

MURRAY RIVER COUNCIL

PO Box 21 Mathoura NSW 2710

Ph: 1300 087 004 Fax: 03 5884 3417

admin@murrayriver.nsw.gov.au

www.murrayriver.nsw.gov.au

Notice is hereby given that the **Ordinary Meeting** of Murray River Council will be held on **Tuesday 20th September 2016**, commencing at **1.00pm** in the **Multi-Function Room, Mathoura Visitor & Business Centre**, Cobb Highway, Mathoura.



Margot Stork

Interim General Manager

AGENDA

1. Acknowledgement of Country
2. Opening Prayer
3. Leave of Absence/Apologies
4. Conflict of Interest Declarations
5. Confirmation of Minutes:
 - *Ordinary Meeting on 2nd August 2016*
6. Deputations
7. Mayor's Minute
8. Standing Committee Reports
9. Notices of Motion/Notices of Rescission
10. General Manager's Report & Supplementary Matters
11. Officer's Reports & Supplementary Matters
12. Questions on Notice
13. Correspondence Report
14. Sundry Delegates Reports
15. Births and Condolences
16. Confidential Reports
 - *Please refer over the page for a detailed listing*
17. Notice of Urgent Business
18. Close of Meeting

DEPUTATIONS

NIL

INSPECTIONS

NIL

30. PRIVATE PLANNING PROPOSAL TO AMEND MURRAY LEP 2011 - REZONING OF LOTS 1, 2, 3 AND 4 DP 270496 FROM E3 ENVIRONMENTAL MANAGEMENT ZONE TO SP3 TOURIST ZONE

AUTHOR: Chris O'Brien – Town Planner
VENUE: Mathoura Visitor and Business Centre
TRIM Reference:

Issues Considered in writing report: Murray Strategic Land Use Plan, State, Regional and local planning directions, Council Policy, Legislation, Natural Environment, Built Environment, Social Environment, Economic Environment – issues applicable have been reported on.

RECOMMENDATION

- i. That the Officer's report be received and noted.
- ii. That the subject Planning Proposal be sent to NSW DPE for Gateway Determination.

BACKGROUND INFORMATION

Address: 'Tindarra Resort', Ran 79 Perricoota Road, Moama NSW 2731
Property: Lots 1, 2, 3 & 4 DP 270496
Owner: EMRR Pty Ltd
Applicant: Planning Ingenuity

Introduction

The process for preparing and amending a Local Environmental Plan (LEP) is stipulated in the *Environmental Planning and Assessment Act 1979* and covered within the NSW Department of Planning and Environment (NSW DPE) document entitled: '*A guide to preparing local environmental plans*', attached as Appendix 9.

The plan making process normally involves the following key components:-

- The preparation of a Planning Proposal
- The issuing of a Gateway determination
- Community and other consultation on the Planning Proposal (as required)
- Finalising the Planning Proposal
- Drafting of the LEP (plan)
- Making the plan
- Notifying the LEP on the NSW Government Legislation website

A Planning Proposal is a document that explains the intended effect of the proposed LEP and provides the justification for making it. 'A *guide to preparing planning proposals*', attached as Appendix 10 provides detailed advice on the preparation of a Planning Proposal.

Submitted Planning Proposal

The Applicant has supplied Council with a Planning Proposal pertaining to the subject land. The planning proposal seeks a Resolution of Council to send the planning proposal to NSW DPE for a 'gateway determination', in order to amend the Murray LEP 2011 via rezoning of the subject land from E3 Environmental Management to SP3 Tourist. As a result, the Land Zoning Map LZN_006B of the Murray LEP 2011 would require amendment. A copy of the submitted Planning Proposal is attached as Appendix 11 and Appendix 12.

Reason for planning proposal

DA 175/14 for the temporary use of land at Lot 3 DP 270496 (forming part of the subject land of the planning proposal) as a functions centre, installation of Temporary Structure (Marquee), Temporary formalisation of existing bar structure, and car parking facilities, was approved at an Ordinary Council meeting of the former Murray Shire Council on 8 December 2015. This was after the land had been holding functions (e.g. weddings) within a marquee in close proximity to the Murray River, for some time without any required development consents. The subject DA 175/14 is of a temporary nature only, with the consent due to expire either after 52 events have been held on the site, or 12 months from the date of consent, whichever comes first. Due to the landowner's desire to continue to utilise the subject land as a function centre to expand the tourism function of the business, a planning proposal to rezone the land from E3 Environmental Management to SP3 Tourist has been submitted. It is noted that the SP3 Tourist zone permits Function Centres with development consent, whilst the E3 Environmental Management zone prohibits Function Centres (noting that DA 175/14 only permits a function centre due to the use of Clause 2.8 'Temporary use of land' of the Murray LEP 2011). DA 175/14 is attached as Appendix 13, Appendix 14 and Appendix 15.

Subject land

The subject land is Lots 1, 2, 3 and 4 DP 270496, currently known as "Tindarra Resort", located at RAN 79 Perricoota Road, Moama NSW 2731. The subject land is zoned E3 Environmental Management, and directly adjoins the main channel of the Murray River, which is zoned W2 Recreational Waterways. The entire subject land is mapped as Murray REP2 Riverine Land and Flood Prone Land, whilst part of the subject land is mapped as Bush Fire Prone Land, Wetlands, Terrestrial Biodiversity (Native Vegetation), and Key Fish Habitat (Aquatic Biodiversity). The subject land is not mapped as an Urban Release Area, Contaminated Land or Mining Resources. The Murray River is classed as a Watercourse under the Murray LEP 2011.

The subject land is currently utilised as 'Tindarra Resort', an accommodation resort containing tourist cabins. Tindarra Resort also provides for functions such as weddings etc. within the temporary marquee. The subject land is located upon the bank of the Murray River and set amongst mature native vegetation. The subject land contains a 10m wide easement for electricity purposes benefiting Essential Energy, along with a water dam and manager's

residence. The subject land is adjoined by residential property to the north-west and east. The subject land also contains an open sided hay-shed-like structure, and what appears to be the base of an older style water tank structure. There are no known items of environmental heritage significance located on the subject land; however a plaque recognising an important property which was outlined on a recently discovered map of the Moama area dated 1851 is located onsite.

Access to the subject land is via Perricoota Road. See the below Figures for more information.

