



Lot 1 DP793207 – Cobb Highway,
Moama

Reclassification of Public Lands and Rezoning

FEBRUARY 2022

Submitted to Murray River Council
On behalf of Murray River Council

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 21308

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Executive Summary

This Planning Proposal has been prepared by Habitat Planning on behalf of Murray River Council in support the reclassification of public land under Section 27(1) of the *Local Government Act 1993* and support an amendment to *Murray Local Environmental Plan 2011* (MLEP2011).

Specifically, the Planning Proposal seeks to:

- Utilise the provisions of Clause 5.2 of the Murray Local Environmental Plan 2011 (MLEP 2011) to reclassify Lot 1 DP793207 – Cobb Highway, Moama from ‘community land’ to ‘operational land’
- Amend Schedule 4, Part 1 of the Murray Local Environmental Plan 2011 to include Lot 1 DP793207.
- Amend Murray Local Environmental Plan – Land Zoning Map (LZN) to rezone the land from ‘RU1 – Primary Production’ to ‘IN1 General Industrial’ (E4 – General Industrial)
- Amend Murray Local Environmental Plan – Lot Size Map to remove the minimum lot size requirement.

The report has been prepared to address the requirements of the *Environmental Planning and Assessment Act 1979* (EP&A Act), as well as satisfying the requirements of the NSW Department of Planning, Infrastructure & Environment’s guideline titled: *Local Environmental Plan Making Guideline* (September 2022).

For the purposes of the Guideline, the application is classified as a ‘Standard’ Planning Proposal as it relates to the reclassification of public land through an LEP.

This Planning Proposal provides an analysis of the physical and strategic planning constraints and opportunities of the site and considers the relevant environmental, social and economic impacts of the proposal and its strategic merit.

The Planning Proposal has strategic merit and is in the public interest for the following reasons:

- The proposal is generally consistent with the strategic planning framework including State, Regional and local planning strategies for Murray River.
- The land is identified in both Councils LSPS and Strategic Land Use Plan for future expansion to allow further commercial/Industrial development for Moama.
- The resultant development of the land following reclassification and rezoning will not create any unacceptable environmental or social impacts and will allow for an expansion of the adjoining Moama Business Park or large single industrial development.
- The reclassification is in the public interest as it will encourage economic development and business attraction.
- The subject land can be provided with all urban services.

It is recommended that Murray River Council resolve to support the changes to the LEP as detailed in this Planning Proposal and forward it for a Gateway Determination.

1. Introduction

1.1. Overview

This Planning Proposal has been prepared by Habitat Planning on behalf of Murray River Council to support the reclassification of public land under Section 27(1) of the *Local Government Act 1993* and support an amendment to *Murray Local Environmental Plan 2011* (MLEP2011).

Specifically, the Planning Proposal seeks to:

- Utilise the provisions of Clause 5.2 of the Murray Local Environmental Plan 2011 (MLEP 2011) to reclassify Lot 1 DP793207 – Cobb Highway, Moama from ‘community land’ to ‘operational land’
- Amend Schedule 4, Part 1 of the Murray Local Environmental Plan 2011 to include Lot 1 DP793207.
- Amend Murray Local Environmental Plan – Land Zoning Map (LZN) to rezone the land from ‘RU1 – Primary Production’ to ‘IN1 General Industrial’ (E4 – General Industrial)
- Amend Murray Local Environmental Plan – Lot Size Map to remove the minimum lot size requirement.

This report has been prepared to address the requirements of Section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), as well as satisfying the requirements of the NSW Department of Planning and Environment’s guideline titled: *Local Environmental Plan Making Guideline* (December 2021).

For the purposes of the Guideline, the application is classified as a ‘Standard’ Planning Proposal as it relates to the reclassification of public land and that relates to altering the principal development standards through an LEP.

This report has also been prepared in accordance with the public land management requirements of the *Local Government Act 1993* and LEP Practice Note PN16-001 issued by the Department of Planning & Environment on the 5 October 2016.

This report will demonstrate that the proposed reclassification of land and proposed amendments to MLEP 2011 is consistent with the intent and objectives of the planning frameworks and strategic plans and policies. Consequently, this will provide both Council and the NSW Department of Planning Environment (DPE) with the confidence to endorse the proposed amendment as sought by this Planning Proposal.

It is requested that Council forward the Planning Proposal to the Minister for Planning for Gateway Determination in accordance with Section 3.34 of the EP&A Act. The Gateway Determination by the Minister will decide:

- Whether the planning proposal is supported to proceed or not;
- Any necessary technical studies or supporting studies;
- Whether the planning proposal needs to be amended (and possibly resubmitted to the Department) prior to exhibition;
- The duration and extent of community consultation;
- Whether consultation with State or federal authorities (if required);
- Whether a local contributions plan is to be exhibited at the same time as the planning proposal;
- Whether a public hearing is needed;
- The timeframes within which the various stages of the process for making of the proposed LEP are to be completed;

- Whether the council is to be authorised to make the proposed instrument as the Local Plan Making Authority (LPMA); and,
- Any other conditions.

1.2. Background

On 25 January 2021, Council purchased the subject land for the purpose of expanding the existing Moama Business Park, where all lots have been sold. Additional to this Council has been approached by a large company potentially looking to relocate their operations to Moama, therefore this site could also be purchased by a single company to develop an industrial use over the whole site.

Council did not resolve to classify the land as ‘operational land’ within 3 months of acquiring the land provided under section 31(2) of the *Local Government Act 1993*. The land has therefore been deemed to be classified as ‘community land’.

The land in question was and is actively used for cereal cropping, therefore Council had no intension of this land being used for community purposed and the reclassification process is only necessary due to an administrative error of not classifying the land in accordance with the Section 31 of the *Local Government Act 1993*.

The proposed amendments to the zoning and lot size are also considered as part of the subject proposal to assist with the justification of the rezoning and to ensure the land reflects the intended future desired development outcomes for the land.

1.3. Scope and Format of Planning Proposal

The Planning Proposal details the merits of the proposed change to the MLEP 2011 and has been structured in the following manner:

- Section 1.0 provides an introduction to the Planning Proposal;
- Section 2.0 provides a description of the site, its context and existing development, including identification of the land to which the changes are proposed;
- Section 3.0 contains the Planning Proposal, prepared in accordance with the matters to be considered in the Department of Planning’s document titled *Local Environmental Plan Making Guideline*; and
- Section 4.0 provides the conclusions and recommendations to proceed with the Planning Proposal to Gateway Determination to amend MLEP 2011.

