



## APPLICATION FOR A PLANNING PROPOSAL

TO AMEND MURRAY LOCAL ENVIRONMENTAL PLAN 2011  
BY CHANGE OF ZONING FROM E3 to SP3

TINDARRA RESORT, PERRICOTA ROAD | MOAMA

**CLIENT:** EMRR PTY LTD  
**PROJECT REF:** 0081/16 Revision 1  
**DATE:** 19 May 2016

PLANNING  
I N G E N U I T Y

## TABLE OF CONTENTS

<b>EXECUTIVE SUMMARY .....</b>	<b>1</b>
<b>1 BACKGROUND.....</b>	<b>2</b>
<b>2 LOCALITY AND SITE ANALYSIS .....</b>	<b>3</b>
2.1 Site Identification and Description.....	3
2.2 Surrounding Development .....	4
2.3 Matters Specific to Development Capacity of the Subject Site.....	5
2.3.1 Site topography .....	5
2.3.2 Master Plan Layout .....	6
2.3.3 Heritage and Archaeology.....	6
2.3.4 Site Contamination .....	6
2.3.5 Geotechnical .....	6
2.3.6 Flooding .....	6
2.3.7 Ecology .....	7
2.3.8 Bushfire.....	8
2.3.9 Traffic and Parking .....	8
2.3.10 Pedestrian and Cyclist Movement.....	9
2.3.11 Visual Impact, Landscape and Scenic Quality .....	9
2.3.12 Neighbourhood Amenity.....	9
2.3.13 Public and Broader Community Benefits.....	9
2.4 Precedent .....	9
<b>3 EXISTING AND DRAFT PLANNING PROVISIONS .....</b>	<b>10</b>
3.1 Murray Regional Environmental Plan No.2 – Riverine Land .....	10
3.2 Draft Riverina Murray Regional Plan.....	13
3.3 Murray Local Environmental Plan 2011 .....	14
3.3.1 Zoning and Land Uses .....	15
3.3.2 Other LEP Provisions.....	16
3.4 Murray Development Control Plan 2011 .....	17
<b>4 DRAFT PLANNING PROPOSAL .....</b>	<b>18</b>
4.1 Proposed Amendments to Current Planning Provisions .....	18
4.1.1 Summary.....	18
4.2 Objectives or Intended Outcomes.....	18
4.2.1 Intended Outcomes.....	18
4.2.2 Objectives .....	18
4.2.3 Justification.....	19
4.3 Murray Tourism Destination Management Plan 2013 .....	24
4.4 Part 4 - Mapping .....	36
4.5 Part 5 - Community Consultation .....	36
4.6 Part 6 – Project Timeline.....	36
<b>5 CONCLUSION.....</b>	<b>37</b>

## TABLE OF FIGURES

Figure 1: Aerial photograph of site and surrounds (Source: <a href="http://www.maps.six.nsw.gov.au">www.maps.six.nsw.gov.au</a> ) ....	3
Figure 2: Extract from Master Plan approved with DA175/2014 .....	4
Figure 3: Aerial photo of the locality (Source: <a href="http://www.maps.six.nsw.gov.au">www.maps.six.nsw.gov.au</a> ) .....	5
Figure 4: Extract of a site survey for Lot 3 .....	5
Figure 5: Extract from Flood Planning Map FLD_006 to MLEP 2011 .....	7
Figure 6: Extract of flood activity investigation conducted for DA175/2014 .....	7
Figure 7: Extract from Biodiversity Map BIO_006 to MLEP 2011 .....	8
Figure 8: Extract from Zoning Map LZN_006 .....	16
Figure 9: Extract from MSSLUP showing anticipated future land use patterns .....	23
Figure 10: Extract from MSSLUP showing details of anticipated land use patterns .....	24

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## **EXECUTIVE SUMMARY**

This application for a Planning Proposal has been prepared for EMRR Pty Ltd owners of the Tindarra Resort. It accompanies a request for a Gateway Determination under the provisions of Section 56 of the *Environmental Planning and Assessment (EP&A) Act 1979*. This application contains a draft Planning Proposal which seeks to amend the zoning provisions of Murray Local Environmental Plan 2011 (MLEP 2011) as they apply to the site that contains the Tindarra Resort at Perricoota Road, Moama.

The features of the site have been reviewed and compared to other nearby properties used for tourist-related facilities. Significant potential exists to develop the site further for tourism-related uses and to enhance the natural assets of the site. However, further development can only be facilitated by amendment to the local environmental plan. The proposed amendments are consistent with the local and regional strategic plans and specifically for protection and enhancement of the natural and landscape scenic values of the riverine environment and to sustain the viability of the site for tourism uses and facilities which link with existing local businesses to boost the local economy.

In order to facilitate ongoing development and improvements on the site, including the ability to operate a function centre which is critical to the on-going viability of the resort, this application seeks to change the zoning of the land from Zone E3 Environmental Management to Zone SP3 Tourist. This change will not undermine other existing clauses relating to the management of flooding and the protection of the natural assets and riverine scenic quality applicable to the site. It will not change the way in which regional and state strategies apply to the management and future land use decisions for the site.

This application is consistent with the Local and State Government Planning Strategies for the Murray Shire and the Murray Murrumbidgee Region. It has the potential to support the ongoing function of the resort, provide a social focal point, support local employment and tourism and the local economy in a manner compatible with the natural and scenic assets of the site and surrounds.

This application has been prepared in accordance with Section 55 of the *Environmental Planning and Assessment Act, 1979* as well as the NSW Department of Planning and Infrastructure publications "A Guide to Preparing Planning Proposals" and "A Guide to Preparing Local Environmental Plans". As outlined in "A Guide to Preparing Planning Proposals" this application can evolve throughout the course of its preparation and consideration as relevant sections will be updated and revised in response to the outcomes of further investigations and consultation.

## **1 BACKGROUND**

The Tindarra Resort has been operating since 2007 in accordance with Development Consents DA070/01 and DA068/2011. The existing resort structures include eleven (11) tourist accommodation cabins, inground swimming pool, tennis court, manager's residence and attached reception office, car parking and landscaping. Additional accommodation cabins have been approved but are yet to be constructed. A mooring, jetty and pontoon have been approved with Development Consent DA158/2014 and a Controlled Activity Approval, have a pending Construction Certificate, enjoy a mooring licence and are to be constructed in the near future. Picnic and BBQ structures, landscaped walking trails and a constructed water feature are located close to the foreshore of the Murray River

Functions are essential to sustaining the viable operation of the resort. Functions typically (but not always) involve guests staying one or more nights at the resort accommodation and guests staying in conjunction with functions represent 40-50% of typical monthly guest nights.

This application for a Planning Proposal partly stems from the issues emerging from Development Consent DA175/2014 for "*temporary use of the land as a function centre, installation of a Temporary Structure (Marquee), Temporary formalisation of existing bar structure and car parking facilities*" at the Tindarra Resort. The development consent was granted on 8 December 2015. This development application process identified distinct planning limitations to the future opportunities for enhancement of the resort to provide a variety of high quality services and facilities relating to tourism whilst improving and managing the natural assets of the site.

Development Consent DA175/2014 approves the erection of a marquee over an existing concrete slab and attached to an existing building fitted out as a bar. The marquee is used for functions and is erected over the existing slab which is 31m x 15.5m (480.5m<sup>2</sup>). The marquee has a 'floor area' of 300m<sup>2</sup> and capacity for up to 250 persons. The existing building to which the marquee is 8m x 10.5m (125m<sup>2</sup>) and incorporates a bar with a floor area of approximately 2.8m x 4.9m. The building has a wooden frame and corrugated iron cladding. A concrete paved area extends between the bar structure and the slab upon which the marquee is occasionally erected. The consent also allows for the installation of an all-weather parking area with capacity for 34 car parking spaces and the use of the grassed area south of the parking area for overflow parking to accommodate another 30 cars (if necessary).

Condition 8 of Development Consent DA175/2014 places restrictions on the number of days for which consent is granted. However, as explained above, functions are essential to the ongoing viability of the resort and the temporary limitations on Development Consent DA175/2014 will not sustain the resort in the long term. Therefore this application for a Planning Proposal is necessary to facilitate future alterations and additions to the resort, including ancillary facilities such as a more permanent function centre on the site, as well as establish planning provisions which are consistent with other properties in the locality with established tourism-related facilities and services.

This application is consistent with the site constraints and site-specific requirements for tourism-related land uses as specified in the variety of applicable planning provisions. This application describes the conditions of the site and surrounds and presents a compelling case for the rezoning of the land to Zone SP3 Tourist.

## **2 LOCALITY AND SITE ANALYSIS**

### **2.1 Site Identification and Description**

The Tindarra Resort is located at No.2 Perricoota Road, Moama. An aerial photograph of the site and surrounds is included in Figure 1 with the resort site outlined in red. The site is a community title subdivision with Lot 1 being the shared access road and artificial waterbody, Lot 2 containing the accommodation cabins, playground, tennis court and an access handle to the river, Lot 4 containing the managers residence and reception office and Lot 3 being the remainder of the site. This application for a Planning Proposal applies to the entirety of Lots 1, 2, 3 and 4 DP 270496.

The southern boundary of the site is defined by the Murray River and the top of the bank to the river has been surveyed to have a total length of 306.12m. The northern boundary is adjacent to Boundary Road and Perricoota Road. The total area of the resort property is 4.5 hectares.

Vegetation on the site includes native regrowth vegetation in the north east corner of the site and mature native trees along the foreshore to the Murray River (see Figure 1).