Figure 1 – Subject land (highlighted by orange and purple shading, along with white sections contained within this shading)

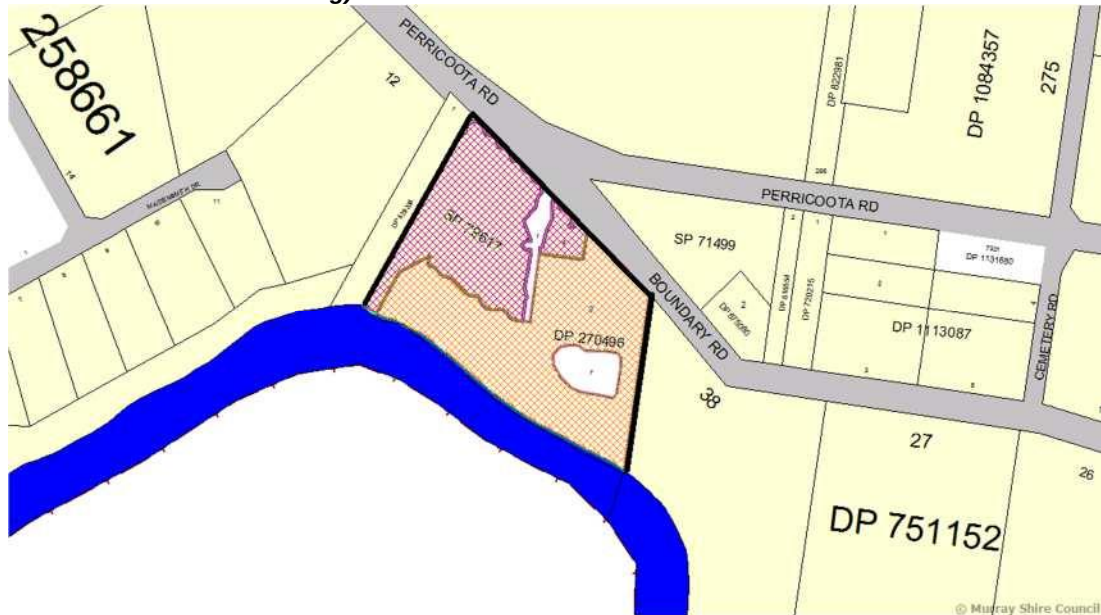


Figure 2 – Aerial Photograph of subject land – Photo taken 7 November 2015



Figure 3 – Current zoning – E3 Environmental Management Zone indicated by orange shading



Figure 4 – Murray REP2 Riverine mapping



Figure 5 – Current URA mapping coverage (blue shading) The subject land is not mapped as an URA.

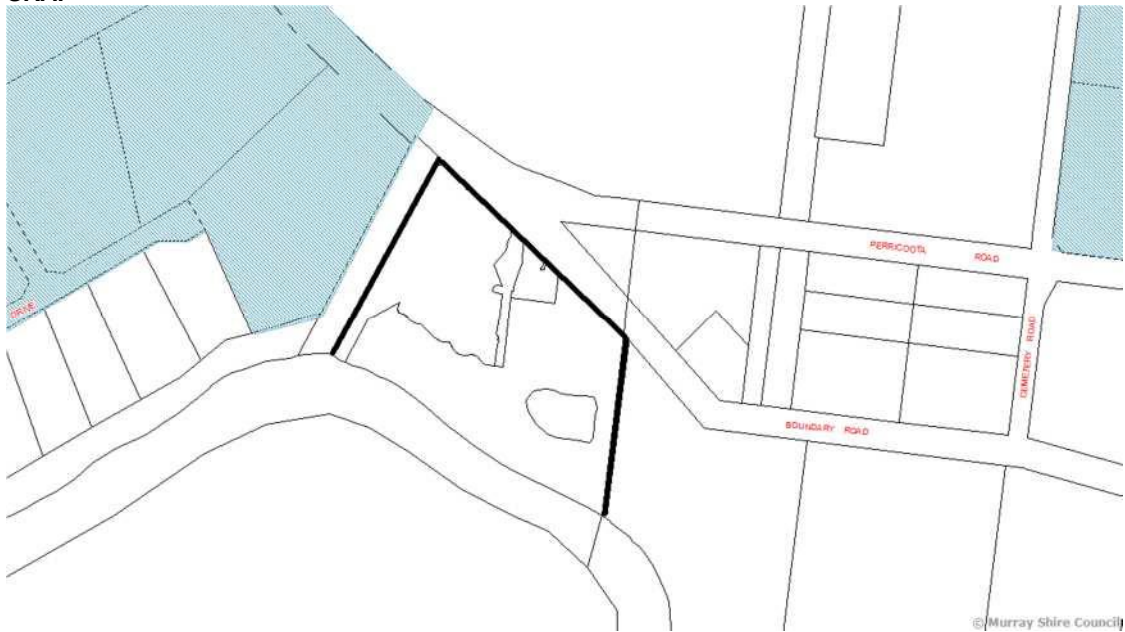


Figure 6 – Flood prone land mapping



Figure 7 – Bush fire prone land mapping



Figure 8 – Terrestrial Biodiversity mapping (Native Vegetation)



Figure 9 – Key Fish Habitat mapping (Aquatic Biodiversity)

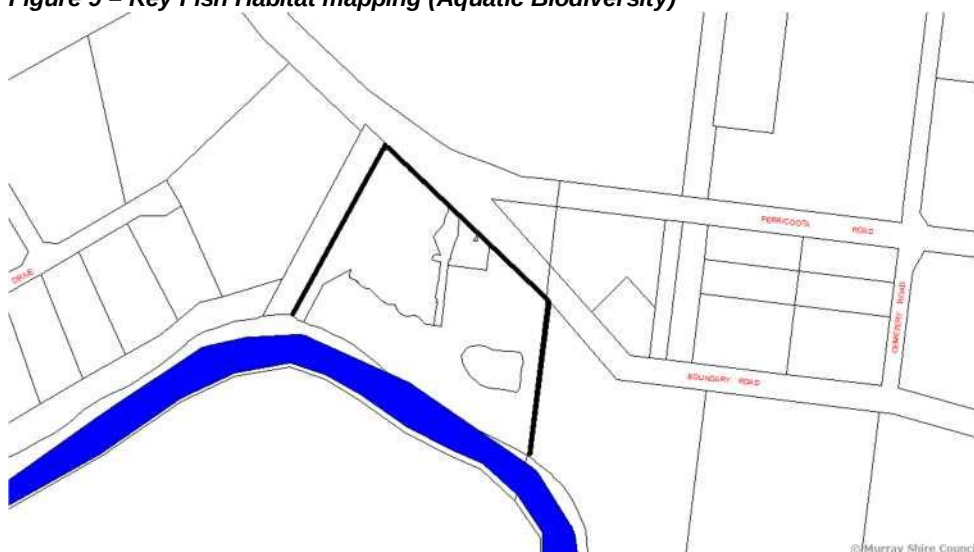
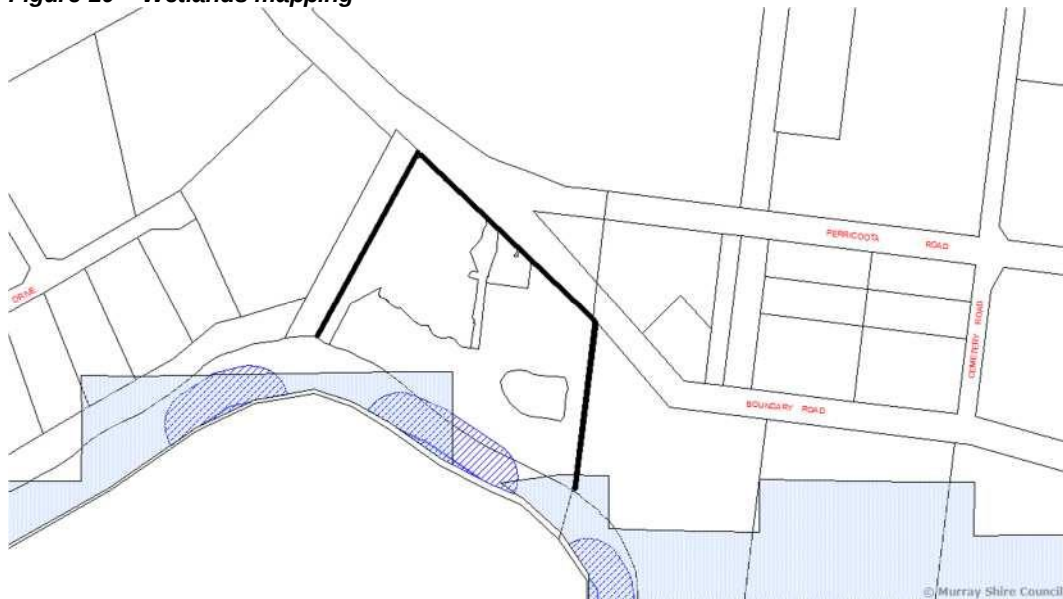