1.4. Supporting Plans and Documentation

The Planning Proposal has been prepared with input from a number of technical and design documents which have been prepared to accompany the application. These documents are included as attachments to this report and are identified in **Table 1**.

Table 1 – Attachments to Planning Proposal

Document Name	Prepared by
Title documents	
Consistency with State Environmental Planning Policies	Habitat Planning

Document Name	Prepared by
Consistency with Section 9.1 Ministerial Directions	Habitat Planning
Consistency with Riverina Murray Regional Plan 2036	Habitat Planning
Consistency with the draft Riverina Murray Regional Plan 2041	Habitat Planning
LEP Practice Note PN16-001	-
PN16-001 – Information Checklist	Habitat Planning & Murray River Council

A context site aerial image of the property is provided in **Figure 2** below.



Figure 2 – Site Context Map indicating the subject land (outlined) (Source: Nearmap – Nov 2021)

2.3. Surrounding Development and Built Form

The subject site is located on the fringe of the main urban centre of Moama is an area of transition between urban and rural outlying areas.

More specifically, land to the north and east has been developed for rural purposes consistent with the RU1 zoning of the land. As outlined above, Tataila Road is located to the north and forms the northern boundary of the site, whilst Cobb Highway adjoins to the east and forms the eastern boundary of the site.

The Moama Business Park to the south, includes a range of lots for industrial and large format commercial purposes. The purpose of the Planning Proposal is to reclassify the land to allow for the future expansion of this business park onto the subject land (subject to a separate rezoning request).

Land to the west is also zoned RU1 Primary Production and is currently used for broadacre agricultural purposes, however it is noted that this land is joined by the adjoining Rich River Golf Club.

3. Planning Proposal

This section of the report addresses the Department of Planning’s document titled *Local Environmental Plan Making Guideline* and Section 3.33 of the EP&A Act. Specifically, this section provides:

- Objectives and intended outcomes;
- Explanation of provisions;
- Justification;
- Mapping
- Community consultation; and
- Project timeline.

3.1. Objectives or Intended Outcomes

The objective of this Planning Proposal is to amend MLEP 2011 to reclassify the subject land from “Community Land” to “Operational Land”. The objective of the Planning Proposal is to amend the zoning and minimum lot size controls that also apply to the subject land, which will facilitate the development of the land for industrial and/or commercial use. The purpose of the subject amendment is to allow for the expansion of the adjoining Moama Business Park, as it has currently reached capacity or to facilitate a single industrial development on the site.

A key outcome of the amendment is to add to the supply of commercial and industrial land in Moama. The intention of the Planning Proposal is to respond to the strong demand for employment lands currently being experienced in Moama, which will add to the currently limited supply. Also, there is an opportunity for this land to be sold to a large business to facilitate a single industrial land development.

The amendment to the zoning and minimum lot size controls would facilitate the development of additional employment lands in line with Council’s adopted land-use strategies, policies related to the site.

The planning proposal will subsequently provide additional opportunities for jobs and services that support the Moama and broader Murray River Council economy and community.

3.2. Explanation of Provisions

This part of the Planning Proposal responds to Section 3.33(2)(b) of the *Environmental Planning & Assessment Act 1979* which requires an explanation of the provisions that are to be included in the proposed instrument.

The Planning Proposal seeks to

- Amend *Murray Local Environmental Plan – Land Zoning Map* (LZN_006A) to rezone the land from ‘RU1 – Primary Production’ to ‘IN1 General Industrial’ (E4 – General Industrial)

local strategic planning statement of the council of the area and will comply with relevant directions under Section 9.1).

Section A – Need for a Planning Proposal

3.3.1 Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?

Murray River Council Local Strategic Planning Statement

The *Murray River Council Local Strategic Planning Statement 2020-2040* (LSPS) establishes Council's 20-year vision for land use planning and growth focusing on the key themes of social, environmental and economic considerations. The LSPS establishes the community's priorities and aspirations which will guide Council's planning decisions on future land use activities.

The LSPS will inform future reviews of Council's Local Environmental Plan (LEP) and Development Control Plan (DCP), as well as identifying strategic planning investigations required to support future development.

The LSPS is based on three key themes as follows:

- A robust, growing and innovative economy.
- Liveable communities with social capital.
- Environment, heritage and climate change.

Table 2 – Consideration of the Murray River Council Local Strategic Planning Statement

Priority	Applicable to the Planning Proposal	Comment
Theme 1 – A robust, growing, and innovative economy		
Priority 1 – Grow, strengthen and sustain agriculture	Not applicable to the subject Planning Proposal	The planning proposal does not seek agricultural outcomes. Whilst it is acknowledged that the subject proposal does seek to facilitate the reclassification of land currently being used for small-scale broadacre purposes, the ongoing benefits from this planning proposal and developing this land for commercial and industrial purposes is considered appropriate in this instance.
Priority 2 – Grow and strengthen tourism	Not applicable to the subject Planning Proposal	Not applicable
Priority 3 – Create an 'open-for-business' identity	Yes	The proposal is consistent with Priority 3 of the LSPS which states that: " <i>Council has successfully developed the Moama Business Park on the Cobb Highway, and only a handful of lots remain unsold. We are currently investigating locations to house new business park</i>

Priority	Applicable to the Planning Proposal	Comment
		<p><i>facilities to attract and cater to incoming commercial/industrial enterprises”.</i></p> <p>In achieving this vision, the LSPS outlines the following:</p> <ul style="list-style-type: none"> • <i>investigate the amount of land currently available for commercial/industrial uses: employment lands</i> • <i>revitalise, renew and/or create new employment lands to accommodate demand, and attract growth to our LGA</i> <p>As such the planning proposal is consistent with the aims and objectives of this priority.</p>

Theme 2 – Liveable Communities with Social Capital

Priority 4 – Housing growth, supply and density	Not applicable to the subject Planning Proposal	Not applicable
Priority 5 – Recreation and open space	Not applicable to the subject Planning Proposal	Not applicable
Priority 6 – Servicing and utility infrastructure	Applicable	The subject site will be required to be serviced. These investigations are underway, however will form part of an eventual development application for the subdivision of the land.

