



IRF22/4244

## Gateway determination report – PP-2022-4007

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Rezoning and reclassification of land for the expansion of the Moama Business Park, Cobb Highway, Moama

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# Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

## Contents

<b>1</b>	<b>Planning proposal</b>	<b>2</b>
1.1	Overview	2
1.2	Objectives of planning proposal	2
1.3	Explanation of provisions	3
1.4	Site description and surrounding area	3
1.5	Mapping	5
1.6	Background	6
<b>2</b>	<b>Need for the planning proposal</b>	<b>7</b>
<b>3</b>	<b>Strategic assessment</b>	<b>7</b>
3.1	Regional Plan	7
3.2	Local	8
3.3	Section 9.1 Ministerial Directions	9
3.4	State environmental planning policies (SEPPs)	11
<b>4</b>	<b>Site-specific assessment</b>	<b>12</b>
4.1	Environmental	12
4.2	Social and economic	12
4.3	Infrastructure	12
<b>5</b>	<b>Consultation</b>	<b>12</b>
5.1	Community	12
5.2	Agencies	12
<b>6</b>	<b>Timeframe</b>	<b>13</b>
<b>7</b>	<b>Local plan-making authority</b>	<b>13</b>
<b>8</b>	<b>Assessment summary</b>	<b>13</b>
<b>9</b>	<b>Recommendation</b>	<b>13</b>

**Table 1 Reports and plans supporting the proposal**

Relevant reports and plans
Planning Proposal – Habitat Planning
Murray River Council Ordinary Meeting Agenda and Minutes – 22 November 2022

# 1 Planning proposal

## 1.1 Overview

**Table 2 Planning proposal details**

<b>LGA</b>	<b>Murray River</b>
<b>PPA</b>	<b>Murray River Council</b>
<b>NAME</b>	<b>Reclassify land, amend zone from RU1 Primary Production to IN1 General Industrial (E4 General Industrial transition) and remove minimum lot size requirement for the Moama Business Park expansion at Cobb Highway, Moama</b>
<b>NUMBER</b>	<b>PP-2022-4007</b>
<b>LEP TO BE AMENDED</b>	<b>Murray LEP 2011</b>
<b>ADDRESS</b>	<b>Cobb Highway, Moama</b>
<b>DESCRIPTION</b>	<b>Lot 1 DP 793207</b>
<b>RECEIVED</b>	<b>24/11/2022</b>
<b>FILE NO.</b>	<b>IRF22/4244</b>
<b>POLITICAL DONATIONS</b>	<b>There are no donations or gifts to disclose and a political donation disclosure is not required</b>
<b>LOBBYIST CODE OF CONDUCT</b>	<b>There have been no meetings or communications with registered lobbyists with respect to this proposal</b>
<b>DWELLINGS/JOBS</b>	<b>0 dwellings/100 jobs</b>

## 1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal. The proposed amendment will facilitate the use of the subject land for the expansion of the Moama Business Park.

The objectives of the planning proposal are to:

- Reclassify the land from Community to Operational (no interests to discharge).
- Rezone the subject land from RU1 Primary Production to IN1 General Industrial (this zone will transition to new comparable E4 General Industrial zone under the employment zone reforms); and
- Remove the 120-hectare minimum lot size requirement from the land. No minimum lot size will apply to the subject site, compatible with the adjoining industrial land.

The objectives of this planning proposal are clear and adequate.

## 1.3 Explanation of provisions

The planning proposal seeks to amend the Murray LEP 2011 in accordance with the changes below:

**Table 3 Current and proposed controls**

Control	Current	Proposed
Zone	RU1 Primary Production	IN1 General Industrial (E4 General Industrial – employment zone transition)
Minimum lot size	120 ha	Nil
Number of dwellings	0	0
Number of jobs	N/A	100
Reclassify land from	Community	Operational

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

## 1.4 Site description and surrounding area

The subject land is described as Lot 1 DP 793207, Cobb Highway, Moama. It is regular in shape and has a total area of approximately 32 hectares.

The land is currently vacant and has previously been utilised for broad acre cropping. The southern boundary is bordered by some remnant trees; however the site is mostly devoid of significant vegetation.

The Moama Business Park directly adjoins the site, and access is provided from the Cobb Highway (eastern boundary) and Tatalia Road (northern boundary).