Figure 10 – Wetlands mapping



Assessment of Planning Proposal submitted to Murray River Council (Relevant Planning Authority)

Part 1 - Objectives or Intended Outcomes

Comment: This section of the planning proposal requires the Applicant to provide a short, concise statement setting out the objectives and intended outcomes of the Planning Proposal. The Applicant has advised that the intended outcome of the Planning Proposal is to rezone the subject land from E3 Environmental Management to SP3 Tourist. The Applicant is considered to have provided a suitable statement in response to this Part. See tabled Planning Proposal for further information.

Part 2 - Explanation of Provisions

Comment: This section of the planning proposal is required to demonstrate how the objectives or intended outcomes are proposed to be achieved. The Applicant has advised that the Planning Proposal is seeking to achieve the intended outcomes listed in Part 1 via rezoning of the subject land from E3 Environmental Management to SP3 Tourist. The Applicant is considered to have provided a suitable statement in response to this Part. See tabled Planning Proposal for further information.

Part 3 – Justification

Section A – Need for the planning proposal

Q1. Is the planning proposal a result of any strategic study or report?

Comment: The Applicant has advised that the planning proposal is not a result of any strategic study or report, but instead is the outcome of 'site investigations, development application history and a review and comparison of the planning provisions related to other sites in the locality used for similar purposes'. It is considered that the Applicant has satisfactorily addressed Question One.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Comment: The Applicant has advised that the planning proposal is the best means of achieving the objectives or intended outcomes. It is considered that the Applicant has satisfactorily addressed Question Two.

Section B – Relationship to strategic planning framework

Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Comment: It is noted that an amended Draft Riverina Murray Regional Plan was released by NSW DPE in April 2016 (attached as Appendix 16). The applicant has advised that the Planning Proposal is consistent with the four main goals of the plan. See the submitted Planning Proposal for more information. Council staff have also compiled the following more detailed assessment against the draft plan.

Direction 1.1 – Grow the economic potential of the agribusiness sector

Action 1.1.1 – Provide enabling planning controls to facilitate diversification and attract investment in the agribusiness sector

Comment: The Planning Proposal is not inconsistent with this action. The Planning Proposal does not affect rural land and will have no adverse impact on flexible planning controls which have the potential to provide diversification and attract investment in the agribusiness sector.

Action 1.1.2 – Encourage value-add manufacturing opportunities across the region to increase regional economic diversification

Comment: The Planning Proposal is not inconsistent with this action. The Planning Proposal does not pose an adverse impact to value-added manufacturing of agriculture opportunities, the export of regional agricultural commodities, the strategic positioning of future value-add enterprises, or manufacturing and intensive operations. The planning proposal will not inhibit the encouragement of value-add manufacturing opportunities to increase regional economic diversification in agriculture and agribusiness, and will not adversely affect the factors which enable future agricultural enterprise to harness innovation technologies or agricultural research.

Direction 2 – Manage productive agricultural lands in a sustainable way

Action 1.2.1- Identify and protect regionally important productive agricultural lands

Comment: The Planning Proposal is not inconsistent with this action. The planning proposal will not adversely impact resource availability and will not adversely affect agricultural efficiency or pose fragmentation of productive rural lands. The planning proposal does not seek to rezone any rural land, and will not adversely affect the agricultural supply chain or State significant agricultural lands.

Action 1.2.2 – Establish a strategic planning framework that protects the productive values of agricultural land and manages land use conflict

Comment: The Planning Proposal is not inconsistent with this action. The proposal will not inhibit the delivery of strategic plans and policies to protect rural land uses, natural resources, developing industries, or dependent industries and communities, and is not predicted to result in land use conflict.

Action 1.2.3 – Encourage the increased use of biosecurity measures to protect the regions agricultural assets

Comment: The Planning Proposal is not inconsistent with this action. The Planning Proposal is not considered to present a biosecurity risk to the region or locality.

Direction 1.3 – Manage and use the regions natural resource sustainably

Action 1.3.1 – Support the sustainable use and conservation of water resources

Comment: The Planning Proposal is not inconsistent with this action. The planning proposal is not considered to adversely impact water resources, water catchments, or watercourses. The applicant has stated that any subsequent development application will address compatibility with the riverine environment. The planning proposal will not generate significant pressure on urban water supply.

Action 1.3.2 – Protect areas of mineral and energy, extractive and renewable energy potential

Comment: The Planning Proposal is not inconsistent with this action, and will have no affect on the aim of the plan to protect the regions natural resource base and renewable energy infrastructure potential.

Action 1.3.3 – Avoid urban expansion and rural residential development on productive agricultural land identified mineral resource and energy resources

Comment: The Planning Proposal is not inconsistent with this action. The Planning Proposal does not propose the rezoning of any RU1 Primary Production zoned land.

Action 1.3.4 – Implement the NSW Renewable Energy Plan to increase renewable energy generation

Comment: The Planning Proposal is not considered inconsistent with this action. The planning proposal has no effect on the implementation of this plan.

Action 1.3.5 – Support the protection of native and plantation forests from encroachment

Comment: The Planning Proposal is not inconsistent with this action. The planning proposal has no effect on the considerations discussed within this action.

Direction 2.1 – Enhance the regions freight networks through coordinated investment

Action 2.1.1 - Identify and prioritise pinch points in the freight network

Comment: The Planning Proposal is not considered inconsistent with this action. The planning proposal has no effect on the considerations discussed within this action. The planning proposal is not considered to pose any impact to freight efficiency, future bypasses or bridge crossings (including the Moama Echuca Bridge Crossing upgrade).

Action 2.1.2 - Identify and protect intermodal freight terminals to facilitate growth in the freight and logistics sector

Comment: The Planning Proposal is not inconsistent with this action. The planning proposal has no effect on the considerations discussed within this action.

Action 2.1.3 - Identify and prioritise opportunities to improve regionally significant local road connections

Comment: The Planning Proposal is not inconsistent with this action. The planning proposal has no effect on the considerations discussed within this action.

Action 2.1.4 – Work with the Australian Government on the proposed Melbourne-Brisbane inland rail corridor

Comment: The Planning Proposal is not inconsistent with this action, and has no effect on the considerations discussed within this action.

Direction 2.2 – Improve inter-regional transport services

Action 2.2.1 – Implement local planning controls that protect regional airports from the encroachment of incompatible land uses

Comment: The Planning Proposal is not inconsistent with this action, and has no effect on the considerations discussed within this action.

Action 2.2.2 – Identify and protect future rail corridors

Comment: The Planning Proposal is not inconsistent with this action, and has no effect on the considerations discussed within this action.

Direction 2.3 – Coordinate infrastructure delivery to facilitate economic opportunities

Action 2.3.1 – Coordinate the delivery of infrastructure to support the future needs of residents, business and industry

Comment: The Planning Proposal is not inconsistent with this action, and is not considered to pose an adverse impact with respect to supply of energy, waste services, water, or telecommunication within the region and locality.