**Figure 1: Aerial photograph of site and surrounds (Source: [www.maps.six.nsw.gov.au](http://www.maps.six.nsw.gov.au))**

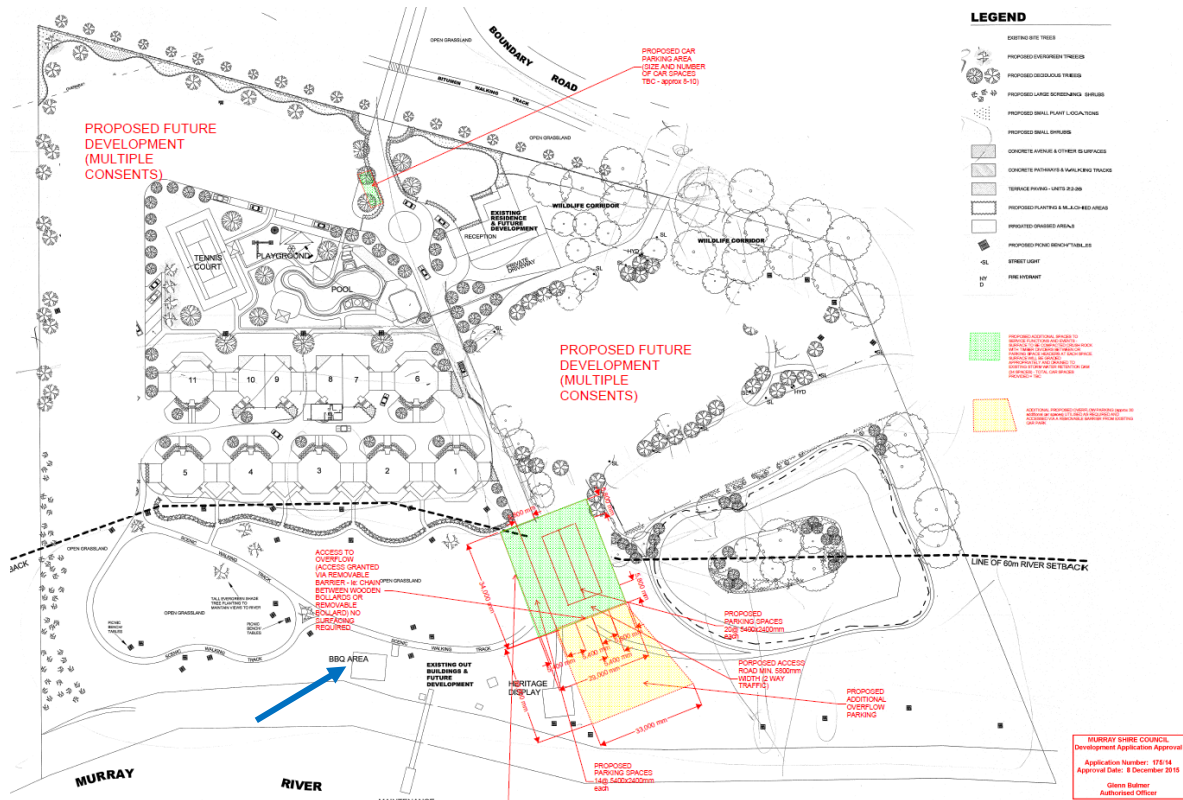


Figure 2: Extract from Master Plan approved with DA175/2014

The Master Plan approved with Development Consent DA175/2014 is included in Figure 2. The approved marquee is occasionally erected adjacent to, and north of, the bar structure which is indicated by a blue arrow in both Figures 1 and 2.

The site is relatively flat with the highest point being the north-west corner of the site and a total change in level of approximately 3m over the entire site. The site is connected to electricity, potable water and reticulated sewer.

## 2.2 Surrounding Development

The site is located approximately 1.8km west of the Moama town centre and the Moama railway station. Immediately north of the site is a public sportsground and a racecourse. The town of Echuca is located on the southern side of the Murray River approximately 1km directly south of the site. The Banyule Park State Forest and Victoria Park Reserve are two areas of native vegetation on the southern side of the Murray River within a 2km radius of the site.

There are several motels and tourist facilities in Moama and Echuca and tourism-related activities associated with the river and riverfront land include paddlesteamers, paddle boarding, recreational boating and water skiing.

The adjoining properties to the east and west are used for rural-residential purposes. Land on the opposite side of Boundary Road is low density residential. Land to the west of the site and to the north of the racecourse is part of an urban release area.

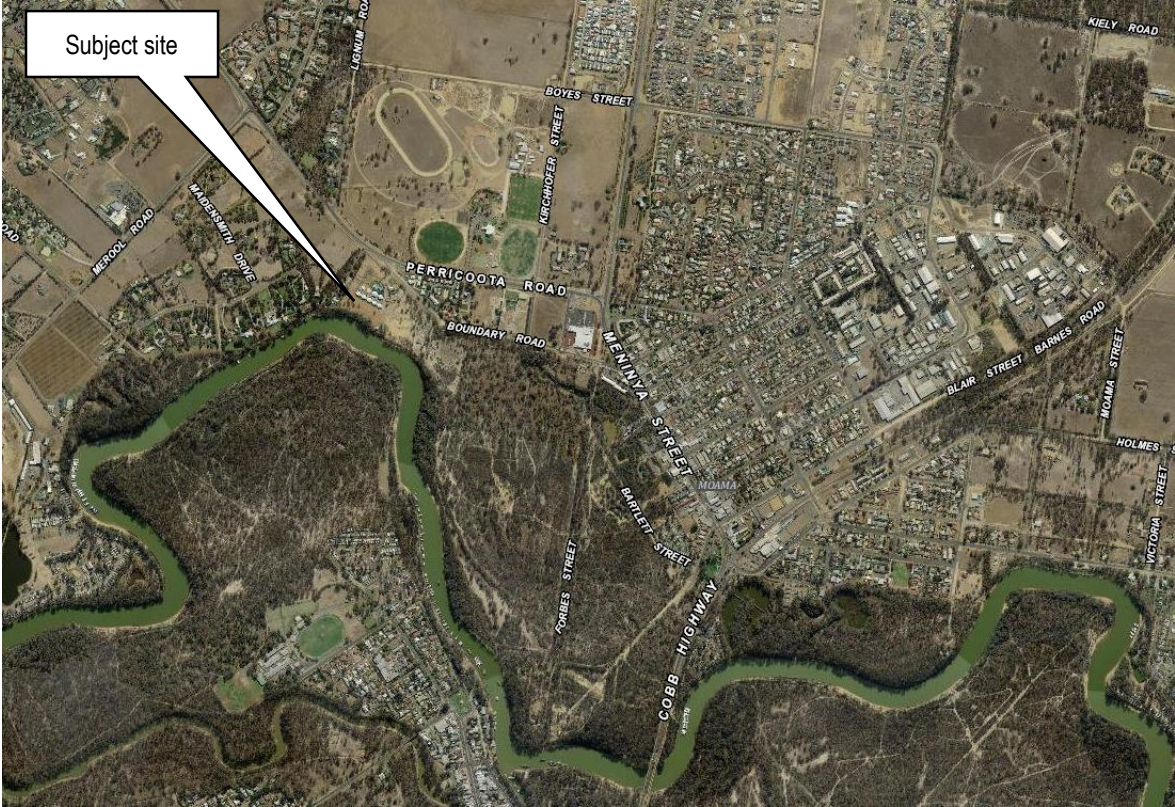


Figure 3: Aerial photo of the locality (Source: [www.maps.six.nsw.gov.au](http://www.maps.six.nsw.gov.au))

### 2.3 Matters Specific to Development Capacity of the Subject Site

#### 2.3.1 Site topography

The site is generally flat as indicated by the extract of a site survey included in Figure 4. There are no topographical constraints to the potential location of a function centre and ancillary parking on the site or to the potential installation and construction of other resort and tourist related facilities.





### **2.3.2 Master Plan Layout**

An extract of the master plan approved with Development Consent DA175/2014 is included in Figure 2 and shows that there is ample space within the site for future development of features associated with, and ancillary to, the tourism base of the resort, including a permanent function facility. Future development can be well separated from neighbouring properties and nearby dwellings and can be integrated with landscaping to the foreshore area and appropriately set back from the top of the riverbank.

### **2.3.3 Heritage and Archaeology**

There are no heritage items or conservation areas within the site or in close proximity to the site that are listed in the MLEP 2011. However, the riverine corridor has heritage and cultural significance as identified in MREP No.2.

This application does not propose to change the manner in which the MREP No.2 applies to the land or change the manner in which the cultural and heritage values of the river corridor are considered with any future development proposal.

### **2.3.4 Site Contamination**

The site has a history of use for agriculture. However, there is no known evidence of the site having been used for agricultural activities with the potential for contamination and there is no known evidence within the site which indicates the site is contaminated. The proposed change to the zoning of the land is not anticipated to change the risk of expose humans or the environment to contaminating substances. For these reasons a contamination assessment is considered unnecessary for this application.

### **2.3.5 Geotechnical**

The site is not known to be subject to landslip or instability and geotechnical studies are not required to support this application for a Planning Proposal. Several applications have been approved on the site without concern being raised in relation to geotechnical constraints.

### **2.3.6 Flooding**

The site is identified as being within a Flood Planning Area in accordance with the provisions of MLEP 2011 as shown in the extract from the Flood Planning Map to the LEP in Figure 5 (with the subject site outlined in red).

Detailed investigations of flood impacts have been undertaken with previous Development Applications which have determined that the site is affected by the 1 in 100 Average Recurrence Interval (ARI) flood event and is within an area which functions as a Low Hazard Flood Storage zone (see Figure 6).

Any future development application for the site will be required to be supported by a detailed flood impact assessment to address the matters for consideration in Clause 7.8 to MLEP 2011. This application for a Planning Proposal does not propose to change the manner in which Clause 7.8 applies to the site and the assessment of any future development application.