Theme 3 – Environment, heritage, and climate change

Priority 7 – Identify and protect environmental values	Not applicable to the subject Planning Proposal	Not applicable
Priority 8 – Celebrate culture and heritage	Yes, as consideration of matters regarding Aboriginal Cultural Heritage is required under the NSW <i>National Parks and Wildlife Act 1974</i> .	<p>The Planning Proposal is consistent with the vision and actions of this Planning Priority as consideration of Aboriginal Cultural Heritage Values has been undertaken.</p> <p>Following a review of the subject, the likelihood of items of Aboriginal Cultural Heritage being present on-site is</p>

Priority	Applicable to the Planning Proposal	Comment
		considered low as the subject land is heavily disturbed and does not contain any identified landscape features.
Priority 9 – Climate change and natural hazards	Not applicable to the subject Planning Proposal as the land is not identified as being subject to any natural hazards.	Not applicable.

Murray Shire Strategic Land Use Plan 2010-2030

The Murray Shire Strategic Land Use Plan 2010-2030 (Land Use Plan) seeks to guide the future development and use of land within the Shire for the next 20 years and beyond. The Land Use Plan outlines the following in relation to Industrial Development:

Industrial development in Moama is undertaken on three fronts being the older area on the eastern side of the town abutting the railway line and the more recent Council-sponsored area on the Cobb Highway to the north and Hillside Lane further out. Whilst there remains some limited infill opportunities within the older area, the Cobb Highway location is superior (mainly for its accessibility) and can be expected to cater for most industrial development in Moama into the future.

The strategic response is to provide choice and options for industrial activities by continuing to all locations. However the focus for future growth should be at the Cobb Highway location for non-hazardous and non-offensive activities and consequently land needs to be both identified and appropriately zoned. This location can also cater for highway business type activities.

Specifically, the Strategic Land Use Plan for Moama identified the subject land for “*longer term industrial/highway business – buffers required to future residential on the west*” as reproduced in the following plan.

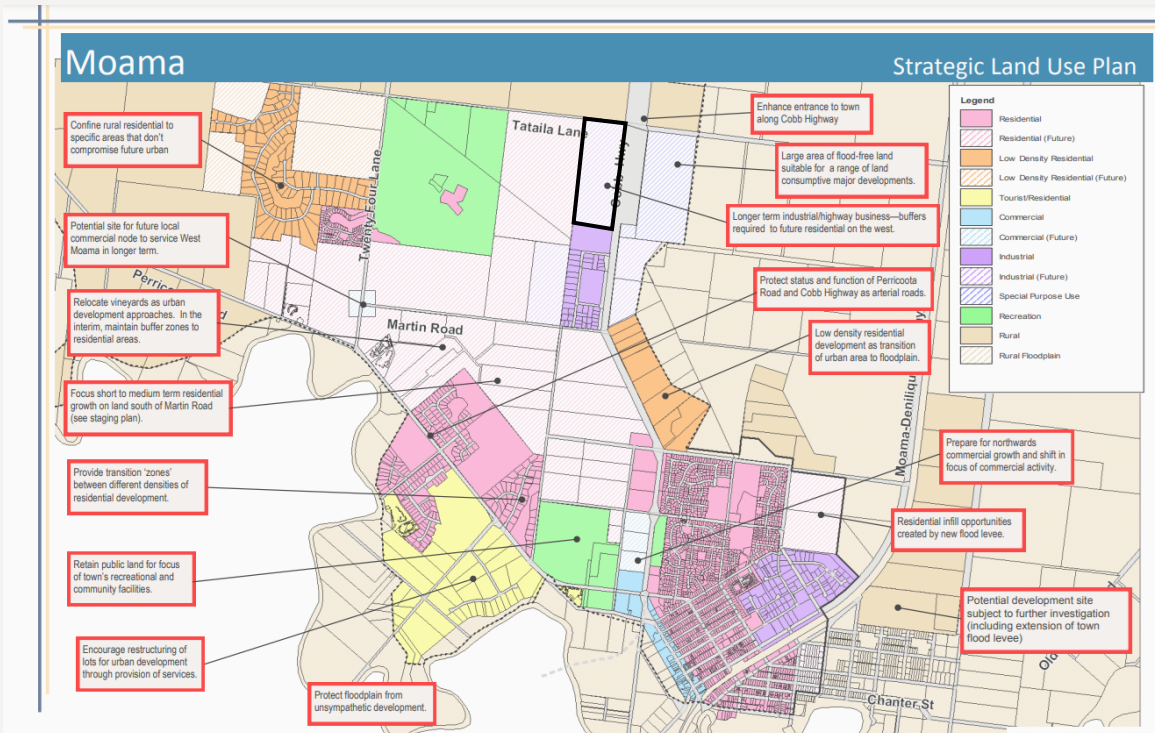


Figure 7 – Extract of Murray Shire Strategic Land Use Plan 2010-2030 indicating the subject land (outlined)

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

Yes, the Planning Proposal is the best means of achieving the objectives or intended outcomes as there are no other mechanisms to reclassify the subject land in the absence of the Planning Proposal.

Section B – Relationship to Strategic Planning Framework

3.3.3 Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

The *Riverina Murray Regional Plan 2036* (Regional Plan) was adopted by the NSW Government in 2017 and is the relevant regional strategy that provides the strategic planning framework to guide decision-making and development in the Riverina & Murray regions for the next 15 years.

The Regional Plan is underpinned by four (4) key goals including:

- Goal 1 – A connected and prosperous economy.
- Goal 2 – A diverse environment interconnected by biodiversity corridors.
- Goal 3 – Healthy and connected community.
- Goal 4 – Environmentally sustainable housing choices.

Each of these goals is supported by a number of different actions, which seek to achieve the objectives of the goal.

The Regional Plan has very few if any actions (or goals or directions) that are of relevance to a planning proposal of this nature. Conversely, the planning proposal does not impact nor is considered to be inconsistent with any action (or goal or direction) contained within the Regional Plan. Accordingly, the

proposal is consistent with the Riverina Murray Regional Plan 2036. An assessment of the planning proposal against the Regional Plan actions has been provided in **Appendix B**.

It is also noted that the draft Riverina Murray Regional Plan 2041 has been publicly exhibited and has relevance to the proposal. An assessment of the planning proposal against the draft Regional Plan actions and consistency with this draft strategy is provided in **Appendix G**.