Action 2.3.2 – Establish monitoring mechanisms to enable better demand forecasting to inform infrastructure coordination

Comment: The Planning Proposal is not inconsistent with this action. The planning proposal has no effect on the considerations discussed within this action.

Direction 3.1 – Grow the regional cities of Albury, Wagga Wagga and Griffith

Action 3.1.1 – Develop a regional cities strategies for Albury, Wagga Wagga and Griffith

Comment: The Planning Proposal is not inconsistent with this action and has no effect on the considerations discussed within this action.

Action 3.1.2 – Implement an industrial land monitoring program to maintain a supply of well-located and serviced industrial land

Comment: The Planning Proposal is not inconsistent with this action and has no effect on the considerations discussed within this action.

Action 3.1.3 – Develop and deliver strategies that strengthen the commercial function of the CBDs and town centres

Comment: The Planning Proposal is not inconsistent with this action and has no effect on the considerations discussed within this action.

Direction 3.2 – Enhance the liveability and economic prosperity of the region's towns and villages

Action 3.2.1 – Deliver improved tools and partnerships to build community capacity in towns and villages to strengthen community resilience

Comment: The Planning Proposal is not inconsistent with this action and will not adversely impact on community resilience or the alleviation of skill shortage, particularly in the agribusiness sector.

Action 3.2.2 – Support the continued identification and protection of the region's heritage

Comment: The Planning Proposal is not inconsistent with this action. The planning proposal will not impact the consideration of the heritage within the planning system, heritage protection, promotion, or management of heritage assets.

Action 3.2.3 – Deliver enabling planning controls to diversify regional tourism markets and increase tourism opportunities

Comment: It is considered that the Planning Proposal is consistent with this action. The planning proposal will continue to promote tourism within Murray River Council and has the potential to continue to provide diversity to the tourism market, and is not inconsistent with the aims of the Murray Regional Tourism Board.

Action 3.2.4 – Deliver regionally specific urban design guidelines

Comment: The Planning Proposal is not inconsistent with this action and will not impact the delivery of such guidelines.

Action 3.2.5 – Identify opportunities to provide improved and increased transport connections between the region's town and villages to the regional cities

Comment: The Planning Proposal is not inconsistent with this action.

Direction 3.3 – Enhance the economic self-determination of Aboriginal communities

Action 3.3.1 – Conduct a strategic assessment of land held by the region's Local Aboriginal Land Councils to identify priority sites for further investigation of their economic opportunities

Comment: The Planning Proposal is not inconsistent with this action. The planning proposal has no effect on the considerations discussed within this action.

Direction 3.4 – Provide a continuous supply of appropriate housing to suit the different lifestyles and needs of the region's population

Action 3.4.1 – Deliver enabling planning controls that facilitate an increased range of housing options including infill housing close to existing jobs and services

Comment: The Planning Proposal is not inconsistent with this action. The planning proposal has no effect on the implementation of considerations discussed within this action.

Action 3.4.2 - Facilitate a more diverse range of housing for seniors

Comment: The Planning Proposal is not inconsistent with this action.

Action 3.4.3 Develop a framework to facilitate a range of accommodation options for itinerant workers

Comment: The Planning Proposal is not inconsistent with this action and has little effect on the considerations discussed within this action.

Action 3.4.4 – Develop and implement principles for rural residential development

Comment: The Planning Proposal is not inconsistent with this action and has little effect on the considerations discussed within this action.

Action 3.4.5 – Facilitate the delivery of more affordable housing options through improved planning policies

Comment: The Planning Proposal is not inconsistent with this action and has little effect on the considerations discussed within this action.

Direction 3.5 – Enhance connections and planning between cross-border communities to improve service quality and infrastructure delivery

Action 3.5.1 – Investigate opportunities to improve cross-border planning outcomes, including infrastructure and service delivery

Comment: It is considered that the Planning Proposal is consistent with this action. The submitted planning proposal has the potential to further promote a cohesive cross border community, as the subject site has the potential to be utilised by citizens from both sides of the Murray River.

Action 3.5.2 – develop a cross-border land monitoring program

Comment: The Planning Proposal is not inconsistent with this action and will not inhibit improved tracking and forecasting of housing and employment of land release within the region.

Direction 4.1 – Protect the nationally significant Murray River

Action 4.1.1 – Actively manage settlement and competing land uses along the Murray River

Comment: It is considered that the planning proposal is not inconsistent with this action. The submitted planning proposal seeks permission to amend the zoning of the subject land from E3 Environmental Management to SP3 Tourist. By default, the setback provisions affecting the subject land would therefore be reduced from 100m to 40m if the planning proposal is successful. Although this is a reduction in the setback requirements specific to the subject land, any subsequent development on the subject land is required to be assessed on its merits. This will continue to ensure that the nationally significant Murray River is protected from adverse impact.

Direction 4.2- Protect the region's environmental assets and biodiversity values

Action 4.2.1 – Facilitate improved access to quality information relating to high environmental values, to avoid, minimise and mitigate the impacts of development on significant environmental assets

Comment: The Planning Proposal is not inconsistent with this action. It is considered that the submitted planning proposal is not inconsistent with the requirement to protect key environmental assets (including the Murray River). All development applications will continue to be assessed on their merits against the requirements of Section 79C of the Act.

Action 4.2.2 – Maintain healthy waterways and wetlands, including downstream environments

Comment: The Planning Proposal is not inconsistent with this action. It is considered that the submitted planning proposal will not significantly adversely impact upon the adjoining Murray River, which is a key fish habitat and nationally important natural watercourse. Any subsequent development on the subject land will continue to be assessed on their merits against the requirements of Section 79C of the Act.

Direction 4.3 – Increase the region's resilience to natural hazards

Action 4.3.1 – Review and map natural hazard risks to inform land use planning decisions

Comment: The Planning Proposal is not inconsistent with this action. The subject land is mapped as Flood Prone Land and partially mapped as Bush Fire Prone Land. It is considered that the submitted planning proposal will not increase the natural hazard risks associated with the subject land. Any subsequent development on the subject land will continue to be assessed on their merits against the requirements of Section 79C of the Act.

Action 4.3.2 – Support communities to build resilience to the impacts of natural hazards and climate change

Comment: The Planning Proposal is not inconsistent with this action.

Action 4.3.3 – Minimise the potential impacts of naturally occurring asbestos on communities

Comment: The Planning Proposal is not inconsistent with this action.

It is also noted that the planning proposal is not inconsistent with Council's Community Strategic Plan 2015/2016 – 2024/25.

The planning proposal is considered to have suitably addressed the requirements of Question 3.

Strategic Merit

Comment: Throughout the various sections of the Planning Proposal, the Applicant has suitably demonstrated the strategic merit of the planning proposal. Although not specifically addressed in this Part of the Planning Proposal, there is no applicable local strategy endorsed by the Secretary of Department of Planning and Environment affecting this area of Murray River Council. Subsequent sections of the Planning Proposal also demonstrate compliance with the relevant Section 117 Directions and the suitability of the subject land for the proposed rezoning based on the existing use of the subject land, and its close proximity to existing, infrastructure, and environmental features. The planning proposal is considered not incompatible with the surrounding land uses, the natural environment, existing uses, approved uses and the future use of land in the vicinity of the planning proposal. The Applicant is considered to have suitably addressed the assessment requirements.