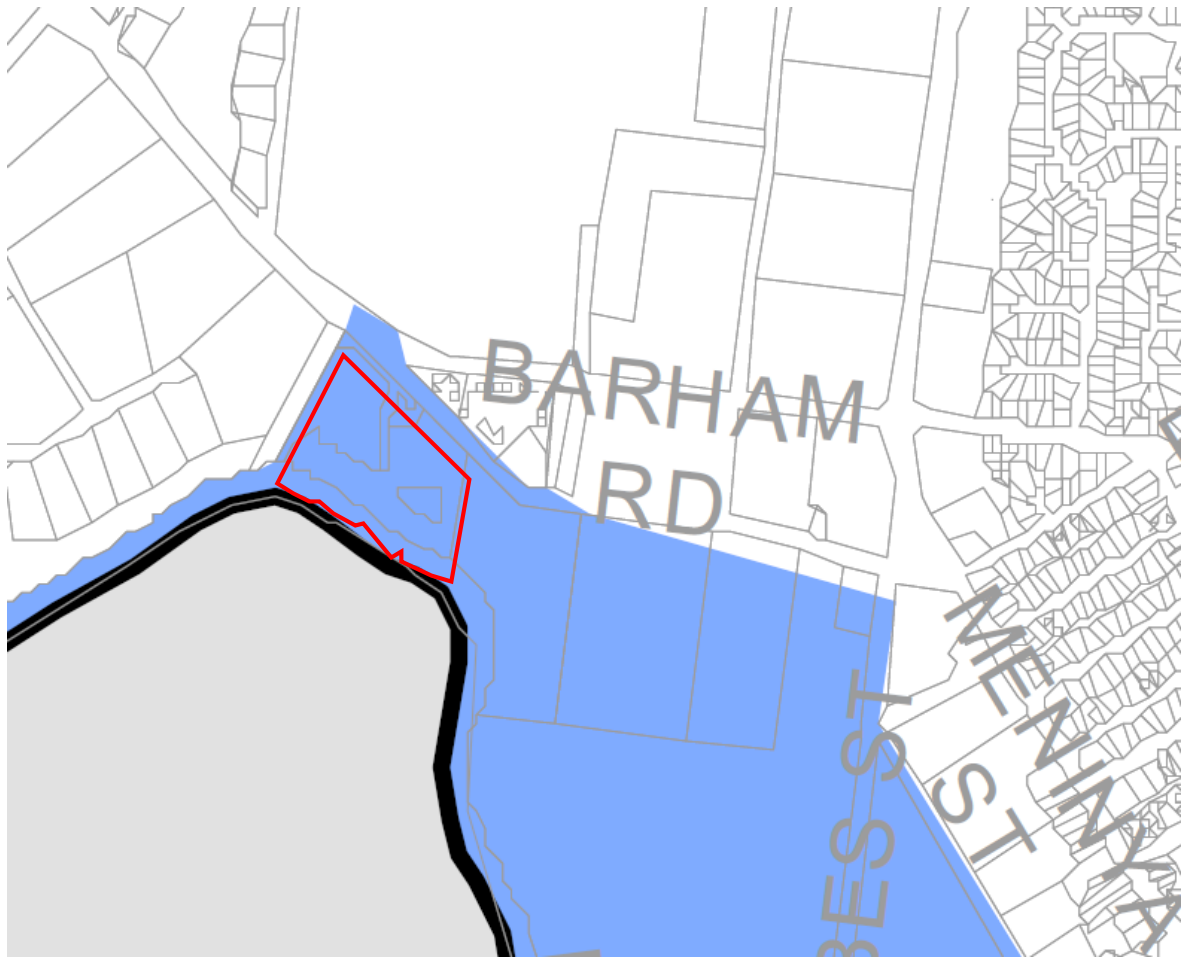


Figure 5: Extract from Flood Planning Map FLD\_006 to MLEP 2011

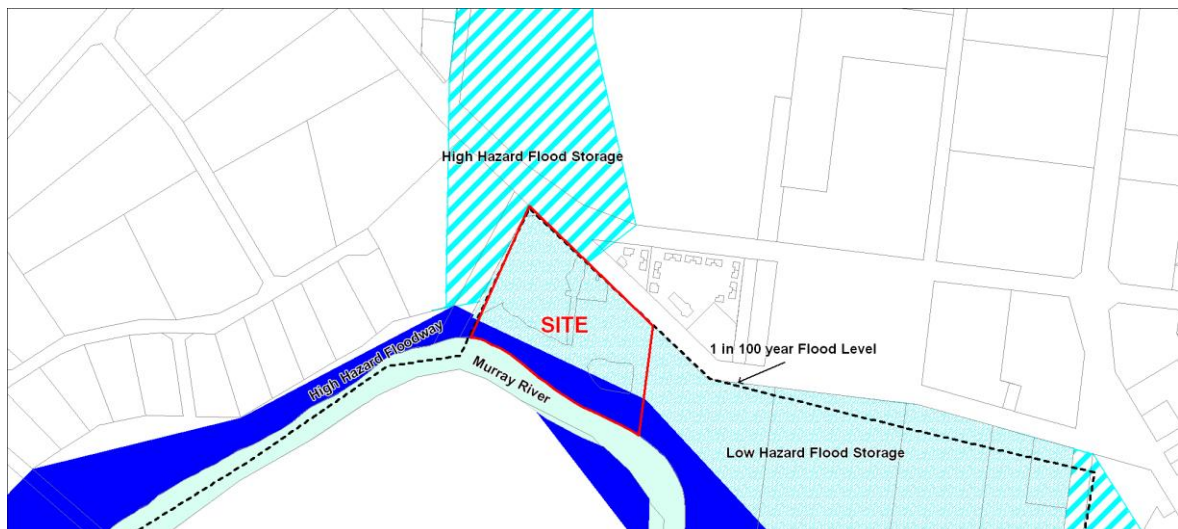


Figure 6: Extract of flood activity investigation conducted for DA175/2014

### 2.3.7 Ecology

The site is identified as adjoining Key Fish Habitat and the foreshore area is part of the riverine corridor which has biodiversity value (see Figure 7). The proposed SP3 Zone will not impact upon the Key Fish Habitat within the river. The proposed Zone SP3 will be compatible with the biodiversity value of the riverine corridor. Maintaining the quality and viability of the Key Fish Habitat and the biodiversity

within the site and its role as part of a corridor are natural assets which are complementary to the continued use and attractiveness of the site as a resort and for tourism related uses.



Figure 7: Extract from Biodiversity Map BIO\_006 to MLEP 2011

### 2.3.8 Bushfire

The site is identified as being subject to bush fire hazard and any application for a special fire protection purpose will require the establishment and maintenance of asset protection zones with any future development application.

### 2.3.9 Traffic and Parking

Any future expansion of the existing resort, including a function centre, is anticipated to generate traffic to and from the site. There is potential for guests to use watercraft as well as private vehicle transport, coaches and minibuses.

Development Consent DA175/2014 anticipates a maximum capacity of 250 patrons in conjunction with a temporary function centre and ancillary parking for 72 vehicles. Any future development application for a function centre, or any other development, would require an investigation into the likely parking requirements and traffic generation ancillary to the proposal. There is sufficient area within the site to accommodate the potential on-site parking requirements for a variety of tourist related uses. A Traffic and Parking Impact Assessment is not considered necessary for this stage of the application for a Planning Proposal.

### **2.3.10 Pedestrian and Cyclist Movement**

There are no existing or planned publicly accessible pedestrian and cyclist routes through the site, however a bike path runs along the public road frontage.

### **2.3.11 Visual Impact, Landscape and Scenic Quality**

The visual impact of any future additional structures or use of the site and ancillary car park is anticipated to be mitigated by landscaping along the river foreshore and to the site boundaries. The materials, colours and finishes of any new building are anticipated to be selected to blend with the natural features of the landscape.

### **2.3.12 Neighbourhood Amenity**

The potential impacts of additional development permitted in the SP3 zone on the neighbourhood are anticipated to be related to noise and traffic generation. A Noise Impact Assessment and a Traffic and Parking Impact Assessment are anticipated to be required for any future development application likely to warrant such analysis. As exemplified by Development Consent DA175/2014, appropriate space can be provided for on-site parking and a Noise Impact Assessment has made recommendations for noise limiting devices for amplified music and a PA system to be operated within the approved marquee structure. Further, by way of example, a purpose built function centre could accommodate permanent acoustic treatments within the built structure and in the design and layout of the building which would more effectively control noise and protect neighbourhood amenity.

It is sufficient at this stage of the application for a Planning Proposal to identify that specific building treatments and design solutions can be addressed with future development applications for any use without requiring acoustic and traffic modelling reports for a Planning Proposal.

### **2.3.13 Public and Broader Community Benefits**

The development of the site for tourism-related uses including a permanent function centre can create flow-on effects with public and community benefit including:

- An anchor function centre to complement the variety of function venues in the locality;
- Accommodation for guests attending functions to minimise travel and to facilitate multi-day events and conferences;
- Integration with other tourist activities, business and services in the locality for shared business opportunities;
- Local employment and local economic activity;
- Landscaping and site management to improve the foreshore area and manage access to, and stability of, the riverbank.

## **2.4 Precedent**

This application applies to the land described in Section 2.1 based on a master plan development scheme that is intended to optimise the range of tourist-related activities and facilities on the site.

This application does not set an undesirable precedent. In fact, it seeks to establish consistency in the application of Zone SP3 Tourist throughout the locality by applying the same zoning and land use controls to this existing resort in the same manner as other nearby properties that are used for tourism-related land uses.

### 3 **EXISTING AND DRAFT PLANNING PROVISIONS**

#### 3.1 **Murray Regional Environmental Plan No.2 – Riverine Land**

Murray Regional Environmental Plan No.2 – Riverine Land (MREP No.2) came into effect on 8 February 2013. The Plan aims “to conserve and enhance the riverine environment of the River Murray for the benefit of all users”. The MREP No.2 contains provisions which require consistent and coordinated consideration of the potential impacts of development on the riverine environment spanning local government boundaries and to conserve and manage the natural and cultural heritage values of the river. The Plan applies to all local environmental plans (and amendments thereof) and all development applications within the riverine corridor.

This application for a Planning Proposal does not propose to change the manner in which the MREP No.2 applies to the land. The application is consistent with the provisions of the Plan in the following ways:

**Table 1: Potential for uses under SP3 zoning to comply with Clause 10 to MREP No.2**

<b>Clause 10 – Specific Principles</b>	<b>Potential for compliance</b>
<p><b>Access</b> <i>The waterway and much of the foreshore of the River Murray is a public resource. Alienation or obstruction of this resource by or for private purposes should not be supported.</i></p> <p><i>Development along the main channel of the River Murray should be for public purposes. Moorings in the main channel should be for the purposes of short stay occupation only.</i></p> <p><i>Human and stock access to the River Murray should be managed to minimise the adverse impacts of uncontrolled access on the stability of the bank and vegetation growth.</i></p>	<p>Provisions in the Murray Development Control Plan 2011 (MDCP 2011) will ensure that any future development will not obstruct or alienate the potential for public access to and along the foreshore of the river or potential public access to, and use of, the waterway by the public.</p> <p>Development under the SP3 zoning will not include works within the main channel. Guests and visitors to the site may have the option of transport to and from the site by watercraft and will potentially use the mooring, jetty and pontoon approved with Development Consent DA158/2014. This mooring, jetty and pontoon is suitable for servicing by paddle steamers and large watercraft capable of transporting guests.</p> <p>The Planning Proposal does not seek to allow stock to have access to the river. Any access to and from the river by humans from future development will be via the existing controlled access point at the approved pontoon and jetty. Any future development application can be accompanied by an access management plan and a vegetation management plan to ensure future use is compatible with the long term health of the foreshore vegetation and stability of the river bank.</p>
<p><b>Bank disturbance</b> <i>Disturbance to the shape of the bank and riparian vegetation should be kept to a minimum in any development of riverfront land.</i></p>	<p>Any future development application can be accompanied by an access management plan and a vegetation management plan to ensure future use is compatible with the long term health of the foreshore vegetation and stability of the river bank.</p>
<p><b>Flooding</b> <i>Where land is subject to inundation by floodwater:</i></p> <p><i>(a) the benefits to riverine ecosystems of periodic flooding,</i></p>	<p>The site is subject to flooding. Details of the flooding constraints to the site are examined in Section 2.3.</p> <p>(a) Any future works or activities requiring development consent can be designed to be compatible with the natural frequency and pattern of flooding and the ecological</p>