3.3.4 Is the planning proposal consistent with a Council Local Strategic Planning Statement that has been endorsed by the Planning Secretary or Greater Sydney Commission, or another strategy or strategic plan?

Consideration of the *Murray Local Strategic Planning Statement 2020-2040* and the *Murray Shire Strategic Land Use Plan 2010-2030* have been addressed in **Section 3.3.1** of the Planning Proposal.

The *Murray River Council Community Strategic Plan 2018-2028 (CSP)* is Council's local community strategic planning document. The CSP is based on an outcome framework comprising of five (5) strategic themes;

- Theme 1 - Built/Physical Environment
- Theme 2 - Natural Environment
- Theme 3 - Social Wellbeing
- Theme 4 - Economic Growth
- Theme 5 - Leadership and Governance

Underpinning these outcomes are a series of 17 objectives and strategies that reflect the communities' key ambitions for the future. These strategies have been developed to detail how Council, other government agencies and the community can work together to achieve these goals.

The Planning Proposal is consistent with the following outcomes and strategies under the Murray River Council CSP, in particular Objectives 4.1.2, 4.1.3 which broadly encompasses encouraging and supporting economic development across a range of sectors. Additionally, objective 5.1 as a Council led Planning Proposal these objectives are also considered relevant to the objective of this Planning Proposal.

Accordingly, the proposal is considered to be consistent with the *Murray River Council Community Strategic Plan 2018-2028*.

3.3.5 Is the planning proposal consistent with any other applicable State and regional studies or strategies?

The Planning Proposal is consistent with other relevant State or Regional studies and strategic including *A 20 Year Economic Vision for Regional NSW*, which was refreshed in 2021.

The foreword to the Strategy states: *The 20 Year Economic Vision for Regional NSW is the NSW Government's plan to drive sustainable, long-term economic growth in regional NSW. It is the roadmap to unlock significant economic potential in regional NSW.*

For the purposes of this Strategy, the Murray River Local Government Area is located within the 'Inland' Regional Economic ('Murray'). The overarching objective for Inland Regional Economies is outlined as follows: *"Inland regions will benefit from a strong focus on building community resilience. Accelerating research and investment in key enablers, such as climate-resilient water infrastructure and technology use in agriculture and food production, will help support these economies with more productive and sustainable industries.*

The 20 Year Economic Vision is underpinned by Priority Actions and specific principles to achieve these actions. The following principles are relevant to the Planning Proposal:

- Principle 2 – Improved travel between regional centres and from regional centres to international gateways.
- Principle 3 – Freight networks that will increase the competitiveness of key regional sectors.
- Principle 6 – Recognising each region's strengths and underlying endowments.
- Principle 7 – Regulation and planning to promote commercial opportunities.

Accordingly, the proposal will achieve the Priority Actions and underlying principles of *A 20 Year Economic Vision for Regional NSW*.

3.3.6 Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?

Appendix C provides an assessment of the Planning Proposal against all State Environmental Planning Policies (SEPP's). In summary, many of the SEPP's are not applicable to the Murray River Local Government Area and even less are applicable to the circumstances of the Planning Proposal.

Notwithstanding, an assessment has been provided in **Appendix C** outlining whether the Planning Proposal is consistent, or where applicable, justifiably inconsistent with relevant SEPP's.

3.3.7 Is the planning proposal consistent with applicable Ministerial Directions (Section 9.1 Directions?)

Section 9.1 (formerly s. 117) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) provides for the Minister for Planning to give directions to Councils regarding the principles, aims, objectives or policies to be achieved or given effect to in the preparation of LEP's. A Planning Proposal needs to be consistent with the requirements of the Directions but in some instances can be inconsistent if justified using the criteria stipulated such as a Local Environmental Study or the proposal is of "minor significance".

An assessment of all s.9.1 Directions is undertaken in **Appendix D**. In summary, the Planning Proposal is either consistent, or justifiably inconsistent with the relevant Directions. Where there is an inconsistency, it has been justified utilising the provisions within each of the Directions.

Section C – Environmental, social and economic impact

3.3.8 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?

No. It is unlikely that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of this proposal for the reasons outlined below:

- the land is not identified as containing Terrestrial Biodiversity, Riparian Lands or Watercourses or Wetlands. Furthermore, the land is not identified as containing any Biodiversity Values mapping for the purposes of the *Biodiversity Conservation Act 2016*. Similarly, the land and any future development on-site does not require approval under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth)
- the land contains limited environmental features as it has been highly disturbed from previous broadacre agricultural activities and only includes approximately a dozen scattered paddock trees.

In addition, this Planning Proposal does not recommend changing the application or intent of the provisions in MLEP 2011 that require new development to identify and manage its environmental impacts, such as the preservation of trees and vegetation and the management of stormwater. These provisions will continue to apply to the land.

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

No. The proposed amendments do not result in any direct environmental impacts. The subject land is also not identified as being bushfire prone or flood prone and an assessment under Chapter 4 of SEPP (Resilience & Hazards) has been undertaken in **Appendix C** confirming that the site is not contaminated.

Any environmental impacts likely to arise as a result of any future development proposal will be assessed as part of the Development Application (DA) process.

This Planning Proposal does not seek to amend any of the provisions in LEP 2011 that require new development to identify and manage its environmental impacts, such as the preservation of trees and vegetation, as well as the management of stormwater. These provisions will continue to apply to the subject land.

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

The proposed amendment has the potential to create positive social and economic benefits for the community through the availability of additional business and industrial zoned land. In recognition of the success of the adjoining Moama Business Park and the fact that all lots within this estate have now been sold and/or developed, Council has investigated options to expand this facility to continue to support business attraction and economic growth. There is also potential for Council to attract a large single business entity to the area that will utilise the entire site.

The Murray River Council Community Strategic Plan 2018-2028 specifically identifies the need for 'economic growth so that we are vibrant, strong and able to support our local townships, regional industries and future employment'.

Lot sizes will range from 1,300m² to 5,000m² to cater for a variety of commercial and industrial development types. Council will generate a profit from the sale of individual lots, which it will then use for future expansion/purchase of industrial land within the LGA. If the land is sold by Council to a single entity it is envisaged that no subdivision would necessarily be required.

In developing this land for commercial and industrial purposes, this will strengthen the economic resilience and role of Moama in encouraging new investment and attraction.