Q4. Is the planning proposal consistent with a Council's local strategy or other local strategic plan?

Comment: The Murray Strategic Land Use Plan 2010-2030 (SLUP) is applicable. The SLUP has been adopted by Council and has been in operation for some time; however has not been endorsed by NSW DPE. A copy of the SLUP is attached as Appendix 17. The purpose of the SLUP is outlined below:

"The overall purpose of the SLUP is to guide the future development and use of land within the Shire for the next 20 years and beyond. More specifically the purpose of the SLUP is to assist in:

- *preparing a new Shire-wide Local Environmental Plan;*
- *providing the community with a degree of certainty for the location of various land uses in the future;*
- *maintaining in production agricultural land not required for urban expansion;*
- *protecting the riverine environment from use and development detrimental to it;*
- *separating incompatible land uses;*
- *reducing development speculation;*
- *considering tourist development proposals; and*
- *discouraging development on flood prone land.*

It is considered that the planning proposal is not inconsistent with the overall purpose and specific purposes on the Murray SLUP. The planning proposal will allow for the future development and use of land within the Council for the next 20 years and beyond, and will provide the community with a degree of certainty for the location of various land uses in the future. The planning proposal will not impact productive agricultural land, and assessment of any subsequent development applications enabled by the proposed rezoning will not result in adverse impacts upon the riverine environment. The SLUP lists the subject land as currently being 'rural floodplain', however is surrounded by tourist/residential land to the north east, and west. Please see the tourist development section of the SLUP below:

Tourist Development

"Moama features a wide range of tourist accommodation and related facilities and has experienced a boom in this type of development over the past 10 years. It is reasonable to presume that tourist activities and accommodation will continue to expand in Moama.

More recently there has been a trend away from the traditional caravan park type establishment to developments incorporating 'upmarket' cabins that are more akin to residential units. To maximise the tourist benefit, the larger of these developments generally seek to locate out of Moama on the river and this can create potential infrastructure problems for Council and environmental impacts. There are few sites remaining within Moama suitable for tourist development that are in close proximity to the river and above the flood level.

The strategic response is to identify land within and out of Moama that is below the 1 in 100 year flood level and restrict its use through an LEP. Although tourist development can generally co-exist with residential development without too many problems, it is considered good strategy to nominate areas preferred exclusively for residential. This allows for tourist development to be focussed on particular precincts and minimise the risk of land use conflict".

Due to the nature of the subject land, it is considered that the planning proposal is not inconsistent with the SLUP. The planning proposal is unlikely to create any significant land use conflict. Although the subject land directly adjoins residential land, any development of the land will be subject to a merits based development application assessment, which will be required to address all relevant environmental planning considerations. It is also noted that the subject land has been used for tourism related purposes for a period of time in accordance with previous development consents applying to the land.

Strategic Area (B) (Environmental Planning) of Council's Community Strategic Plan 2015/2016 – 2024/25 is also applicable, and sets out an objective to develop and implement strategic plans and planning instruments to ensure development occurs in an environmentally responsible and consistent manner. A copy of this document is attached as Appendix 18. A key measure of control set out in the Community Strategic Plan is compliance with the Murray LEP 2011.

Any subsequent development of the subject land would be subject to a merit based assessment against the Murray LEP 2011 and all other relevant legislation.

The Applicant has also assessed the planning proposal against the Murray Region Tourism Designation Management Plan, developed by Urban Enterprise on behalf of the Murray Regional Tourism Board. Please see the Applicants submitted response to Question 4 for further detail. It is considered that the Applicant has satisfactorily addressed Question 4.

Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Comment: As detailed in the submitted planning proposal, the Applicant has stated that the subject proposal is not inconsistent with all applicable State Environmental Planning Policies. Please see submitted planning proposal and State Environmental Planning Policies below for more information.

State Environmental Planning Policy (Affordable Rental Housing) 2009

Comment: Not applicable to the subject planning proposal. No additional opportunities for affordable rental housing will be created as a result of the planning proposal.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

Comment: Not applicable to the subject planning proposal. No additional opportunities for BASIX affected development will be created as a result of the planning proposal.

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

Part 1 General

Clause 1.3 Aims of Policy

This Policy aims to provide streamlined assessment processes for development that complies with specified development standards by:

- (a) providing exempt and complying development codes that have State-wide application, and*
- (b) identifying, in the exempt development codes, types of development that are of minimal environmental impact that may be carried out without the need for development consent, and*
- (c) identifying, in the complying development codes, types of complying development that may be carried out in accordance with a complying development certificate as defined in the Act, and*
- (d) enabling the progressive extension of the types of development in this Policy, and*
- (e) providing transitional arrangements for the introduction of the State-wide codes, including the amendment of other environmental planning instruments*

Comment: It is considered that the planning proposal is consistent with the aims and intent of this Policy. The planning proposal does not adversely affect existing exempt and complying development requirements.

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

Comment: The Applicant has provided a suitable assessment against this SEPP. See submitted Planning Proposal for more detail.

State Environmental Planning Policy (Infrastructure) 2007

Comment: The Applicant has provided a suitable assessment against this SEPP. See submitted Planning Proposal for more detail.

State Environmental Planning Policy (Kosciuszko National Park—Alpine Resorts) 2007

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy (Kurnell Peninsula) 1989

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007

Part 1 Preliminary

Clause 2 Aims of Policy

The aims of this Policy are, in recognition of the importance to New South Wales of mining, petroleum production and extractive industries:

- (a) to provide for the proper management and development of mineral, petroleum and extractive material resources for the purpose of promoting the social and economic welfare of the State, and*
- (b) to facilitate the orderly and economic use and development of land containing mineral, petroleum and extractive material resources, and*
- (b1) to promote the development of significant mineral resources, and*
- (c) to establish appropriate planning controls to encourage ecologically sustainable development through the environmental assessment, and sustainable management, of development of mineral, petroleum and extractive material resources, and*
- (d) to establish a gateway assessment process for certain mining and petroleum (oil and gas) development:*
 - i. to recognise the importance of agricultural resources, and*
 - ii. to ensure protection of strategic agricultural land and water resources, and*
 - iii. to ensure a balanced use of land by potentially competing industries, and*
 - iv. to provide for the sustainable growth of mining, petroleum and agricultural industries.*

Comment: It is considered that the planning proposal is consistent with the aims and intent of this Policy. The planning proposal does not adversely affect existing requirements outlined within the Policy.

State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007

Comment: The Applicant has provided a suitable assessment against this SEPP. See submitted Planning Proposal for more detail.

State Environmental Planning Policy (Penrith Lakes Scheme) 1989

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy (Rural Lands) 2008

Comment: Not applicable. The subject land is not rural land.

State Environmental Planning Policy (SEPP 53 Transitional Provisions) 2011

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy (State and Regional Development) 2011

Part 1 Preliminary

Clause 3 Aims of Policy

The aims of this Policy are as follows:

- (a) to identify development that is State significant development,*
- (b) to identify development that is State significant infrastructure and critical State significant infrastructure,*
- (c) to confer functions on joint regional planning panels to determine development applications.*

Comment: It is considered that the planning proposal is consistent with the aims and intent of this Policy. The planning proposal does not adversely affect existing requirements outlined within the Policy.

State Environmental Planning Policy (State Significant Precincts) 2005

Comment: The planning proposal does not affect State Significant Precincts.