Figure 1 Subject site (source: ePlanning Spatial Viewer)

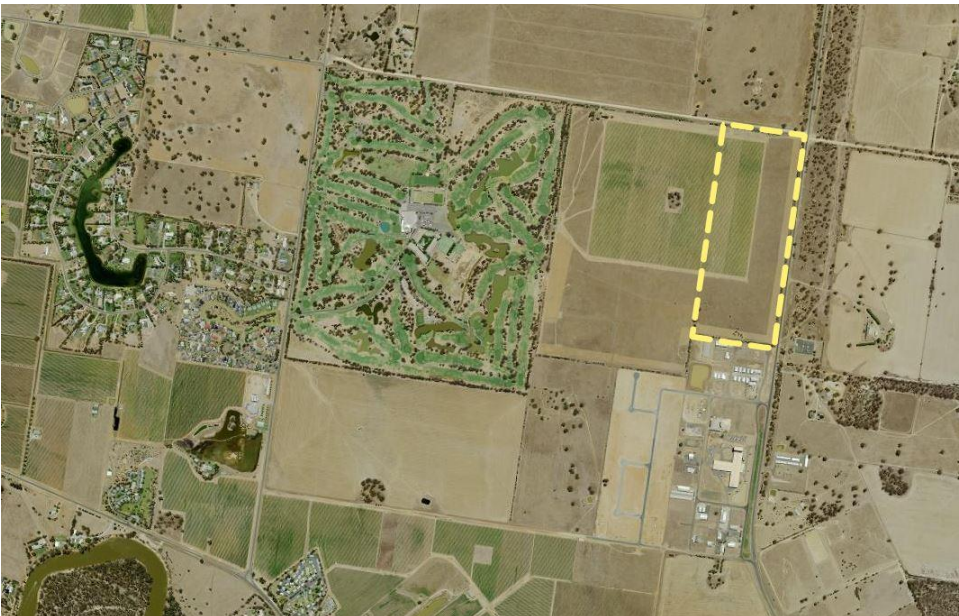


Figure 2 Site context (source: ePlanning Spatial Viewer)

## 1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the LZN\_006A and LSZ\_006A maps, which are suitable for community consultation.



Figure 3 Current zoning map (source: Planning Proposal)



Figure 4 Current minimum lot size map (source: Planning Proposal)





Figure 5 Proposed zoning map (source: Planning Proposal)



Figure 6 Proposed minimum lot size map (source: Planning Proposal)

## 1.6 Background

Council purchased the subject land on 25 January 2021 for the purposes of expanding the existing Moama Business Park.

The planning proposal addresses an administrative error as Murray River Council (Council) did not classify the land as ‘operational’ within the three months statutory timeframe after the subject land was purchased by Council as allowed under section 31(2) the Local Government Act, 1993.

As a result the land defaulted to classified as ‘community’ land. A planning proposal and LEP amendment is required to address this administrative oversight, and to rezone the land to IN1



General Industrial (E4 General Industrial employment lands transition) and remove the minimum lot size provisions.

## 2 Need for the planning proposal

### Q1. Is the planning proposal a result of an assured local strategic planning statement, or Department approved local housing strategy, employment strategy or strategic study or report?

The planning proposal is not the result of a strategic study or report. As stated in the planning proposal, the need for the planning proposal is to rectify a Council administrative error which automatically classified the land as ‘community’ rather than being identified as ‘operational’ following the purchase of the land in 2021. The land was not purchased by Council to be used for ‘community’ purposes.

The land is identified in the Murray Shire Strategic Land Use Plan 2010-2030 as a longer term industrial/business site. See Section 3.2 below for further discussion.

The land is also required to be rezoned to IN1 General Industrial (E4 General Industrial employment zone transition) and remove the minimum lot size to facilitate the expansion of the Moama Business Park, which is its intended purpose.

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

A planning proposal is the only means of rezoning and reclassifying the land for its intended purpose as part of the Moama Business Park.

## 3 Strategic assessment

### 3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the Riverina Murray Regional Plan 2036.

The draft Riverina Murray Plan 2041 was exhibited from 21 July 2022 to 21 September 2022.

**Table 4 Regional Plan assessment**

Regional Plan Objectives	Justification
Direction 1 – Protect the region’s diverse and productive agricultural land	While the proposed amendment is inconsistent with this direction, Council’s planning proposal indicates that the site adjoins an industrial estate. The small lot area of Lot 1 (32ha), its proximity to existing industrial uses and future residential land uses (as identified in Council’s strategy) makes it less ideal for productive agricultural uses. Impact on agriculture and the justification to rezone the land against the applicable rural directions is to be considered on balance in that there is a proposed loss of approximately 32ha of rural land against the ample availability of rural land in this area.