<p>(b) the hazard risks involved in developing that land,</p> <p>(c) the redistributive effect of the proposed development on floodwater,</p> <p>(d) the availability of other suitable land in the locality not liable to flooding,</p> <p>(e) the availability of flood free access for essential facilities and services,</p> <p>(f) the pollution threat represented by any development in the event of a flood,</p> <p>(g) the cumulative effect of the proposed development on the behavior of floodwater, and</p> <p>(h) the cost of providing emergency services and replacing infrastructure in the event of a flood.</p> <p>* Flood mitigation works constructed to protect new urban development should be designed and maintained to meet the technical specifications of the Department of Water Resources.</p>	<p>benefits to the riverine environment. A flood impact assessment specific to a proposal would be submitted with any future development application as required by Clause 7.8 to Murray Local Environmental Plan 2011 (MLEP 2011).</p> <p>(b) As stated above, a flood impact assessment as required by Clause 7.8 to the MLEP 2011 will be required to identify the specific flood hazard and the implications for the design and ongoing operational requirements of any future new structure to protect the environment, maintain structural integrity, prevent detrimental impacts to other properties within the catchment and manage human safety.</p> <p>(c) As stated above – a development-specific flood impact assessment will be required to address the potential impacts of any new construction on the redistribution of floodwater within the floodway.</p> <p>(d) The use of other land is not an option as any future building or activity is intended to be operated as part of the existing resort.</p> <p>(e) Essential facilities and services are currently connected to the site and any new structures can be connected to these existing utilities.</p> <p>(f) A development-specific flood impact assessment submitted with any future development application will be required to provide details of on-going operation and management provisions specific to the management of any potential source of pollution.</p> <p>(g) A development-specific flood impact assessment submitted with any future development application will be required to investigate and model the potential cumulative impacts on floodwater movement patterns and volumes.</p> <p>(h) A development-specific flood impact assessment submitted with any future development application will be required to make recommendations for an emergency services requirements and the likely risks to infrastructure.</p> <p>A development-specific flood impact assessment submitted with any future development application will be required to make recommendations on any required flood mitigation works. Any works will be required to comply with the technical specifications issued by the Department.</p>
<p><b>Land degradation</b></p> <p>* Development should seek to avoid land degradation processes such as erosion, native vegetation decline, pollution of ground or surface water, groundwater accession, salination and soil acidity, and adverse effects on the quality of terrestrial and aquatic habitats.</p>	<p>Any future development application will be required to include supporting information which addresses land management including all issues listed in this Specific Principle.</p>
<p><b>Landscape</b></p> <p>* Measures should be taken to protect and enhance the riverine landscape by maintaining native vegetation along the riverbank and adjacent land, rehabilitating degraded</p>	<p>Any future development application will be required to be appropriately setback from the top of bank of the river to maintain and protect a continuous landscaped foreshore</p>

<p>sites and stabilising and revegetating riverbanks with appropriate species.</p>	<p>area. Any future development application may be accompanied by a plan of management addressing the management of native vegetation, future landscaping and rehabilitation and controlled access to the foreshore.</p>
<p><b>River related uses</b> * Only development which has a demonstrated, essential relationship with the river Murray should be located in or on land adjacent to the River Murray. Other development should be set well back from the bank of the River Murray. * Development which would intensify the use of riverside land should provide public access to the foreshore.</p>	<p>As above, these matters can be considered in the context of specific development applications.</p> <p>Any future development application anticipated to intensify the use of the site can address an upgrade the public access between the site and the river via the approved jetty and pontoon and a designated access pathway.</p>
<p><b>Settlement</b> * New or expanding settlements (including rural-residential subdivision, tourism and recreational development) should be located: (a) on flood free land, (b) close to existing services and facilities, and (c) on land that does not compromise the potential of prime crop and pasture land to produce food or fibre.</p>	<p>The site contains an existing approved tourist facility and the site is flood affected. The site is connected to existing essential services. The range of land uses permitted with consent in Zone SP3 are ancillary to and consistent with the approved existing use. The zoning of the land to Zone SP3 will not compromise the availability of land for agriculture. Adjoining and nearby land is used for residential and rural-residential purposes. The proposed Zone SP3 will not displace agricultural land uses.</p>
<p><b>Water quality</b> * All decisions affecting the use or management of riverine land should seek to reduce pollution caused by salts and nutrients entering the River Murray and otherwise improve the quality of water in the River Murray.</p>	<p>A detailed stormwater management plan would be required to be submitted with any future development application and would be required to be compatible with a development-specific flood impact assessment. A stormwater management plan may incorporate recommendations for water sensitive design devices and management techniques for reducing the likelihood of pollution, removing sediments and improving the quality of water entering the Murray River.</p>
<p><b>Wetlands</b> * Wetlands are a natural resource which have ecological, recreational, economic, flood storage and nutrient and pollutant filtering values.  Land use and management decisions affecting wetlands should:  (a) provide for a hydrological regime appropriate for the maintenance or restoration of the productive capacity of the wetland, (b) consider the potential impact of surrounding land uses and incorporate measures such as a vegetated buffer which mitigate against any adverse effects, (c) control human and animal access, and (d) conserve native plants and animals. <b>Note.</b> The above principles will also be relevant for determining authorities when they carry out their environmental assessment functions under Part 5 of the Act for activities which may impact on the River Murray.</p>	<p>There are no wetlands within the site. A detailed stormwater management plan may incorporate a constructed wetland as part of the ongoing stormwater management for the site but only if this is compatible with the ecological values of the riverine corridor, the hydrological function of the river and the targets for improving water quality.</p>

As detailed in the above table, the technical details of supporting information required with any future development application have the potential to demonstrate compliance with the Special Principles listed in Clause 10 to MREP No.2.

Clauses 11, 12 and 13 to MREP No.2 outline the consultation requirements for development applications and local environmental plans. This application for a Planning Proposal does not require any changes or exceptions to these consultation provisions.

Clause 14 to MREP No.2 requires all buildings on non-urban zoned land to be set well back from the bank of the Murray River (unless those buildings are dependent on a location adjacent to the river). This application for a Planning Proposal does not seek to change this requirement to consider setbacks from the river bank. Satisfaction of this clause would be a matter for consideration under any future Development Application.

As stated in Table 1, a detailed stormwater management plan incorporating water sensitive urban design methods is anticipated to be submitted with any future development application with the aim of improving the quality of water leaving the site. A Flood Impact Assessment will likely be required to support any future application. Future buildings can be designed to blend with the scenic qualities of the riverside landscape and include a landscape plan and vegetation management plan which will be compatible with the biodiversity values of the foreshore and the key fish habitat within the river.

Clause 14 requires consideration of an appropriate setback with regard to effluent disposal areas and the potential for minimising the visual impact of buildings by landscaping of the setback area. All wastewater generated at the resort site is connected to reticulated sewer and therefore the requirements of Clause 14 for effluent management are not applicable (as they relate to development serviced by septic tanks). It is anticipated that any future development application will be supported by a detailed landscape and vegetation management plan addressing the enhancement of the vegetation within the foreshore area.

Overall this application for a Planning Proposal and the potential outcomes for future development of the site have the potential to be consistent with the provisions of MREP No.2.

### **3.2 Draft Riverina Murray Regional Plan**

The Draft Riverina Murray Regional Plan has been prepared by the Department of Planning and Environment and is on public exhibition from April to 21 July 2016. It is intended to be an overarching strategic plan guiding the direction of local plans for 26 local government areas. The key principles of the draft Plan that are relevant to this application for a Planning Proposal are:

- Coordinated delivery of economic growth, environmental management and social well-being;
- Protection of environmental, natural and cultural resources; and
- Economic activity to achieve market diversification.

Moama is consistently identified throughout the draft Plan as having 'settlement pressures'. This application for a Planning Proposal does not add to 'settlement pressure' in that it merely seeks a zoning which is more appropriate to the continued use and enhancement of the site for tourist-related uses. The site is well serviced by appropriate utilities and infrastructure and will not divert investment and resources from the provision of utilities and infrastructure to growth areas.

This application for a Planning Proposal is consistent with the four main goals of the draft Plan as follows.



**Goal 1: A growing economy supported by productive agriculture and the sustainable use of natural resources**

The application of Zone SP3 will not displace land potentially or currently used for productive agriculture. The future use of the site is anticipated to incorporate water sensitive urban design method which will protect water quality and maintain the natural flooding regime of the river. No additional water extraction or water harvesting is anticipated as a result of this application.

**Goal 2: Improved regional transport networks and utility infrastructure to support economic activity**

The application of Zone SP3 to the subject site will not create additional demands for regional transport and utility infrastructure and will not divert funding from target projects.

**Goal 3: Strong regional cities supported by a network of liveable towns and villages that meet the community's changing needs**

Specifically Direction 3.2 is relevant to this proposal and seeks to “*Enhance the liveability and economic prosperity of the regions towns and villages*” through diversity in services, jobs and support for tourism, networking within communities for resilience and specialised services. Action 3.2.3 is also highly relevant to this application and aims to “*Deliver enabling planning controls to diversify regional tourism markets and increase tourism opportunities*”. The draft Plan notes that tourism generated \$851 million in direct spending in 2013 and that the region had 3.5 million visitors in that same year. The draft Plan notes that gaps have been identified in tourism opportunities for river access, diversity in styles of accommodation, ecotourism, events and festivals. This application for a Planning Proposal can assist in the future development and use of the site to specifically deliver a range of tourist facilities and experiences to fill these identified gaps.

**Goal 4: A protected environment and community resilient to natural hazards and climate change**

This goal seeks to protect the Murray River and the biodiversity values of the broader region. As stated previously in this application, the future intentions for development of tourist facilities and activities on the site recognise and maintain the planning provisions for the on-going protection and enhancement of the Key Fish Habitat within the river, the vegetation of the riverbank and foreshore area and the quality of water within and leaving the site.

For the reasons outlined above, this application is considered to be entirely consistent with the relevant goals, directions and strategies of the Draft Riverina Murray Regional Plan.

### **3.3 Murray Local Environmental Plan 2011**

Murray Local Environmental Plan 2011 (MLEP 2011) came into effect on 16 December 2011. The aims of the Plan are contained in Clause 1.2 and those that are relevant to this application are listed as follows:

- (a) to encourage sustainable economic growth and development within Murray,*
- (c) to identify, protect, conserve and enhance Murray's natural assets,*
- (f) to encourage and focus growth in the Moama and Mathoura townships,*
- (g) to provide for future tourist and visitor accommodation in a sustainable manner that is compatible with, and will not compromise, the natural resource and heritage values of the surrounding area.”*

This application will facilitate the continued growth and development of tourist-related uses within the site integrated with the urban area of Moama and the established businesses and services of the broader locality. The resort owner/managers aim to operate the site in a manner which protects and enhances the natural assets of the river and the foreshore as these assets are the main attractive features of the site for tourists. The natural river setting and the scenic value of the foreshore is essential to the ongoing appeal of the resort to guests.

The provisions of the LEP that currently apply to the site are detailed as follows.

### **3.3.1 Zoning and Land Uses**

The site is within Zone E3 Environmental Management as shown in the extract from the Zoning Map contained in Figure 8. The objectives for all development in this zone are as follows:

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
- *To provide for a limited range of development that does not have an adverse effect on those values.*

The site has special ecological, cultural and aesthetic values. The ecological values are the riparian land, riparian vegetation and the key fish habitats identified in the LEP Biodiversity Map as detailed in Section 2.3.7 and the associated requirements of Clauses 7.3, 7.4, 7.5 and 7.6 to MLEP 2011. The role of the site in accommodating floodwaters and the ecological processes associated with flood events are also important factors in the ongoing development and management of the site and this constraint is appropriately identified in the Flood Planning Maps (see Section 2.3.6) and Clause 7.8 to MLEP 2011. The aesthetic values of the foreshore are recognised in the Watercourse Maps to the LEP and the requirements of Clauses 7.5 and 7.6 to the LEP. Therefore the requirements of the first objective are repeated in other provisions of the LEP.