State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy (Sydney Region Growth Centres) 2006

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy (Three Ports) 2013

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy (Urban Renewal) 2010

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy (Western Sydney Employment Area) 2009

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy (Western Sydney Parklands) 2009

Comment: Not applicable to Murray River Council.

Murray Regional Environmental Plan No 2—Riverine Land

Comment: The Applicant has provided a suitable assessment against this deemed SEPP. See submitted Planning Proposal for more detail.

State Environmental Planning Policy No 1—Development Standards

Comment: Not applicable to the Murray LEP 2011.

State Environmental Planning Policy No 14—Coastal Wetlands

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy No 15—Rural Landsharing Communities

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy No 19—Bushland in Urban Areas

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy No 21—Caravan Parks

Comment: The Applicant has provided a suitable assessment against this SEPP. See submitted Planning Proposal for more detail.

State Environmental Planning Policy No 26—Littoral Rainforests

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy No 29—Western Sydney Recreation Area

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy No 30—Intensive Agriculture

Comment: Not applicable.

State Environmental Planning Policy No 32—Urban Consolidation (Redevelopment of Urban Land)

Comment: No urban land is to be affected by the planning proposal.

State Environmental Planning Policy No 33—Hazardous and Offensive Development

Comment: Not applicable. Hazardous and/or offensive development, or potentially hazardous and offensive development is not permitted on SP3 Tourist zoned land.

State Environmental Planning Policy No 36—Manufactured Home Estates

Comment: The Applicant has provided a suitable assessment against this SEPP. See submitted Planning Proposal for more detail.

State Environmental Planning Policy No 39—Spit Island Bird Habitat

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy No 44—Koala Habitat Protection

Comment: The Applicant has provided a suitable assessment against this SEPP. See submitted Planning Proposal for more detail.

State Environmental Planning Policy No 47—Moore Park Showground

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy No 50—Canal Estate Development

Comment: The planning proposal is consistent with the aims, objectives etc. of this Policy. The planning proposal will not adversely impact upon the requirements of this Policy.

State Environmental Planning Policy No 52—Farm Dams and Other Works in Land and Water Management Plan Areas

Comment: The Applicant has provided a suitable assessment against this SEPP. See submitted Planning Proposal for more detail.

State Environmental Planning Policy No 55—Remediation of Land

Comment: The Applicant has provided a suitable assessment against this SEPP. See submitted Planning Proposal for more detail.

State Environmental Planning Policy No 59—Central Western Sydney Regional Open Space and Residential

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy No 62—Sustainable Aquaculture

Comment: The Applicant has provided a suitable assessment against this SEPP. See submitted Planning Proposal for more detail.

State Environmental Planning Policy No 64—Advertising and Signage

Comment: The Applicant has provided a suitable assessment against this SEPP. See submitted Planning Proposal for more detail.

State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development

Part 1 Preliminary

Clause 2 Aims, objectives etc.

- (1) *This Policy aims to improve the design quality of residential apartment development in New South Wales.*
- (2) *This Policy recognises that the design quality of residential apartment development is of significance for environmental planning for the State due to the economic, environmental, cultural and social benefits of high quality design.*
- (3) *Improving the design quality of residential apartment development aims:*
 - (a) *to ensure that it contributes to the sustainable development of New South Wales:*
 - (i) *by providing sustainable housing in social and environmental terms, and*
 - (ii) *by being a long-term asset to its neighbourhood, and*
 - (iii) *by achieving the urban planning policies for its regional and local contexts, and*
 - (b) *to achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces they define, and*
 - (c) *to better satisfy the increasing demand, the changing social and demographic profile of the community, and the needs of the widest range of people from childhood to old age, including those with disabilities, and*
 - (d) *to maximise amenity, safety and security for the benefit of its occupants and the wider community, and*

- (e) *to minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions, and*
- (f) *to contribute to the provision of a variety of dwelling types to meet population growth, and*
- (g) *to support housing affordability, and*
- (h) *to facilitate the timely and efficient assessment of applications for development to which this Policy applies.*
- (4) *This Policy aims to provide:*
 - (a) *consistency of policy and mechanisms across the State, and*
 - (b) *a framework for local and regional planning to achieve identified outcomes for specific places.*

Comment: The planning proposal is not inconsistent with the aims of this Policy.

State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes)

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy No 71—Coastal Protection

Comment: Not applicable to Murray River Council.

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s. 117 directions)?

Comment: As detailed in the submitted planning proposal, the Applicant has stated that the subject proposal is either consistent or not inconsistent with all applicable Directions. Please see the submitted planning proposal and Directions below for more information.

1. Employment and Resources

1.1 Business and Industrial Zones

Comment: Not applicable. The planning proposal does not affect land within an existing or proposed business or industrial zone.

1.2 Rural Zones

Comment: Not applicable. The planning proposal does not affect land within an existing or proposed rural zone.

1.3 Mining, Petroleum Production and Extractive Industries

Comment: This direction does not apply. The planning proposal will not have the effect of:

- (a) *prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or*
- (b) *restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.*

1.4 Oyster Aquaculture

Comment: Not applicable to Murray River Council.

1.5 Rural Lands

Comment: While the applicant has not addressed this Section 117 Direction in the submitted Planning Proposal, an additional email was provided at the request of Council staff, attached as Annexure 4, by the applicant who provides discussion regarding this Direction. The Applicant has stated that the Planning Proposal is consistent with this Direction.

2. Environment and Heritage

2.1 Environment Protection Zones

Comment: The Applicant has stated that the Planning Proposal is consistent with this Direction. See submitted Planning Proposal for more detail. It is noted that Council staff disagree with this assessment and consider that the submitted Planning Proposal is inconsistent with this direction. However, based on the highly disturbed nature of the existing site, the size of the site, and any future development enabled by rezoning would be subject to stringent controls to protect the natural environment (including the adjoining river and areas covered, the inconsistency is deemed to be of minor significance in this instance.

2.2 Coastal Protection

Comment: Not applicable to Murray River Council.

2.3 Heritage Conservation

Comment: The Applicant has stated that the Planning Proposal is consistent with this Direction. See submitted Planning Proposal for more detail.

2.4 Recreation Vehicle Areas

Comment: The Applicant has stated that the Planning Proposal is consistent with this Direction. See submitted Planning Proposal for more detail.

2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs

Comment: Not applicable to Murray River Council.

3. Housing, Infrastructure and Urban and Urban Development

3.1 Residential Zones

Comment: This direction does not apply. The planning proposal does not affect land within:

- (a) *an existing or proposed residential zone (including the alteration of any existing residential zone boundary), or*
- (b) *any other zone in which significant residential development is permitted or proposed to be permitted.*

3.2 Caravan Parks and Manufactured Home Estates

Comment: The Applicant has stated that the Planning Proposal is consistent with this Direction. See submitted Planning Proposal for more detail.

3.3 Home Occupations

Comment: The Applicant has stated that the Planning Proposal is consistent with this Direction. See submitted Planning Proposal for more detail.

3.4 Integrating Land Use and Transport

Comment: The Applicant has stated that the Planning Proposal is consistent with this Direction. See submitted Planning Proposal for more detail.

3.5 Development Near Licensed Aerodromes

Comment: This direction does not apply. The planning proposal does not create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome.

3.6 Shooting Ranges

Comment: Not applicable.