Direction 3: Expand advanced and value-added manufacturing	The planning proposal will rezone the land to general industrial, enabling the use of the site for a variety of general, light or rural industrial uses. The Department acknowledges that the site's proximity to productive agricultural land and its co-location with other existing industrial uses that form the Moama Business Park, also present opportunities for collaboration and value-added manufacturing which is desirable and in keeping with the direction.
Direction 24 – Create a connected and competitive environment for cross-border communities.	The planning proposal notes that the rezoning is the result of a shortage or lack of this type of industrial zoned land in Moama. The Department acknowledges that the rezoning would support the cross-border towns by accommodating new industrial uses adjacent to an existing industrial estate in Moama. The site is a good location to be zoned industrial.

Consistency with the draft Riverina Murray Regional Plan 2041:

**Table 5 draft Regional Plan assessment**

Regional Plan Objectives	Justification
Objective 12: Strategically planning for rural industries	While the proposed amendments are inconsistent with this direction, Council's planning proposal indicates that the site adjoins an industrial estate. The small lot area (32ha) of Lot 1 and its proximity to existing industrial uses and future residential uses makes it less ideal for productive agricultural uses. Impact on agriculture and the justification to rezone the land against the applicable rural directions is to be considered on balance in that there is a proposed loss of approximately 32ha of rural land against the ample availability of rural land in this area. The rezoning of the land is supported by the Murray River Strategic Land Use Plan.
Objective 14: Protecting and promoting industrial land and manufacturing land	The planning proposal will rezone the land to IN1 General Industrial (E4 General Industrial employment zones transition), enabling the use of the site for a variety of general, light or rural industrial uses. The Department acknowledges that the site's proximity to productive agricultural land and its co-location with other existing industrial uses that form the Moama Business Park also present opportunities for collaboration and value-added manufacturing which is desirable and in keeping with the direction.

## 3.2 Local

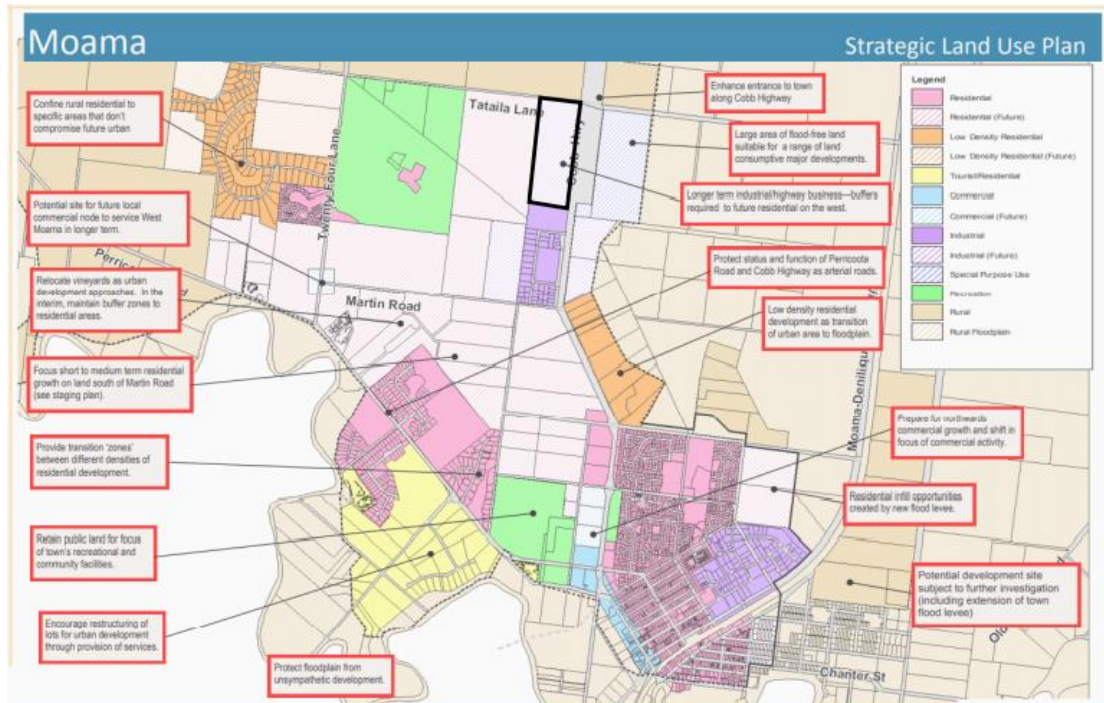
The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

**Table 6 Local strategic planning assessment**

Local Strategies	Justification
Murray River Council Local	The planning proposal is broadly consistent with the LSPS which recognises a shortage of industrial and employment lands in Murray River LGA.