The second objective aims to limit the range of land uses permitted in the zone to those that do not have an adverse impact on the values identified in the first objective. The land uses permitted without development consent in Zone E3 are: extensive agriculture and home occupations. The site is not intended to be used for extensive agriculture and a home occupation, by definition, would have no adverse impact on any site. Land uses permitted only with development consent in Zone E3 are as follows:

*"Agriculture; Bed and breakfast accommodation; Boat building and repair facilities; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Camping grounds; Cellar door premises; Charter and tourism boating facilities; Community facilities; Dwelling houses; Eco-tourist facilities; Environmental facilities; Environmental protection works; Extractive industries; Farm buildings; Farm stay accommodation; Flood mitigation works; Forestry; Home-based child care; Home businesses; Home industries; Information and education facilities; Jetties; Kiosks; Marinas; Mooring pens; Moorings; Recreation areas; Recreation facilities (outdoor); Research stations; Roads; Roadside stalls; Water recreation structures; Water supply systems"*

The following land uses are prohibited in Zone E3:

*Industries; Intensive livestock agriculture; Multi dwelling housing; Residential flat buildings; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not permitted with consent or where no consent is required.*

It is relevant to note that the current use of the site as a resort fits the definition of *tourist and visitor accommodation* which is defined in MLEP 2011 as follows:

*"tourist and visitor accommodation means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes any of the following:*

- (a) backpackers' accommodation,
- (b) bed and breakfast accommodation,
- (c) farm stay accommodation,
- (d) hotel or motel accommodation,
- (e) serviced apartments,  
but does not include:
- (f) camping grounds, or
- (g) caravan parks, or
- (h) eco-tourist facilities."

Tourist and visitor accommodation of the form conducted and approved on the site is prohibited in Zone E3. The resort commenced on the site in accordance with development consents issued prior to the commencement of the current LEP and therefore existing use rights apply to the resort.

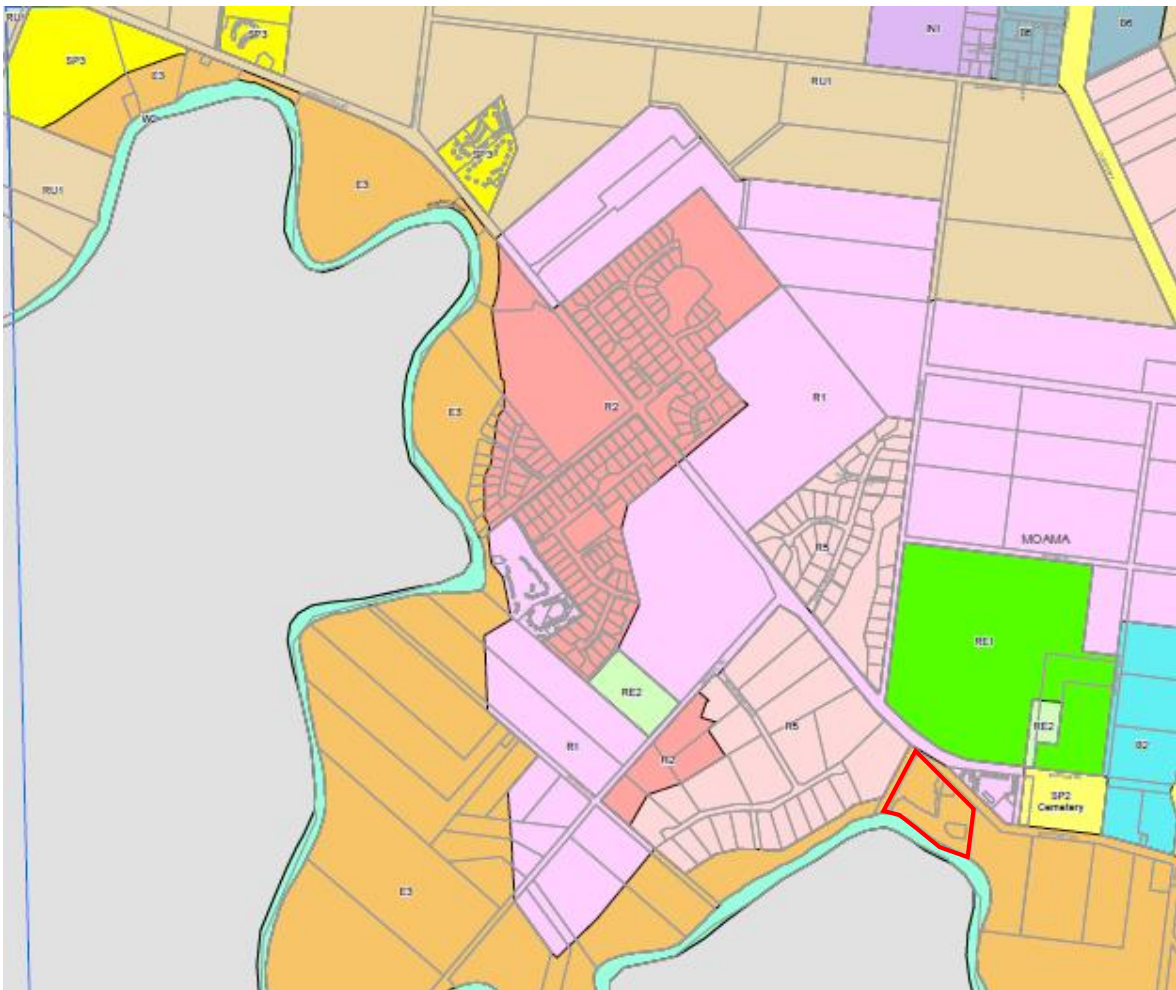


Figure 8: Extract from Zoning Map LZN\_006

### 3.3.2 Other LEP Provisions

There are no controls for building height and floor space ratio applicable to the site in MLEP 2011. As detailed previously in this application the provisions of MLEP 2011 relating to the subject site include:

- Clause 5.9 Preservation of trees or vegetation;
- Clause 7.1 Essential services
- Clause 7.2 Earthworks
- Clause 7.3 Biodiversity protection

- Clause 7.4 Development on riverfront areas
- Clause 7.5 Riparian Land and Murray River and other watercourses – general principles
- Clause 7.8 Flood planning.

This application does not propose to change the manner in which these clauses apply to the land and to any future development application.

### **3.4 Murray Development Control Plan 2011**

Murray Development Control Plan 2011 (MDCP 2011) contains general provisions which apply to the preparation and notification of development applications including supporting information required for assessment purposes. MDCP 2011 also contains objectives and controls for specific types of development and for certain localities. The existing provisions of MDCP 2011 are considered appropriate and will continue to apply to the site if and when Zone SP3 applies to the land.

## **4 DRAFT PLANNING PROPOSAL**

### **4.1 Proposed Amendments to Current Planning Provisions**

#### **4.1.1 Summary**

This draft Planning Proposal seeks to amend the provisions of MLEP 2011 to apply Zone SP3 Tourist to the entire site. This zoning applies to other tourism based land uses in the locality as indicated in the extract of the zoning map in Figure 8 with three properties to the north west of the site in Zone SP3.

The objective for all development in Zone SP3 in the LEP is “to provide for a variety of tourist-oriented development and related uses.” This objective is apt for the existing resort and for a future function centre.

There are no land uses permitted without consent in Zone SP3. Those land uses permitted only with development consent are as follows:

*“Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Business premises; Camping grounds; Caravan parks; Cellar door premises; Charter and tourism boating facilities; Eco-tourist facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Food and drink premises; Function centres; Information and education facilities; Marinas; Jetties; Neighbourhood shops; Recreation areas; Recreation facilities (indoor); Roads; Tourist and visitor accommodation; Viticulture; Water recreation structures; Water reticulation systems”*

Any land use not listed above is prohibited in Zone SP3.

Specifically function centres, tourist and visitor accommodation and a variety of land uses compatible with the existing resort are permissible with consent. This would remove any impediment or limitation placed on future expansion, through alterations, additions or additional uses that would apply were the site to be required to rely on existing use rights. This provides for a much more certain planning outcome for the owner, Council and the general community.

### **4.2 Objectives or Intended Outcomes**

#### **4.2.1 Intended Outcomes**

The purpose of this application for a draft Planning Proposal is to apply planning provisions which are more appropriate to the approved and existing use of the site in a manner consistent with other tourist-related properties in the locality. The proposed change to the zoning will not affect the manner in which the existing ecological, cultural and aesthetic values of the site continue to be recognised and accounted for through the provisions of the LEP specified in Clauses 5.9, 7.1, 7.2, 7.3, 7.4, 7.5 and 7.6.

The potential scale and intensity of development and the nature of land uses and ancillary features will be consistent with the capacity of the site, the ecological, cultural and aesthetic constraints and the anticipated future character for tourism-related developments in the locality.

#### **4.2.2 Objectives**

To achieve the intended outcomes for the site, the objectives of this application for a draft Planning Proposal are to apply the most appropriate planning provisions for the use of the site for tourism-related land uses in a manner which is also consistent with the ecological, cultural and aesthetic values

of the site and the constraints represented by flooding. A further objective of this application is to apply planning provisions to the site which are the same as those for other properties in the locality which are used for similar tourism-related uses.

#### **4.2.3 Justification**

This section sets out the justification for the proposed changes to the LEP.

#### **Section A - Need for the Planning Proposal**

##### **1. Is the draft Planning Proposal the result of any strategic study or report?**

The application for a draft Planning Proposal is not the direct result of a strategic study or report. It does however squarely align with the aims and objectives of the *Echuca Moama & District Tourism Strategic Plan* and the *Murray Tourism Destination Management Plan 2013*. It 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.

##### **2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

An application for a draft Planning Proposal is the best method for facilitating continued improvements and development essential to the ongoing sustainable operation of the existing tourist facilities on the subject site.

The provisions of Clause 5.3 Development near zone boundaries does not apply to land in Zone E3.

The provisions relating to existing use rights that are enjoyed by the site do not create certainty for the owner, Council or general community in relation to potential future expansion of facilities on the subject site.

Under the current planning provisions development capacity is limited in terms of permissible land uses and land uses which do not appropriately reflect the current approved use and the reasonable future range of uses required to sustain the viable operation of the resort in a manner facilitated for other tourist and visitor accommodation uses in the locality.

The proposed changes to MLEP 2011 will allow development compatible with the conditions of the site and in a manner which is consistent with other similar land uses in the locality.

##### **3. Is there a net community benefit?**

Although the matter of community benefit is not required to be addressed in the latest version of "A Guide to Preparing Planning Proposals", the potential public benefits of the Planning Proposal are:

- Ongoing viability of the resort through the expansion and improvement of tourism-related facilities and services;
- Boost to local and regional economic activity by maintaining and improving on the attraction and services of the resort for local customers and tourists; and
- Flow-on economic boosts to local businesses and services.