4. Hazard and Risk Hazard and Risk

4.1 Acid Sulfate Soils

Comment: The Applicant has suitably assessed the planning proposal against this Direction. See submitted document for more detail.

4.2 Mine Subsidence and Unstable Land

Comment: This direction does not apply. The planning proposal will not apply to land within a Mine Subsidence District proclaimed pursuant to section 15 of the *Mine Subsidence Compensation Act 1961*, or which has been identified as unstable land.

4.3 Flood Prone Land

Comment: The Applicant has stated that the Planning Proposal is consistent with this Direction. See submitted Planning Proposal for more detail. Any subsequent development enabled by rezoning will be subject to a merit based assessment against the flood provisions contained within the Murray LEP 2011, Murray DCP 2012 and the Floodplain Development Manual 2005.

4.4 Planning for Bushfire Protection

Comment: The Applicant has stated that the Planning Proposal is consistent with this Direction. See submitted Planning Proposal for more detail. Any subsequent development enabled by rezoning will be subject to a merit based assessment against the relevant legislative requirements for bushfire prone land.

5. Regional Planning

5.1 Implementation of Regional Strategies

Comment: This direction does not apply. Murray River Council is not affected by the following regional strategies:

- (a) *Far North Coast Regional Strategy*
- (b) *Lower Hunter Regional Strategy*
- (c) *South Coast Regional Strategy (excluding land in the Shoalhaven LGA)*
- (d) *Sydney–Canberra Corridor Regional Strategy*
- (e) *Central Coast Regional Strategy, and*
- (f) *Mid North Coast Regional Strategy.*

5.2 Sydney Drinking Water Catchment

Comment: Not applicable to Murray River Council.

5.3 Farmland of State and Regional Significance on the NSW Far North Coast

Comment: Not applicable to Murray River Council.

5.4 Commercial and Retail Development along the Pacific Highway, North Coast

Comment: Not applicable to Murray River Council.

5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) (Revoked 18 June 2010)

Comment: Noted.

5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)

Comment: Noted.

5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)

Comment: Noted.

5.8 Second Sydney Airport: Badgerys Creek

Comment: Not applicable to Murray River Council.

5.9 North West Rail Link Corridor Strategy

Comment: Not applicable to Murray River Council.

5.10 Implementation of Regional Plans

Objective

- (6) *The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.*

Comment: The planning proposal is consistent with the objective of this direction.

Where this direction applies

- (7) *This direction applies to land to which a Regional Plan has been released by the Minister for Planning.*

Comment: No Regional Plan has been released by the Minister for Planning relating to Murray River Council. It is noted that the draft Riverina Murray Regional Plan is currently on exhibition for comment. The planning proposal is not inconsistent with this document.

When this direction applies

- (8) *This direction applies when a relevant planning authority prepares a planning proposal.*

What a relevant planning authority must do if this direction applies

- (9) *Planning proposals must be consistent with a Regional Plan released by the Minister for Planning.*

Comment: A draft Riverina Murray Regional Plan is currently on exhibition for comment. The planning proposal is not inconsistent with this document.

Consistency

- (10) *A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Secretary of the Department of Planning and Environment (or an officer of the Department nominated by the Secretary), that the extent of inconsistency with the Regional Plan:*

- (a) is of minor significance, and*
- (b) the planning proposal achieves the overall intent of the Regional Plan and does not undermine the achievement of its vision, land use strategy, goals, directions or actions.*

Comment: Not applicable. The planning proposal is consistent with this direction.

6. Local Plan Making

6.1 Approval and Referral Requirements

Comment: The Applicant has stated that the Planning Proposal is consistent with this Direction. See submitted Planning Proposal for more detail.

6.2 Reserving Land for Public Purposes

Comment: The Applicant has stated that the Planning Proposal is consistent with this Direction. See submitted Planning Proposal for more detail.

6.3 Site Specific Provisions

Comment: The Applicant has stated that the Planning Proposal is consistent with this Direction. See submitted Planning Proposal for more detail.

7. Metropolitan Planning

7.1 Implementation of A Plan for Growing Sydney

Comment: Not applicable to Murray River Council.

7.2 Implementation of Greater Macarthur Land Release Investigation

Comment: Not applicable to Murray River Council.

The Applicant is considered to have suitably addressed the Section 117 Directions.

Section C – Environmental, social and economic impact

Q7. 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?

Comment: It is noted that part of the subject land is mapped as Terrestrial Biodiversity and Key Fish Habitat, however the Applicant has stated that the subject land does not contain critical habitat or threatened species, populations or ecological communities. Any future development of the subject land will be subject to a merit based development application assessment against Section 79C of the *EP&A Act 1979* and all other relevant legislation. See comments provided by the Applicant for further information. The Applicant is considered to have suitably addressed the assessment requirements of Question 7.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Comment: The Applicant has noted that there may be environmental impacts resulting from the subject planning proposal, however these can be satisfactorily addressed at subsequent stages (Gateway Determination and potential Development Application assessment). The Applicant is considered to have suitably addressed the assessment requirements of Question 8.

Q9. Has the planning proposal adequately addressed any social and economic effects?

Comment: The Applicant has provided a detailed assessment against net community benefit considerations. The Applicant has stated that the 'ongoing viability of the resort is essential to the economic contribution to the local economy and associated businesses and services'. See comments provided by the Applicant for further information. The Applicant is considered to have suitably addressed the assessment requirements of Question 9.

Section D – State and Commonwealth interests

Q10. Is there adequate public infrastructure for the planning proposal?

Comment: The Applicant notes that all essential services are available to the subject land. Any demand created by future development will be required to provide suitable arrangements with the relevant authority to ensure development can be serviced. The Applicant is considered to have suitably addressed the assessment requirements of Question 10.

Q11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

Comment: The Applicant has noted that State and Commonwealth authorities will be consulted in accordance with Section 57 [sic] of the *EP & A Act 1979*. It is noted that any consultation required as a result of the Gateway determination will be completed as required. It is considered that the submitted planning proposal adequately addresses Question 11.

Part 4 – Mapping

Comment: The Applicant did not provide all of the required mapping; therefore Council staff has had to produce the relevant mapping to support the planning proposal. The planning proposal seeks to rezone the subject land from E3 Environmental Management to SP3 Tourist. It is noted that no changes to the lot size provisions currently affecting the land are proposed. No known heritage items or conservation areas are located onsite. Additional information is also available within the submitted Planning Proposal. Amendments to the affected Zoning mapping will be undertaken should the planning proposal be successful. Please see the below figures for more information.

Figure 11 – Current zoning (E3 Environmental Management in orange). Subject land indicated by red outline.



Figure 12 – Proposed zoning (SP3 Tourist in yellow). Subject land indicated by red outline.