<p>Strategic Planning Statement 2020 - 2040</p>	<p>Specifically, the planning proposal aligns with the following priorities and actions of the LSPS:</p> <ul style="list-style-type: none"> <li>• Priority 3 – Create an ‘open-for-business’ identity                     <ul style="list-style-type: none"> <li>• Action 3.2 – Develop an LEP which better facilitates business and employment growth opportunities including for the agribusiness, manufacturing, retail, healthcare and support services, retail and hospitality industries and sectors</li> </ul> </li> </ul>
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<p>Murray Shire Strategic Land Use Plan 2010-2030</p>	<p>The planning proposal is broadly consistent with the Murray Shire Strategic Land Use Plan 2010-2030 (the Strategy).</p> <p>The subject land (outlined in black in the image below) is identified in the strategy for “longer term industrial/highway business – buffers required to future residential on the west”. In this regard the site area of 32ha is adequate to provide suitable buffers.</p> <p>The strategy also confirms that there is minimal opportunity for future infill industrial development and that the subject land is Council’s preferred location for future industrial expansion.</p>
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### 3.3 Section 9.1 Ministerial Directions

The planning proposal’s consistency with relevant section 9.1 Directions is discussed below:

**Table 7 9.1 Ministerial Direction assessment**

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Consistent	The proposal is largely consistent with the Direction (see discussion in Section 3.1 of this report).

4.4 Remediation of Contaminated Land	Inconsistent at this time	<p>The planning proposal notes that the site is used for intermittent grazing of cattle, and historically used for broadacre agriculture. Under Table 1 of the contaminated land planning guidelines, agricultural activity is identified as a use that may cause contamination of land. A Preliminary Site Investigation (PSI) Report is required to accompany a planning proposal for rezoning of any such land under this Direction.</p> <p>The Department recommends a condition in the Gateway Determination requesting a preliminary contamination investigation is undertaken to satisfy Council the subject land is suitable or can be made suitable for the proposed land use prior to the exhibition of the planning proposal in keeping with the requirements of this Direction.</p> <p>The proposal is inconsistent with this Direction at this time.</p>
5.2 Reserving Land for Public Purposes	Consistent	<p>The Direction applies to all planning proposals. The proposal is consistent with the Direction as it does not intend to create, alter or reduce land reserved or zoned for public purposes.</p>
7.1 Business and Industrial Zones	Consistent	<p>The proposal is in keeping with this Direction as it identifies demand for industrial zoned land in the Moama area and will facilitate delivery of industrial lands in a suitable location to ensure economic growth in the area is not hampered. The site is suitable and logical location relative to alternate sites in the area given its proximity to the existing Moama Business Park.</p>
9.1 Rural Zones 9.2 Rural Lands	Inconsistent but justified	<p>The planning proposal is inconsistent with these Directions as it affects rural land (RU1 Primary Production).</p> <p>The proposal's inconsistency with these Directions is of minor significance for the following reasons because:</p> <ul style="list-style-type: none"> <li>• it is in keeping with the directions and actions of the Riverina-Murray Regional Plan 2036 and draft Riverina Murray Regional Plan 2041 and the endorsed LSPS.</li> <li>• the site is currently being used for grazing cattle and not for high value productive agricultural uses. The site and adjoining rural zoned land are identified as Class 4 on the NSW Land and Soil Capability which means land has restricted agricultural capability and therefore unsuitable for high value agricultural production.</li> <li>• The site is identified in the Murray River Strategy for future industrial use, being the expansion of the Moama Business Park.</li> <li>• Rezoning the site is consistent with the adjoining IN1 General Industrial use and is a good location to expand this area.</li> </ul>

