily constrained as perhaps was the case in 2009.

Without pre-empting the findings of any possible future flood risk assessment report prepared by a suitably qualified practitioner it is considered after an evaluation of the various options available that the most suitable outcome to consider might be:

- Rezoning the land to R5 – Large Lot Residential Zone without specifying a minimum lot size; and
- Introduction of a specific local provision related to Kooyong Park which would identify the subject land as a Development Area and that allows subdivision of land consistent with an approved Masterplan.

However before making a final decision upon such an outcome the necessary further analysis in respect of flood risk must be carried out to Council's satisfaction.

As a consequence it is considered that subject to any recommendations within an agreed comprehensive flood risk report, that should this matter then proceed to a Gateway Determination the Planning Proposal should further reconsider the various options available and in consultation with the NSW Department of Planning and Environment make a recommendation as to the most appropriate response for inclusion in a subsequently amended Murray LEP.

7. RECOMMENDATIONS

Having regard to the site specific review of Murray Shire Council's Strategic Landuse Plan for Moama and Murray DCP 2012 Chapter 6 and in particular the responses to the range of issues raised within the;

- Coomes Local Environmental Study February 2008; and
- NSW Department of Planning letter dated 14th May 2009'

the following recommendations are made:

1. The Strategic Landuse Plan for Moama and Murray DCP 2012 Chapter 6 be amended to reinstate notation over the subject land indicating Kooyong Park as: *"Potential development site subject to further investigation (including extension of town flood levee)"*.
2. That the applicant be given the opportunity to submit a site specific flood risk management plan prepared by a suitably qualified floodplain management practitioner, to provide additional justification for the submitted Planning Proposal in respect of Kooyong Park.
3. Subject to the findings and recommendations within a flood risk management plan that the independent planning assessment of the Planning Proposal be completed.
4. Any further independent planning assessment should also reconsider the various LEP amendment options available and in consultation with the NSW Department of Planning and Environment make a recommendation as to the most appropriate response for inclusion in the Murray LEP by way of the Gateway LEP Review process.

APPENDIX 1

AMENDED MOAMA SLUP