It is noted that the Murray Land Use Plan did identify the need to incorporate a buffer along the western boundary to protect future residential development proposed to the west from land use conflict/s. A subdivision plan has yet to be prepared for the site and this matter can be addressed as part of the development application process.

Section D – State and Commonwealth interests

3.3.11 Is there adequate public infrastructure for the planning proposal?

Yes. The planning proposal is not expected to adversely impact any public infrastructure either specifically or generally as the land immediately adjoins commercial and industrial development and the adjoining services to the south can be extended to service the subject land.

Existing services are available in proximity to the site and will be extended to service the expanded business park. Details of the existing and proposed service augmentation is provided below.

- Filtered (200mm) and raw (250mm) water trunk mains terminate before McCulloch Dr. The mains would continue along Neil St (proposed) and aligned to service the development.
- Gravity sewer is proposed with a centrally located pump station, discharging via a rising main on Cobb Hwy or existing network within the existing business park.

- Stormwater is yet to be determined, however will most likely incorporate a detention basin and connect to the gravity network.

It is noted that this indicative and may be subject to change and all relevant infrastructure design and provision would be confirmed prior to the lodgement of a development application.

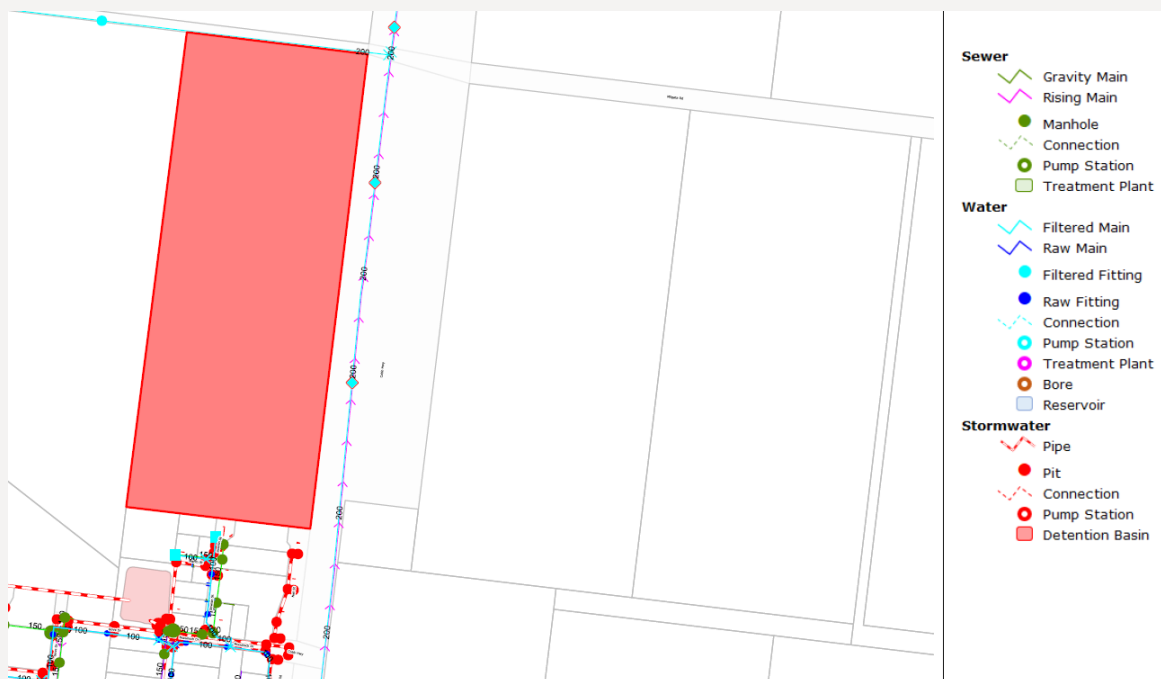


Figure 8 - Existing service provision

There are no expected impacts on any State or Commonwealth infrastructure. Further, public infrastructure requirements associated with any future development on the land would be assessed in detail as part of any development application(s) submitted for the site.

3.3.12 What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

Consultation with State and Commonwealth agencies will be undertaken in accordance with the conditions of the Gateway Determination.

It is expected that given the nature of the amendment (reclassification) and lack of environmental constraints that apply to the land, that consultation with public authorities will likely be limited.

It is expected however that Transport for NSW will be consulted as part of the public exhibition period due to the proximity to the Cobb Hwy (classified road).

3.4 Mapping

The Planning Proposal seeks to amend the following map of MLEP:

- Amend Murray Local Environmental Plan – Land Zoning Map (LZN) to rezone the land from ‘RU1 – Primary Production’ to ‘IN1 General Industrial’ (E4 – General Industrial)
- Amend Murray Local Environmental Plan – Lot Size Map to remove the minimum lot size requirement.

An extract of the existing and proposed Lot Size Map and Zoning Map are contained within **Figure 3** to **Figure 6**.

The draft LEP maps and associated Map Cover Sheet will be prepared in accordance with the NSW Department of Planning & Environment's: *Standard Technical Requirements for Spatial Datasets and Maps* (Version 2.0, August 2017).

3.5 Community Consultation

This part of the planning proposal responds to Section 3.33(2)(e) of the Environmental Planning & Assessment Act 1979 which requires the details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument.

The Planning Proposal will be exhibited in accordance with the requirements of Part 1, Division 1, Clause 4 of Schedule 1 of the EP&A Act, the NSW Department of Planning and Environment's: *Local Environmental Plan Making Guideline* and any conditions of the Gateway Determination (to be issued).

As the Planning Proposal is categorised as a 'standard' proposal, it is expected to be placed on public exhibition for 20 days or as otherwise outlined in Council's Community Participation Plan.

Additionally, Councils must hold a public hearing when reclassifying public land from community to operational (EP&A Act – Schedule 1 Clause 4 & LG Act s.29). This gives the community an opportunity to expand on written submissions and discuss issues with an independent person in a public forum.

After the exhibition period has ended, at least 21 days public notice is to be given before the hearing. This allows the person chairing the hearing sufficient time to consider written submissions and all issues raised. There are specific requirements for the independence of the person chairing the hearing, their preparation of a public hearing report and council making the report publicly available (LG Act s.47G).

Written notification of the community consultation will be provided in a local newspaper and on Councils' website. In addition to this, any affected landowner/s adjoining the subject land will be notified in writing, as well as any Public Authorities, Government Agencies and other key stakeholders as determined by the Gateway Determination.