Specifically, in terms of economic benefits, Tindarra Resort has contributed over \$1 million to local businesses over the last 12 month period from events, including:

- Accommodation providers;
- Hire companies;
- Event stylists;
- Entertainers;
- Cleaners;
- Florists and flower arrangers;
- Marriage celebrants;
- Car hire companies;
- Taxi operators;
- Food & Beverage suppliers;
- Catering companies;
- Paddlesteamer and other attraction operators;
- Petrol stations;
- Supermarkets and produce suppliers; and
- Restaurants, clubs, pubs and cafes.

In terms of local employment, events at Tindarra provide for the following:

- Full time event coordinator;
- Additional supporting staff including:
  - Wait staff
  - Bar staff
  - Cleaning staff
  - Admin staff
  - Garden staff
  - These staff are all from the local community

Finally, events have significant benefits for local tourism through additional visitation to the area and awareness of Moama. The resort responds to key markets for events from Melbourne and surrounds, Geelong, Western District Victoria, Ballarat and Gippsland. The facility currently competes with overseas destination weddings and events attract outside visitation from Victoria, Western Australia and other Australian States. Most wedding couples are from outside of the local area, and usually have interstate guests attending from all over the country. The resort also currently caters for events and functions for a variety of local and community organisations and groups.

### **Section B - Relationship to Strategic Planning Framework**

#### **4. Is the Planning Proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including exhibited draft Strategies)?**

*Draft Murray Regional Strategy 2009-2036 (Draft Murray Strategy)*

The Draft Murray Strategy was prepared by the Department of Planning in 2009 as part of the NSW State Plan. It is anticipated to be replaced by the draft Regional Growth Plan for the Murray Murrumbidgee Region which is currently in preparation.

The Visions for managing future development in the Draft Murray Strategy include achieving prosperity through the appropriate use of natural and cultural assets, resilience to climate and demographic changes and sustainable infrastructures and services to support a community. The aims of the Draft Murray Strategy are to protect and manage the riverine environment and protect the landscape qualities of the river and the rural landscape. This application for a Planning Proposal aims to facilitate future development and expansion of the existing resort to provide additional services and facilities and enhance the landscape qualities and natural assets on the site.

Moama is identified in the Draft Murray Strategy as being a major town providing local and district wide services and facilities and capable of accommodating low and medium density urban growth. Moama is noted to have capacity for growth and new urban release areas (which are in close proximity to the subject site).

Tourism along with agriculture are the major sectors supporting the local economy. Tourism is largely based on the attractions of the natural assets and landscape and scenic values. The Draft Strategy seeks the following specific outcomes for tourism in the locality:

- Tourism facilities and activities which are compatible with built and natural assets;
- Facilities which enhance the scenic values of the landscape particularly along the Murray River;
- Larger scale facilities integrated with established towns; and
- No additional demands for infrastructure.

This application for a Planning Proposal is consistent with the above outcomes in that the resort is currently serviced by all essential services as listed in Clause 7.1 to the MLEP 2011 and is located within the urban setting of Moama. Future development applications are anticipated to include provisions for ongoing management of vegetation, access to the foreshore, bank stability and landscaping to enhance the natural assets of the site and link with the fish habitat and native riverine vegetation communities in the locality.

Actions specific to tourism-related development identified in the Draft Murray Strategy include LEPs which ensure sufficient land is available for tourism-related land uses in strategically appropriate locations. Appendix 1 to the Draft Murray Strategy lists Sustainability Criteria which are to be applied to decisions relating to land use zones and development applications for tourist-related development and activities.

The following table contains the Sustainability Criteria and includes a comment as to how this application is consistent with each criteria.

**Table 2: Sustainability Criteria for LEPs in Appendix 1 to Draft Murray Regional Strategy 2009-2036**

Sustainability Criteria	Proposed application of Zone SP3
<p><b>1. Infrastructure provision</b> Mechanisms in place to ensure utilities, transport, open space and communication are provided in a timely and efficient manner</p>	<p>All essential services are available to and connected to the site and the potential expansion of resort facilities are not expected to require increased capacity of the current services.</p>
<p><b>2. Access</b> Accessible transport options for efficient and sustainable travel between homes, jobs, services and recreation to be existing or provided.</p>	<p>Transport options include road and water-based vehicles. The site is within walking distance to Moama town centre and no additional transport infrastructure is necessary to</p>



	support the ongoing development of the resort in a manner consistent with the provisions for Zone SP3.
<b>3. Housing Diversity</b>	N/A
<b>4. Employment Lands</b>	N/A
<b>5. Avoidance of risk</b> Land use conflicts and risk to human health and life avoided.	The potential impacts of flooding are required to be addressed in accordance with Clause 7.8 to MLEP 2011.
<b>6. Natural Resources</b> Natural resource limits not exceeded/environmental footprint minimised.	Natural resources in terms of water quality, bank stability, vegetation management and protection of fish and riparian habitats are required to be addressed under the current provisions of the LEP and MREP No.2.
<b>7. Environmental Protection</b> Protect and enhance biodiversity, air quality, heritage and waterway health.	Matters of environmental protection and management are required to be addressed with any future development application as triggered by existing Clauses 5.9, 7.1, 7.2, 7.3, 7.4, 7.5 and 7.6.
<b>8. Quality and Equity in Services</b> Quality health, education, legal, recreational, cultural and community development and other Government services are accessible.	N/A

As demonstrated by Table 2 this application has the potential to be consistent with the sustainability criteria listed in the Draft Murray Strategy.

**5. Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?**

*Community Strategic Plan*

Murray Shire Council's Community Strategic Plan (CSP) for 2015/16 to 2024/25 was adopted by Council on 23 June 2015. The CSP identified themes for the future role of Council in the anticipated changes to the Shire. This application for a Planning Proposal is consistent with Theme 2 – an enhanced natural environment and Theme 4 – a growing community.

Theme 2 of the CSP aims to implement strategic planning decisions which are environmentally responsible and consistent. This application embodies both these requirements in that it does not change the way in which environmental considerations apply to the assessment of future development applications for the subject site (in that it does not change the manner in which Clauses 5.9, 7.1, 7.2, 7.3, 7.4, 7.5 and 7.6 of the MLEP 2011 apply to the site nor does it change the way in which MREP No.2 applies to the site.

Theme 4 to the CSP aims to support economic development of the Shire by ensuring that the area is well serviced, aesthetically attractive and that natural assets are protected to support a viable tourism sector. This application is consistent with the achievement of this theme by facilitating continued development and diversification of land uses within the site which are compatible with the natural and scenic assets of the site and surrounds.

*Murray Shire Strategic Land Use Plan 2010-2030*

The Murray Shire Strategic Land Use Plan 2010-2030 (MSSLUP) has been adopted by Council as a guide for future land use and strategic planning assessment of proposed land use changes as well as for the coordination of infrastructure provision and the management of natural, agricultural, tourism,

heritage and urban assets. The implementation of the guide is anticipated to appropriately separate incompatible land uses, reduce land development speculation and discourage development on flood prone land.

Figures 9 and 10 show extracts from the MSSLUP presenting the desired future sequence of land use change to 2030. The subject site is indicated with a red arrow. Figures 9 and 10 show land to the west of the site has been identified for future tourist and residential land uses. The MSSLUP states specifically “land west of Perricoota Road can co-exist with tourist development”. The MSSLUP also notes that businesses at the southern end of Merringa Street are anticipated to evolve services which are more tourism-focussed. The MSSLUP notes there has been a “boom” in tourist-related development in the past several years mostly in the style of self-contained cabin accommodation. The MSSLUP notes that there are few sites close to the river and also with few residential neighbours. The subject site can maintain appropriate separation distances from the nearest residential neighbours and has direct river frontage. When viewed in the context of the MSSLUP, the site is highly appropriate for tourist-related land uses provided those uses can be demonstrated to be compatible with the flood parameters of the river and result in the long term protection of the foreshore, river quality and riparian environment. Therefore the proposed rezoning of the site to SP3 Tourist is compatible with the anticipated future land use character for the immediate locality.



**Figure 9: Extract from MSSLUP showing anticipated future land use patterns**

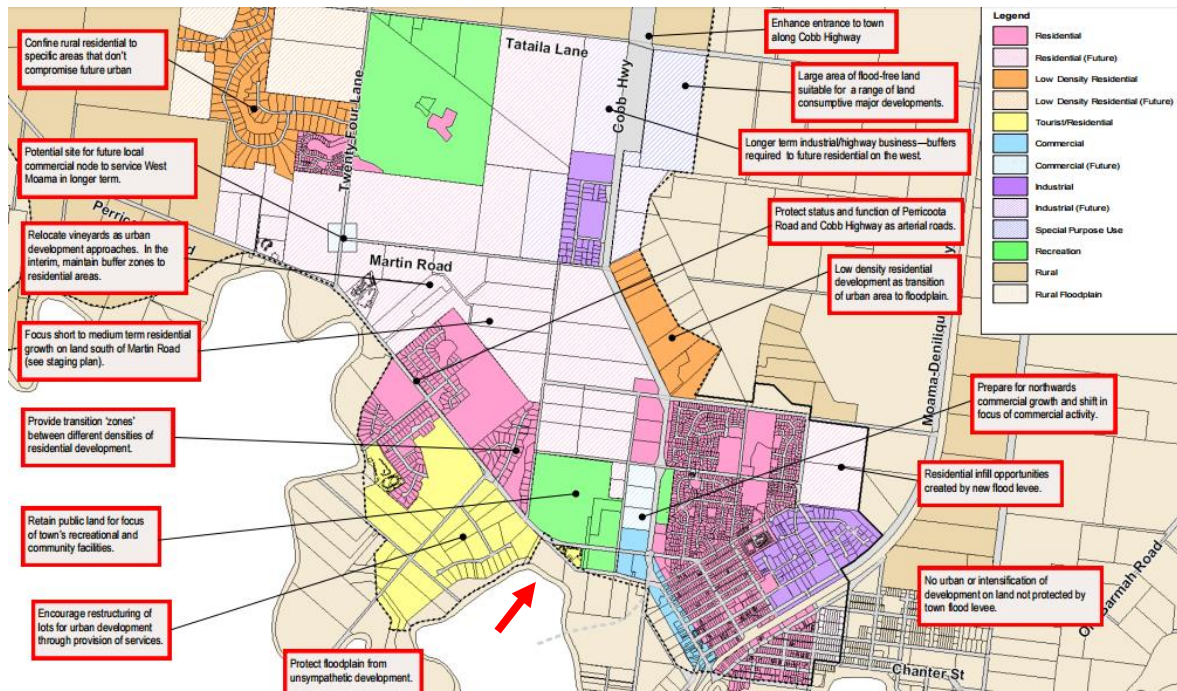


Figure 10: Extract from MSSLUP showing details of anticipated land use patterns

### 4.3 Murray Tourism Destination Management Plan 2013

The objective of the Murray Tourism Destination Management Plan is to identify opportunities to improve the quality and range of the region's tourism offer to increasing visitation, length of stay and improve the visitor experience.

Two key projects identified as Destination Development initiatives [page vii] relevant to the Tindarra Resort include:

- Development of riverfront dining and accommodation;
- A more diverse range of food and accommodation.