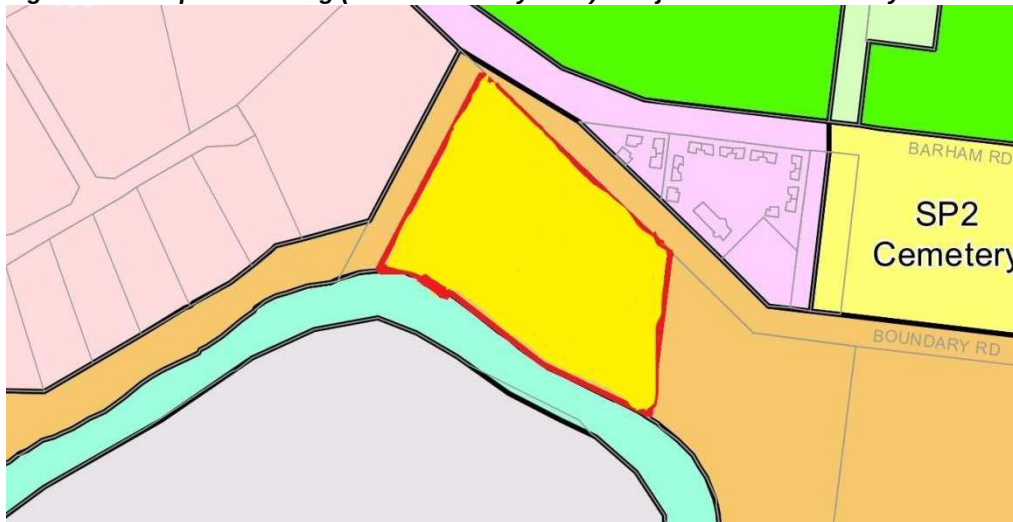


Figure 13 – Current lot size provisions (120 hectares in cream). Subject land indicated by red outline. No change to lot size provisions proposed.

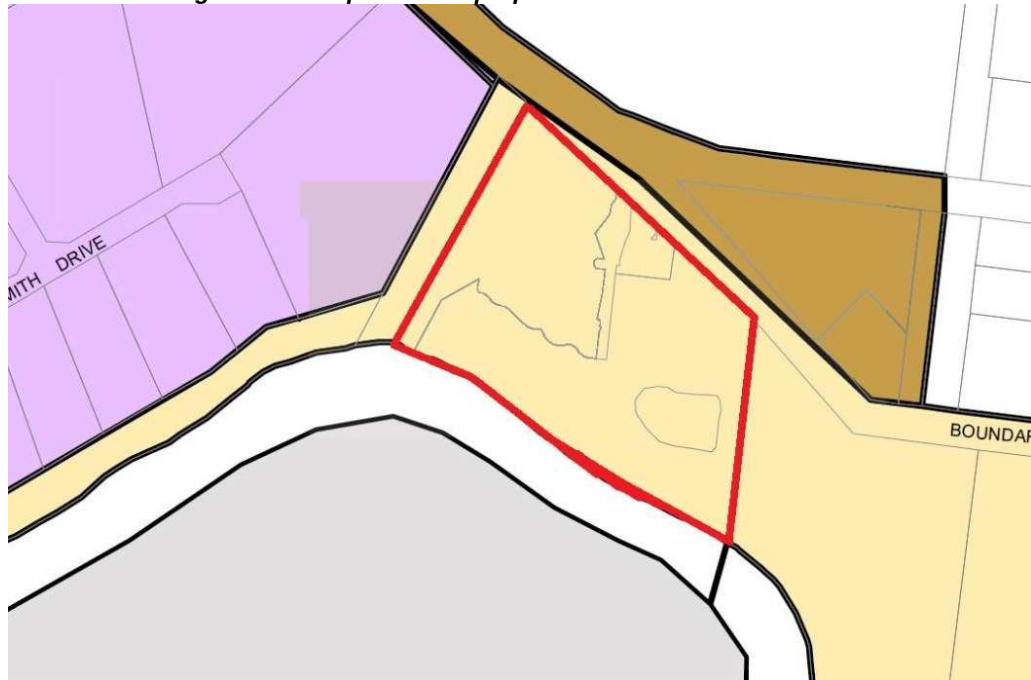
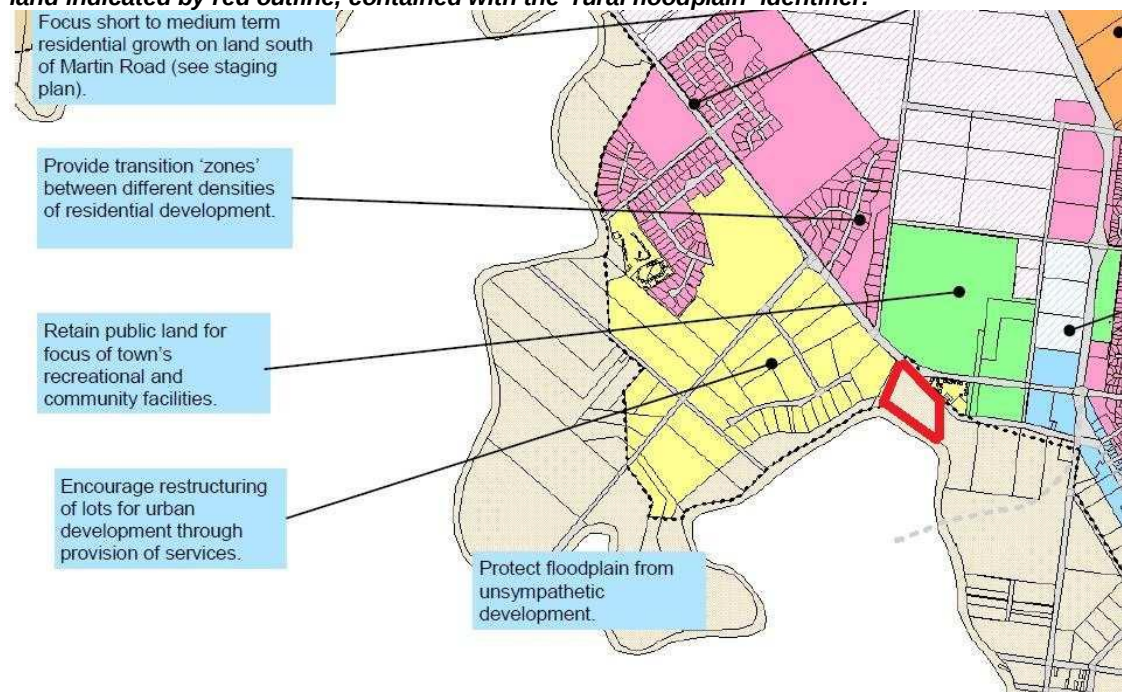


Figure 14 – Surrounding land uses as identified in the Murray Strategic Land Use Plan. Subject land indicated by red outline, contained with the 'rural floodplain' identifier.



Part 5 – Community Consultation

Comment: The Applicant has advised community consultation will be undertaken in accordance with the requirements of the Secretary of Department of Planning and Environment and all relevant legislation. The Applicant has not stated that any preliminary public consultation has been undertaken. The consultation requirements are to be dictated by the Gateway determination. The Applicant is considered to have suitably addressed the assessment requirements of Part 5.

Part 6 – Project timeline

Comment: It is considered that should the planning proposal proceed, the level of information provided with the submitted planning proposal will enable the plan making process to be completed within a reasonable time. The Applicant has stated that the achievement of relevant milestones is 'dependent upon the actions of Council as the responsible planning authority...' It is considered that the subject planning proposal can be appropriately progressed in an efficient manner subject to Council staffing resources. The Applicant is considered to have suitably addressed the assessment requirements of Part 6.

Summary

After a review of the submitted Planning Proposal, Council staff is of the opinion that the submission by the Applicant provides sufficient detail to meet the requirements of the Act and 'A guide to preparing Planning Proposals'. It is therefore recommended that the Planning Proposal be sent to NSW DPE for Gateway Determination.