The future consultation process is expected to include:

- written notification to landowners adjoining the subject land;
- public notices to be provided in local media, including in a local newspaper and on Councils' website;
- static displays of the Planning Proposal and supporting material in Council public buildings; and
- electronic copies of all documentation being made available to the community free of charge (preferably via downloads from Council's website).

The written notice will contain:

- a brief description of the intended outcomes of the Planning Proposal;
- an indication of the land which is affected by the proposal;
- information on where and when the Planning Proposal can be inspected;
- the name and address of Council for the receipt of submissions;
- the closing date for submissions; and
- confirmation whether the Minister has chosen to delegate Plan Making powers to Council.

During the public exhibition period the following documents will be placed on public exhibition:

- the Planning Proposal;
- the Gateway Determination;
- any technical information relied upon by the Planning Proposal;

- relevant council reports.

An electronic copy of all of the above information to be placed on public exhibition will be made available to the public free of charge.

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

3.6 Project Timeline

The project timeline for the Planning Proposal is outlined in **Table 3**.

It is noted however, that there are many factors that can influence compliance with the timeframe including Council staffing resources, the cycle of Council meetings and submissions received, and issues raised. Consequently, the timeframe should be regarded as indicative only.

Table 3 – Project Timeline (indicative)

Project Milestone	Anticipated Timeframe
<p>Lodgement</p> <p>Lodge Planning Proposal with council and make any necessary adjustments or changes prior to council accepting the plan</p>	<p>4 weeks for council to review and provide any comments regarding the submitted Planning Proposal and for the report to be updated.</p>
<p>Council Report (seeking Gateway Determination)</p> <p>Council planning officers to prepare a report to council seeking council endorsement of the Planning Proposal and referral to the NSW DPIE seeking the issuing of a Gateway Determination.</p>	<p>2 weeks to prepare council report and include on council agenda. Timing will be respondent to Council meeting dates and report writing deadlines.</p>
<p>Request Gateway Determination</p> <p>Council to request a Gateway Determination from the NSW Department of Planning to proceed to Planning Proposal to public exhibition (including any delegation of plan-making powers to council)</p>	<p>5 weeks following Council resolution and request for a Gateway determination</p>
<p>Public Exhibition</p> <p>Undertake public exhibition of Planning Proposal in accordance with the conditions of the Gateway Determination.</p>	<p>2 weeks to prepare and place a public notice in the paper and 4 weeks to publicly exhibit the Planning Proposal.</p>
<p>Public Hearing</p> <p>Undertake public hearing in accordance with the conditions of the Gateway Determination and section 47G of the Local Government Act.</p>	<p>6 weeks to provide public notice prior to the hearing</p>
<p>Consider Submissions & Finalise Document</p> <p>Council planning officers to consider, respond and report on submissions received and issues raised (if</p>	<p>2 weeks to collate, consider and respond to submissions received (if any).</p>

Project Milestone	Anticipated Timeframe
any) and where necessary, recommended relevant changes to the Planning Proposal.	
<p>Council Report (consideration of submissions)</p> <p>Council planning officers to prepare a report to council post public exhibition that considers any submissions received.</p>	4 weeks to prepare council report and include on council agenda.
<p>Submission to NSW DPIE/Parliamentary Counsel</p> <p>Forward Planning Proposal to NSW DPE/Parliamentary Counsel (if delegated) for finalisation following public exhibition.</p>	4 weeks
<p>Notification</p> <p>Finalisation/gazettal of Planning Proposal</p>	2 weeks

4. Conclusion

The Planning Proposal seeks support for the reclassification of public land under Section 27(1) of the *Local Government Act 1993* and support an amendment to *Murray Local Environmental Plan 2011* (MLEP2011).

Specifically, the Planning Proposal seeks to:

- Utilise the provisions of Clause 5.2 of the Murray Local Environmental Plan 2011 (MLEP 2011) to reclassify Lot 1 DP793207 – Cobb Highway, Moama from ‘community land’ to ‘operational land’
- Amend Schedule 4, Part 1 of the Murray Local Environmental Plan 2011 to include Lot 1 DP793207.
- Amend Murray Local Environmental Plan – Land Zoning Map (LZN) to rezone the land from ‘RU1 – Primary Production’ to ‘IN1 General Industrial’ (E4 – General Industrial)
- Amend Murray Local Environmental Plan – Lot Size Map to remove the minimum lot size requirement.

The proposed amendment is to allow for an expansion of the adjoining Moama Business Park, which has seen all its lots successfully sold and/or developed or the sale of this land to a single entity to facilitate a large industrial development.

The report has been prepared to address the requirements of the *Environmental Planning and Assessment Act 1979* (EP&A Act), as well as satisfying the requirements of the NSW Department of Planning, Infrastructure & Environment’s guideline titled: *Local Environmental Plan Making Guideline* (December 2022).

This Planning Proposal provides an analysis of the physical and strategic planning constraints and opportunities of the site and considers the relevant environmental, social and economic impacts of the proposal and its strategic merit.

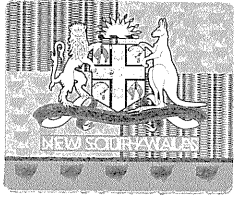
The Planning Proposal has strategic merit and is in the public interest for the following reasons:

- The proposal is consistent with the relevant legislative requirements of the *Environmental Planning & Assessment Act 1979* and *Local Government Act 1993*.
- The proposal is consistent with the aims and objectives of relevant state policies and local policies that apply to the subject land.
- The proposal is consistent with the strategic planning framework including State, Regional, District and local planning strategies for Murray River.
- The proposal is consistent with the requirements and considerations of LEP practice note PN16-001
- The resultant development of the land will not create any unacceptable environmental or social impacts.
- There is clear evidence of the intent of the Planning Proposal.
- There will be a net benefit for the Moama community.
- The land can be appropriate services with all infrastructure and utilities.

Therefore, the proposed amendment to MLEP 2011 is appropriate and well-considered and warrants the support of Council before proceeding to a Gateway Determination.