Seven themes for tourism development were identified with a range of public and private sector investment opportunities identified. Themes relating to the Tindarra Project are:

#### The River

Visitor access to and experience of the Murray River itself (any expansion of the resort will enable larger numbers of visitors to stay at Tindarra, with direct access to the Murray River).

#### Festivals, Events and Conferences

Developing a coordinated range of events throughout the Murray Region and increasing the region's presence in the business events and conference market, through the development of new conference facilities and ancillary event facilities

#### Accommodation

Improving and diversifying the range of accommodation in the region. Research undertaken in preparation of the DMP indicates that high quality and unique accommodation may attract visitors who have not travelled to the Murray Region before. Outside of caravan parks, there is very little accommodation in the Murray region with views of the river. Opportunities to establish a range of accommodation options making the most of the River should be a priority.

Tindarra Resort is one of only two 4.5 star properties located directly on the banks of the Murray River in Moama. Most riverside accommodation comprises of caravan parks or free camping sites further out of town. Away from the river, the accommodation is predominantly 3 3.5 star motels. This planning

### Events

DMP Research also indicates that conferences are an important sector within event related visitation. The Murray has a competitive advantage in being located on the border of Victoria and NSW. Conference venues that have accommodation are also at a distinct advantage.

Echuca Moama & District Tourism (EMT) Strategic Plan 2014 identifies that the region hosts several 'signature events' during the year which attract thousands of visitors during traditionally off-peak times. EMT is committed to growing the events sector and has recently funded a Convention and Events Officer on a full time basis to develop existing and attract new events to the region.

A key EMT initiative is to identify key tourism investment opportunities which have the potential to grow the economic impact of tourism in the region.

The subject Planning Proposal is intended to facilitate a long-term response to the aims of the DMP which will have significant flow-on effects for the local economy. As stated elsewhere in this document, function facilities are critical to the viability of the resort and are one of many facilities that would be permitted within the SP3 zone that would assist in meeting the aims of the DMP.

### **6. Is the planning proposal consistent with applicable state environmental planning policies?**

There are no State Environmental Planning Policies (SEPPs) or known Draft SEPPs that would prohibit or restrict the planning proposal. An assessment against relevant SEPPs is provided in Table 3 (note SEPPs that are not relevant to the proposal have not been included in the table):

<b>TABLE 3: RELEVANT STATE ENVIRONMENTAL PLANNING POLICIES</b>			
<b>SEPP</b>	<b>Relevance</b>	<b>Consistency</b>	<b>Comments</b>
SEPP 21 Caravan Parks	SEPP 21 applies to all land in the State. It aims to provide caravan parks for both short and long term stays for social and economic welfare and protection of the environment.	Yes	The application for a Planning Proposal does not change the current provisions of MLEP 2011 applying to caravan parks. Caravan parks are prohibited in Zone E3 and therefore are currently prohibited on the subject site under the current zoning (note that camping grounds are permissible uses in Zone E3). Caravan parks are permitted with consent in Zone SP3 Tourist. Therefore the proposed change in zoning will facilitate the opportunity for lodgement of a development application for a caravan park. Any such application would be subject to detailed assessment to

TABLE 3: RELEVANT STATE ENVIRONMENTAL PLANNING POLICIES			
SEPP	Relevance	Consistency	Comments
			determine whether such a use is compatible with the particular features of the site and the surrounds.
SEPP No.36 Manufactured Home Estates	This Policy aims to facilitate manufactured home estates as a contemporary form of medium density housing and affordable housing. This Policy makes manufactured home estates permissible with consent on any land where caravan parks are permissible. However, land is excluded from the Policy if it is at risk of coastal processes or flooding or is within a drinking water catchment, scenic or environmental protection area or if the land has resource, landscape, scenic or ecological values to be protected.	Yes	Schedule 2 to the Policy specifically excludes some land from the application of the Policy and Part 9 to Schedule 2 excludes "Flood liable land as defined in Murray REP No.2 Riverine Land". The site is flood affected as described in Section 2 above. Therefore the land is excluded from the Policy.
SEPP No.44 Koala Habitat	This Policy aims to protect and maintain koala habitat and requires a Plan of Management for any development proposal within koala habitat.	Yes	The site is within proximity to koala habitat although investigations of the site in conjunction with previous development proposal note that the site does not contain koala habitat. This application for a Planning Proposal does not change the manner in which the SEPP applies to the site.
SEPP No.52 Farm Dams and Other Works in Land and Water Management Plan Areas	This Policy aims to allow the carrying out of development without development consent for routine and maintenance activities whether or not a land and water management plan applies to the land concerned.	Yes	This application does not change the manner in which this Policy applies to the land.
SEPP No 55- Remediation of Land	Introduces state-wide planning controls for the remediation of contaminated land.	Yes	A Phase 1 Contamination Investigation is anticipated to be required with any future development application which may

<b>TABLE 3: RELEVANT STATE ENVIRONMENTAL PLANNING POLICIES</b>			
<b>SEPP</b>	<b>Relevance</b>	<b>Consistency</b>	<b>Comments</b>
			increase the risk of exposure of contaminants to the environment or to human contact. There is no known evidence of contamination of the site and no contamination assessment is considered necessary to support this application.
SEPP 62 Sustainable aquaculture	This SEPP aims to protect and improve the health of the riparian environment for ongoing aquaculture.	Yes	This application does not change the manner in which this SEPP applies to the site and any future development application.
SEPP No.64 Advertising and Signage	This SEPP aims to ensure signage is effective, high quality and compatible with the amenity and visual character of a site and locality. It specifies when development consent is required for signs and imposes time limited consents on some signage.	Yes	This application does not change the way in which the SEPP applies to any future development application for signage. The change to the zoning of the land is not intended to substantially change the character and setting of the site including the landscape and scenic assets, the protection of vegetation and biodiversity values are intended to be continued with the application of Zone SP3.
SEPP Miscellaneous Consent Provisions	This SEPP aims to provide for the erection of temporary structures as permissible uses whilst maintaining a safe environment and protecting the environment. The SEPP also requires consent for subdivision, building work and demolition where consent is not already required by another environmental planning instrument.	Yes	This application does not change the manner in which this Policy applies to the site.
SEPP (Exempt and Complying Development Codes) 2008	This SEPP defines types of development for which development consent is not required.	Yes	This application does not change the way in which the SEPP applies to any future development or use of the site.

SEPP (Housing for Seniors or People with a Disability) 2004	This SEPP facilitates the delivery of housing suitable for people with special needs and sets minimum design standards for that housing.	Yes	This application does not change the way in which this SEPP applies to the site.
SEPP (Infrastructure) 2007	This Policy aims to facilitate the delivery of new infrastructure, protect the safe and efficient operation of existing infrastructure and ensure future development is compatible with the continued operation of infrastructure.	Yes	This application does not change the manner in which the Policy applies to the subject site and any future development assessment process.
Murray Regional Environmental Plan No.2	This Plan aims to conserve and enhance the riverine environment of the River Murray for the benefit of all users.	Yes	See Section 3.1.

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

The proposal is consistent with all applicable Ministerial Directions under Section 117 of the Environmental Planning & Assessment Act, 1979. An assessment against the applicable directions is provided in Table 4 as follows.

**TABLE 2: S.117 MINISTERIAL DIRECTIONS**

Ministerial Direction	Relevance	Consistency	Implications
<b>2. Environment and Heritage</b>			
2.1 Environment Protection Zones	<p>This Direction applies to all Planning Proposals and aims to preserve and conserve environmentally sensitive areas.</p> <p>A Planning Proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</p> <p>A Planning Proposal that applies to land within an environment protection zone in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land).</p>	Yes	<p>This application for a Planning Proposal does not change provisions of MLEP 2011 which relate to the consideration of environmental assets within and adjoining the site. That is, this application does not propose to change the manner in which the provisions of Clauses 5.9, 7.1, 7.2, 7.3, 7.4, 7.5, 7.6 and 7.8 of MLEP 2011 apply to the site.</p> <p>For this reason the application is consistent with Direction 2.1.</p>
2.3 Heritage Conservation	<p>(1) A planning proposal must contain provisions that facilitate the conservation of:</p> <p>(a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,</p> <p>(b) Aboriginal objects or Aboriginal places that are protected under the <i>National Parks and Wildlife Act 1974</i>, and</p> <p>(c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.</p>		<p>The site does not contain known or listed items of environmental heritage. The site is part of the riverine area which has cultural and scenic value as recognised in Murray Regional Environmental Plan No.2 A change in zoning to Zone SP3 will not change the potential contribution the site will have to the cultural and landscape value of the riverine corrido and the consideration of heritage and cultural matters with any future development application will continue to apply under the provisions of the MREP No.2.</p> <p>This application for a Planning Proposal is not inconsistent with this Direction and does not affect the way in which the current provisions of Clause 5.10 to MLEP 2011 applies to the future development of the site.</p>



- (2) A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that:
- (a) the environmental or indigenous heritage significance of the item, area, object or place is conserved by existing or draft environmental planning instruments, legislation, or regulations that apply to the land, or
  - (b) the provisions of the planning proposal that are inconsistent are of minor significance.