### 3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

**Table 8 Assessment of planning proposal against relevant SEPPs**

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Biodiversity and Conservation) 2021	Koala Habitat Protection 2020	Consistent	The subject site is cleared and vacant and is not considered to be substantial to provide koala habitat, nor provide connectivity to other areas of koala habitat. The proposal is consistent with this SEPP.
	Koala Habitat Protection 2021	Consistent	
	Murray River Lands	Consistent	
SEPP (Primary Production) 2021	Draft SSAL Mapping	Consistent	<p>NSW Department of Primary Industries (Agriculture) maps the western portion of the site as draft State Significant Agricultural Land (dSSAL).</p> <p>The planning proposal identifies the subject land is classified as Class 4 – moderate to severe limitation of agricultural productivity.</p> <p>The agricultural productivity of the land is considered to be low, given its Class 4 classification, proximity to industrial and residential uses and also the size of the land.</p> <p>The rezoning of the land to IN1 General Industrial is consistent with this SEPP.</p>

## 4 Site-specific assessment

### 4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

**Table 9 Environmental impact assessment**

Environmental Impact	Assessment
Contamination	A Preliminary Site Investigation (PSI) Report is required to accompany a planning proposal for rezoning of land on which agricultural activities such as broadacre agriculture have been undertaken. The Department recommends a condition requesting a preliminary contamination investigation is undertaken to satisfy Council the subject land is suitable or can be made suitable for the proposed future industrial use.

### 4.2 Social and economic

The proposal will provide the following social and economic benefits:

- Ensure economic growth is not hampered due to limited availability of industrial zoned land
- Create opportunities for value added manufacturing in the region, in addition to potential synergies between other existing industrial uses in proximity to the proposal
- Increase jobs (construction and operational) in the region.

### 4.3 Infrastructure

Page 19 of the planning proposal advises that the proposal will have access and can be serviced by all essential services and utilities infrastructure. The site adjoins an existing industrial estate and all infrastructure required to service an industrial use can be made available to the subject land.

The subject land fronts the Cobb Highway, a classified road. Consultation with Transport for NSW (TfNSW) is required.

## 5 Consultation

### 5.1 Community

Council proposes a community consultation period of 28 days, and a public hearing is required due to the reclassification of the land.

The exhibition period proposed is considered appropriate and forms to the conditions of the Gateway determination.

### 5.2 Agencies

The proposal does not specifically identify which agencies will be consulted.

It is recommended that TfNSW be consulted on the planning proposal and given 30 days to comment



## 6 Timeframe

Council proposes a 9 month time frame to complete the LEP.

The Department recommends a time frame of 12 months to ensure it is completed in line with its commitment to reduce processing times. It is recommended that if the gateway is supported it also includes conditions requiring council to exhibit and hold a public hearing and report on the proposal by specified milestone dates.

A condition to the above effect is recommended in the Gateway determination.

## 7 Local plan-making authority

Council does not request delegation to be the Local Plan-Making authority.

It is noted that Council has an interest in the planning proposal as the owner and manager of the subject land.

Therefore, the Department recommends that Council not be authorised as the local plan-making authority for this proposal.

## 8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- The planning proposal addresses an administrative oversight by Council
- The reclassification and rezoning is unlikely to cause any known adverse environmental, social, economic or infrastructure impacts
- The expansion of the Moama Business Park is identified in Council's strategy and specifically identifies the subject land.

Based on the assessment outlined in this report, the proposal must be updated before consultation to:

- Undertake a preliminary contamination investigation to satisfy Council the subject land is suitable or can be made suitable for the future industrial use.
- Amend the Project Timeline of the proposal to reflect the submission of the proposal in November 2022 and subsequent milestones for finalisation in twelve (12) months.

## 9 Recommendation

It is recommended the delegate of the Secretary:

- Note that the consistency with section 9.1 Directions 4.4 Remediation of Contaminated Land is unresolved at this time and will require justification.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal is to be updated to:
  - Undertake preliminary contamination investigations to satisfy Council the subject land is suitable or can be made suitable for the future industrial use of the site.
  - Amend the Project Timeline of the proposal to reflect the submission of the proposal in November 2022 and subsequent milestones for finalisation in twelve (12) months.

2. Consultation is required with Transport for NSW.
3. The planning proposal should be made available for community consultation for a minimum of 28 days.
4. A Public Hearing is required to be held
5. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.
6. Given the nature of the proposal, Council should not be authorised to be the local plan-making authority.



\_\_\_\_\_  
(Signature)

7 December 2022 (Date)

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9 December 2022 (Date)

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