Appendix A: Title Details

BOX 1W
(AQ781104)



NEW SOUTH WALES
CERTIFICATE OF TITLE

REAL PROPERTY ACT, 1900



TORRENS TITLE REFERENCE	
1/793207	
EDITION	DATE OF ISSUE
6	5/2/2021
CERTIFICATE AUTHENTICATION CODE	
ZDD6-FP-Z2T9	

I certify that the person described in the First Schedule is the registered proprietor of an estate in fee simple (or such other estate or interest as is set forth in that Schedule) in the land within described subject to such exceptions, encumbrances, interests and entries as appear in the Second Schedule and to any additional entries in the Folio of the Register.

REGISTRAR GENERAL



LAND

LOT 1 IN DEPOSITED PLAN 793207

AT MOAMA.

LOCAL GOVERNMENT AREA: MURRAY RIVER.

PARISH OF TATAILA COUNTY OF CADELL

TITLE DIAGRAM: DP793207

FIRST SCHEDULE

MURRAY RIVER COUNCIL

(T AQ781104)

SECOND SCHEDULE

1. RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
2. LAND EXCLUDES MINERALS AFFECTING THE PART OF THE LAND SHOWN SO BURDENED IN THE TITLE DIAGRAM-SEE CROWN GRANTS

**** END OF CERTIFICATE ****

ANY ATTEMPT TO ALTER THIS CERTIFICATE COULD RESULT IN HEAVY FINES OR IMPRISONMENT (S.141 REAL PROPERTY ACT).

Appendix B: Consistency with Riverina Murray Regional Plan 2036

Table 4 – Consistency with Riverina Murray Regional Plan 2036

Goal, Direction & Action Title	Relevance to the Planning Proposal	Consistency
Goal 1 – A growing and diverse economy		
<p>Direction 1 – Protect the region’s diverse and productive agricultural land.</p>	<p>Applies as the planning proposal relates to rural zoned land.</p>	<p>Whilst it is acknowledged that the subject land is currently being used for broadacre agricultural activities, Council’s strategic planning documents identify this land for the long term expansion of commercial and industrial purposes.</p> <p>Similarly, the land immediately adjoining to the west has been identified for long term residential purposes.</p> <p>The land will continue to be used for broadacre agricultural purposes subject to an existing lease arrangement until such time that the land is developed for commercial and industrial purposes.</p>
<p>Direction 2 – Promote and grow the agribusiness sector.</p>	<p>Applies as the planning proposal seeks to achieve commercial and industrial outcomes.</p>	<p>The planning proposal seeks to reclassify and rezone the land so it can be developed for commercial and industrial purposes. Whilst the specific businesses and uses are not known at this stage, the use and development of this land for this purpose will support the agricultural supply chain including manufacturing and logistics.</p>

Goal, Direction & Action Title	Relevance to the Planning Proposal	Consistency
Direction 3 – Expand advanced and value-added manufacturing.	Yes, as the planning proposal support commercial and development outcomes.	The planning proposal is consistent with the relevant actions of this direction as it will co-locate and expand the adjoining Moama Business Park, which will result in an efficient use of infrastructure and increase economies of scale that will encourage and attract further investment through the provision of additional industrial land.
Direction 4 – Promote business activities in industrial and commercial areas.	Yes, as the planning proposal support commercial and development outcomes.	<p>The planning proposal is consistent with this direction as it seeks to expand the adjoining Moama Business Park. Council has previously identified the subject land for future commercial and industrial purposes and the expansion of the adjoining business park will result in the efficient use of infrastructure and will maximise connectivity to a key transport route (Cobb Highway).</p> <p>There is strong demand for commercial and industrial land, which has seen all the lots in the adjoining business park either be sold and/or developed. Consequently, there is currently a severe lack of supply of commercial and industrial zoned land. The subject planning proposal seeks to address this shortfall.</p>
Direction 5 – Support the growth of the health and aged care sectors.	Not applicable, as the proposal does not relate to or affect the health and aged care sectors.	N/A

Goal, Direction & Action Title	Relevance to the Planning Proposal	Consistency
Direction 6 – Promote the expansion of education and training opportunities.	Not applicable, as the proposal does not relate to or affect education or training.	N/A
Direction 7 – Promote tourism opportunities.	Not applicable, as the proposal does not relate to or affect tourism.	N/A
Direction 8 – Enhance the economic self-determination of Aboriginal communities.	Not applicable, as the proposal does not relate to or affect Aboriginal communities.	N/A
Direction 9 – Support the forestry industry.	Not applicable, as the proposal does not relate to or affect forestry.	N/A
Direction 10 – Sustainably manage water resources for economic opportunities.	Not applicable as the proposal does not relate to or affect water resources.	N/A
Direction 11 – Promote the diversification of energy supplies through renewable energy generation.	Not applicable as the proposal does not relate to or affect energy supplies.	N/A

Goal, Direction & Action Title	Relevance to the Planning Proposal	Consistency
Direction 12 – Sustainably manage mineral resources.	Not applicable, as the subject land is not known to contain any significant mineral resources.	N/A
Goal 2 – A healthy environment with pristine waterways		
Direction 13 – Manage and conserve water resources for the environment.	Not applicable, as the subject land is not known to contain any water resources.	N/A
Direction 14 – Manage land uses along key river corridors.	Not applicable as the subject land is not located within or near a river corridor.	N/A
Direction 15 – Protect and manage the region’s many environmental assets.	Not applicable as the subject land has no environmental assets within the context of this Direction.	N/A
Direction 16 – Increase resilience to natural hazards and climate change.	Not applicable as the subject land is not subject to any natural hazards.	N/A

Goal, Direction & Action Title	Relevance to the Planning Proposal	Consistency
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Goal 3 – Efficient transport and infrastructure networks

Direction 17 – Transform the region into the eastern seaboard’s freight and logistics hub.	Applicable, as the proposal does relate to or affect industry or freight.	Whilst this direction technically applies, there are no specific actions or directions applicable to the subject proposal.
Direction 18 – Enhance road and rail freight links.	Not relevant, as the proposal does not relate to or affect freight.	N/A
Direction 19 – Support and protect ongoing access to air travel.	Not relevant, as the proposal will not affect air travel.	N/A
Direction 20 – Identify and protect future transport corridors.	Not relevant to the subject proposal.	N/A
Direction 21 – Align and protect utility infrastructure investment.	Yes, as the planning proposal seeks to achieve urban development outcomes.	The planning proposal is consistent with the strategic actions of this direction as it seeks to effectively and efficiently utilise existing infrastructure and services. This will be achieved via an expansion of the Moama Business Park located to the south, which will involve an expansion of infrastructure.