2.4 Recreation Vehicle Areas	<p>This Direction applies to all relevant planning authorities when a planning proposal is prepared.</p> <p>The objective of the Direction is to protect sensitive land and land with significant conservation values from adverse impacts of recreational vehicles.</p> <p>A Planning Proposal must not enable land to be developed for a recreational vehicle area where the land is:</p> <ul style="list-style-type: none"> <li>(a) in an environmental protection zone;</li> <li>(b) a beach or coastal dune; or</li> <li>(c) unless there has been consideration of specific guidelines for the use and maintenance of recreational vehicles.</li> </ul> <p>A Planning Proposal may be inconsistent with the Direction if the planning authority can satisfy the Director-General that the provisions are justified by a strategy or study or is consistent with a Regional or Sub-regional Strategy prepared by the Department of Planning or is of minor significance.</p>	Yes	<p>The land is sensitive as flood prone land and part of the riparian area of the Murray River. The site has conservation value as recognised by the application of biodiversity mapping to the site in accordance with the MLEP 2011 and its location adjacent to Key Fish Habitat.</p> <p>This application for a planning proposal does not seek to enable the land to be developed for use as a recreational vehicle area. This application for a planning proposal does not seek to change the status and relevance of any environmental constraints and the recognition of such in current environmental planning instruments.</p> <p>For these reasons the application is consistent with Direction 2.4.</p>
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<b>3.Housing,Infrastructure and Urban Development</b>			
3.2 Caravan Parks and Manufactured Home Estates	<p>This Direction applies to all Planning Proposals and aims to ensure that LEP provisions facilitate:</p> <ul style="list-style-type: none"> <li>- a variety of housing types; and</li> <li>- permit caravan parks and manufactured home estates.</li> </ul> <p>A planning proposal must:</p> <ul style="list-style-type: none"> <li>- retain provisions that permit caravan parks</li> <li>- identify and retain land suitable for caravan parks and manufactured home estates.</li> </ul>	Yes	<p>This application for a Planning Proposal will change the provisions relating to caravan parks and manufactured home estates as they apply to the subject site. These matters are addressed in Table 1. It is noted that caravan parks will be permissible with development consent should Zone SP3 apply to the site. However the flooding and environmental constraints of the site exclude it from the provisions of the SEPP for manufactured home estates.</p> <p>The application retains provisions that permit caravan parks.</p> <p>For these reasons the application is consistent with Direction 3.2.</p>
3.3 Home Occupations	<p>This Direction applies to all Planning Proposals and aims for home occupations conducted within dwelling houses to be permitted without Council consent.</p>	Yes	<p>This application for a Planning Proposal does not change provisions relating to home occupations as they apply to the subject site. Home occupations are permitted without consent under the current controls and this is not proposed to change.</p> <p>The application for a Planning Proposal is therefore consistent with Direction 3.3.</p>
3.4 Integrating Land Use and Transport	<p>A planning proposal must locate zones for urban purposes and include provisions that give effect to, and are consistent with the aims, objectives and principles of:</p> <ol style="list-style-type: none"> <li>(1) <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and</li> <li>(2) <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001).</li> </ol>	Yes	<p>The subject site can be accessed by road and water-based transport and is within reasonable walking distance to Moama town centre and in close proximity to the Moama Railway Station. Therefore, this application for a planning proposal is considered to be consistent with the aims and objectives of Direction 3.4.</p>
<b>4. Hazard and Risk</b>			
4.1 Acid Sulfate Soils	<p>A planning proposal must consider the environmental impacts of Acid Sulfate Soils.</p>	Yes	<p>This application for a Planning Proposal acknowledges that the site is within 100m of the Murray River and potentially impacted by Acid Sulfate Soils. However, the proposed LEP amendments do not change the requirements for investigations and potential management of the site should excavations and changes to groundwater require a Management Plan.</p> <p>Therefore no additional investigations are required to support this application for a Planning Proposal.</p> <p>The potential impacts of Acid Sulfate Soils has been considered to the extent necessary for a Planning Proposal.</p>

4.3 Flood Prone Land	A Planning Proposal must include provisions that give effect to and are consistent with the <i>NSW Flood Prone Land Policy</i> and the principles of the <i>Flood Development Manual</i> .	Yes	The site is Flood Prone Land. This application does not change the manner in which Clause 7.8 to MLEP 2011 applies to the site and any future development application. The potential constraints of flooding have been identified in Section 2.3 and acknowledged throughout this application.  This application for a Planning Proposal is therefore consistent with the requirements of Direction 4.3.
4.4 Planning for Bushfire Protection	<p>This Direction applies to Planning Proposals which involve land which adjoins or is affected by bushfire risk.</p> <p>In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made.</p> <p>A planning proposal must:</p> <ul style="list-style-type: none"> <li>(a) have regard to Planning for Bushfire Protection 2006,</li> <li>(b) introduce controls that avoid placing inappropriate developments in hazardous areas, and</li> <li>(c) ensure that bushfire hazard reduction is not prohibited within the APZ.</li> </ul> <p>A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the council has obtained written advice from the Commissioner of the NSW Rural Fire Service, to the effect that, notwithstanding the noncompliance, the NSW Rural Fire Service does not object to the progression of the planning proposal.</p>	Yes	<p>The site is within an area identified as being affected by bush fire hazard. This application does not change the manner in which the assessment of potential hazard must be considered in preparing and assessing any future development application. Many of the permissible uses are likely to trigger the provisions for integrated development assessment and require concurrence from the NSW RFS and consultation is also anticipated for this application for a Planning Proposal post Gateway.</p> <p>This application does not propose controls which would be contrary to the intent and purpose of Planning for Bushfire Protection 2006 (as revised).</p> <p>In accordance with Clause 5.11 to MLEP 2011 bushfire hazard reduction works will continue to be permitted on the site without consent in a bushfire emergency situation.</p> <p>This application for a Planning Proposal is therefore consistent with the requirements of Direction 4.4.</p>

<b>6. Local Plan Making</b>			
6.1 Approval and Referral Requirements	<p>A planning proposal must:</p> <ul style="list-style-type: none"> <li>• minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority,</li> <li>• not identify development as designated development unless the relevant planning authority has obtained the approval of the Director-General of the Department of Planning</li> </ul>	Yes	<p>This application for a draft Planning Proposal does not introduce additional concurrence requirements or identify specific development as designated development. Therefore the application is consistent with Direction 6.1.</p>
6.2 Reserving Land for Public Purposes	<p>The objective of this Direction to facilitate the provision of public services and facilities by reserving land for those purposes and to remove reservations where land is no longer required.</p> <p>The Direction applies to all planning proposals.</p> <p>A planning authority must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General.</p> <p>The Minister or a relevant authority may request a relevant planning authority to reserve land for a public purpose or remove a reservation in a planning proposal.</p> <p>A planning proposal may be inconsistent with this Direction if the relevant planning authority can satisfy the Director-General that further information is required before determination or the provisions are of minor significance.</p>	Yes	<p>The subject site does not contain land that is reserved for acquisition for a public purpose. The MSSLUP 2010-2030 does not identify any future intentions for reserving part of the site for public purposes.</p> <p>This application does not propose to reserve any part of the site for public purposes.</p> <p>It is noted that public authorities will be consulted as part of the Planning proposal process and that these public authorities may consider this Direction in their review and comment on this application.</p> <p>For these reasons the application is not inconsistent with Direction 6.2.</p>
6.3 Site Specific Provisions	<p>A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:</p> <ol style="list-style-type: none"> <li>(a) allow that land use to be carried out in the zone the land is situated on, or</li> <li>(b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or</li> </ol>	Yes	<p>This draft Planning Proposal does not seek provisions in the LEP which will apply to a specific development on the site. The proposed amendments to the LEP utilise the existing zoning and land use provisions which apply to other land in Zone SP3 within Murray Shire.</p> <p>Therefore this application is consistent with the requirements of Direction 6.3.</p> <p>However, should Council consider that the proposed provisions should be included in Schedule 1 Additional Permitted Uses and subject to a site-specific</p>

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(c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended

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clause additional permitted land uses then this section of the draft Planning Proposal will require revision as is the typical process for the evolution of a draft Planning Proposal.

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### **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 site does not contain critical habitat or habitat for threatened species, populations or endangered ecological communities. The potential future development of the site is not likely to have a negative impact on such habitats and the site does not have potential to contribute to links or support habitat of significance for threatened species, populations or endangered ecological communities.

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

The main potential environmental impacts to be examined in detail to guide any future development proposal for the site are:

- traffic and parking;
- landscape and scenic quality;
- management of vegetation; and
- maintaining bank stability and controlled access to the river foreshore.

All of these matters are subject to further directions which may result from Council's initial assessment and the Gateway process. The existing provisions of MLEP 2011 and MDCP 2011 are considered adequate to ensure these matters are addressed with any future development application for land uses listed as permitted with consent in Zone SP3.

#### **10. How has the planning proposal adequately addressed any social and economic effects?**

The social and economic effects of the draft planning proposal have been considered in the context of the potential social and community benefits described in Section 2.3. The ongoing viability of the resort is essential to the economic contribution to the local economy and associated businesses and services. The provision of additional facilities at the resort will also add to the scope of activities and services available to guests and to the local community.

This application for a Planning Proposal also seeks to establish a "level playing field" for the existing resort in terms of the potential future land uses and activities which are permitted with development consent in a similar manner to other sites in Zone SP3 which are used for tourist-related purposes.

The Community Engagement Strategy and direct consultation with public authorities to be conducted with a Planning Proposal process will identify any matters requiring further examination as the Planning Proposal evolves and progresses.

### **SECTION D – State and Commonwealth Interests**

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

All essential services are connected to the subject site. Arrangements are to be made direct with the providers of each service in conjunction with any specific development application should additional connection capacity be required.

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

State and Commonwealth authorities will be consulted in accordance with Section 57 of the EP&A Act, 1979, following the outcomes of the Gateway determination.

### **4.4 Part 4 - Mapping**

The Department's *Guide to Preparing Planning Proposals* includes instructions on preparing maps to amend the current LEP maps. As this application for a planning proposal only seeks to change the zoning of the land, only the current zoning map Ref. 5500\_COM\_LZN\_006B\_020\_20130114 is required to be amended to apply the existing zoning category of Zone SP3 to the subject site as identified in Figure 1.

### **4.5 Part 5 - Community Consultation**

In accordance with Section 57(2) of the EP&A Act, 1979, the Director-General of Planning must approve the form of the planning proposal, as revised to comply with the gateway determination, before community consultation is undertaken as part of this Planning Proposal process.

Public exhibition is likely to include a newspaper advertisement, display on the Council's web-site and written notification to adjoining and nearby landowners. The Gateway determination will specify the level of public consultation that must be undertaken in relation to the planning proposal process.

Pursuant to Section 57(8) of the EP&A Act, 1979 the Responsible Planning Authority must consider any submissions made concerning the proposed instrument. A public hearing is not required.

### **4.6 Part 6 – Project Timeline**

The Department's *Guide to Preparing Planning Proposals* includes an estimate of the project timeline. The key milestones of any planning proposal are typically as follows:

- anticipated commencement date (date of Gateway determination)
- anticipated timeframe for the completion of required technical information
- timeframe for government agency consultation (pre and post exhibition)
- commencement and completion dates for public exhibition period
- dates for public hearing (if required)
- timeframe for consideration of submissions
- timeframe for the consideration of a proposal post exhibition
- date of submission to the department to finalise the LEP
- anticipated date RPA will make the plan (if delegated)
- anticipated date RPA will forward to the department for notification.

The achievement of these milestones is dependent upon the actions of Council as the responsible planning authority and the referral and determination responsibilities of the Department of Planning and other authorities to be consulted. It is anticipated that Council will be able to provide an estimate of practical timeframes upon submitting this application to the Gateway process. However, the application is comparatively simple and no additional supporting studies are required.

## **5 CONCLUSION**

A preliminary assessment of the features of the site and its setting have determined that the site is capable of potentially accommodating a range of land uses as permitted with consent in Zone SP3. The proposed amendments to the LEP are necessary to create a suite of planning provisions which will optimise the ongoing viability of the resort in a manner consistent with the planning provisions applying to other sites used for tourist-related facilities in the locality.

Subject to the planning provisions sought by this application, this site is an excellent opportunity to deliver a high quality, multi-use tourist facility which is entirely consistent with the adopted and endorsed local, regional and State strategic plans in a manner which is also highly compatible with the land uses on neighbouring sites and the environmental assets of the site and surrounds.

Overall the changes facilitated by the application for a Planning Proposal will make a positive contribute to tourism and overall employment and economic growth.

This application for a Planning Proposal demonstrates the orderly and economic development of the site is best facilitated by changing the zoning of the land from Zone E3 to Zone SP3 without changing the current planning provisions to achieve protection and management of natural assets and scenic quality.