Goal, Direction & Action Title	Relevance to the Planning Proposal	Consistency
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Goal 4 – Strong, connected and healthy communities

Direction 22 – Promote the growth of regional cities and local centres.	Yes, as the planning proposal seeks to achieve urban development outcomes.	The planning proposal complies with this direction as it will support and promote the growth of commercial and industrial development. This will encourage economic growth and will encourage and attract further investment through the provision of additional industrial land.
Direction 23 – Build resilience in towns and villages.	Yes, as the planning proposal seeks to achieve urban development outcomes.	Similar to the response provided for Direction 22, the planning proposal will ensure that the township of Moama is resilient to external influences and can cater for the future commercial and industrial needs.
Direction 24 – Create a connected and competitive environment for cross-border communities.	Yes, as the subject land is located within a cross border community.	The planning proposal is consistent with this direction as it seeks to strengthen the economic role of Moama, which is a cross-border town through the provision of additional commercial and industrial land.
Direction 25 – Build housing capacity to meet demand.	Not relevant to the subject proposal.	N/A
Direction 26 – Provide greater housing choice.	Not relevant to the subject proposal.	N/A

Goal, Direction & Action Title	Relevance to the Planning Proposal	Consistency
Direction 27 – Manage rural residential development.	Not relevant to the subject proposal.	N/A
Direction 28 – Deliver healthy built environments and improved urban design.	Not relevant to the subject proposal.	N/A
Direction 29 – Protect the region’s Aboriginal and historic heritage.	Relevant as all development on vacant land should consider the prospect of Aboriginal artefacts being present.	<p>All future development will be subject to the ‘due diligence’ process for ascertaining the likelihood or otherwise of Aboriginal artefacts being present. This process assists in the protection Aboriginal heritage.</p> <p>Notwithstanding the above, given the current use of the land, the level of disturbance previously undertaken on-site and a general lack of ‘landscape features’, the likelihood of items of Aboriginal Cultural Heritage significance being present on-site is considered low.</p>

Appendix C: Consistency with the draft Riverina Murray Regional Plan 2041

Table 5 – Consistency with the draft Riverina Murray Regional Plan 2041

Goal, Direction & Action Title	Relevance to the Planning Proposal	Consistency
Part 1: Environment		
OBJECTIVE 1: Protect, connect and enhance biodiversity throughout the region	Applies	The subject re-classification and rezoning will require consideration of protecting and enhancing biodiversity throughout the region. The objective speaks to ensuring biodiversity values are protected through the strategic planning stage. With regard to the site specifically, the site is generally devoid of any native vegetation due to its historical uses for broad acre agriculture. The site does contain some scattered paddock trees which may contain limited native grasses as understorey vegetation. Overall, the rezoning is considered to be consistent with the high level directions and actions outlined within this objective.
OBJECTIVE 2: Manage development impacts within riverine environments	Does not apply, the site is not within a riverine environment.	Not applicable.
OBJECTIVE 3: Increase natural hazard resilience	Does not apply, the site is not impacted by natural hazards.	Not applicable.
Part 2: Communities and Places		

Goal, Direction & Action Title	Relevance to the Planning Proposal	Consistency
OBJECTIVE 4: Supporting Aboriginal aspirations through land use planning	Noted	There are no specific directions outlined with this objective, however Council will seek to ensure that Aboriginal knowledge is incorporated into planning considerations and decisions where relevant and at the direction of the Department of Planning consistent with collaboration activity 4.
OBJECTIVE 5: Ensure housing supply, diversity, affordability and resilience	Does not apply to subject proposal.	Not applicable.
OBJECTIVE 6: Support housing in regional cities and their sub-regions	Does not apply to subject proposal.	Not applicable.
OBJECTIVE 7: Provide for appropriate rural residential development	Does not apply to subject proposal.	Not applicable.
OBJECTIVE 8: Provide for short-term accommodation	Does not apply to subject proposal.	Not applicable.
OBJECTIVE 9: Plan for resilient places that respect local character	Applies	The subject objective broadly applies to the proposed rezoning. At a high level consideration of urban design strategies for regional NSW, Aboriginal and non-Aboriginal heritage, public spaces and smart places could be undertaken as a part of the business park expansion. The objective outlines several strategies

Goal, Direction & Action Title	Relevance to the Planning Proposal	Consistency
		that can be integrated as part of any future subdivision design for the business park expansion.
OBJECTIVE 10: Improve connections between Murray River communities	Applies	The subject objective applies to the property, however the strategies and collaborative actions do not directly relate to the intent of the planning proposal.
OBJECTIVE 11: Plan for integrated and resilient utility infrastructure	Applies	Relevant planning for integrated and resilient utility infrastructure will be a key feature of the proposed business park expansion. The business park will utilise and extend existing services to ensure efficient and cost effective service and infrastructure provision. At a high level the proposed rezoning can meet the broad outcomes sought in this objective.
Part 3: Economy		
OBJECTIVE 12: Strategically planning for rural industries	Applies	The subject rezoning has been identified for a number of years and will enable logical growth and expansion of the industrial land use holdings available to respond to the demand currently required. The expansion of the business park and the associated rezoning recognises that there will be a loss of agricultural land. However, as outlined throughout this report the proposed impact on agricultural land is considered to be strategically important and will provide returned benefits to the agricultural industry through other means. Further justification is outlined as follows:

Goal, Direction & Action Title	Relevance to the Planning Proposal	Consistency
		<ul style="list-style-type: none"> • The land has been identified for the purposes of employment lands for over 10 years in Council’s endorsed strategies and policies. This includes the Strategic Land Use Plan (2010-2030), the Murray River LSPS. • The amendment will not result in land use conflicts between a rural zones and a residential zones. The amendment will result in infrastructure and facilities that will support existing rural industries and supply chains • The amendment will promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities. • The land is currently not used for active agricultural purposes, therefore having no impact on the State or rural communities. • The subject land is devoid of environmental features and has been extensively grazed over time. The subject land is also well setback from nearby waterways. • Whilst it is acknowledged that rural land plays an important role in the economic viability of the area, region or state, as outlined above, the land is not considered to have an economic future in a rural context.
<p>OBJECTIVE 13: Support the transition to net zero by 2050</p>	<p>Applies</p>	<p>The broad objectives and directions that are outlined in the Plan. Opportunity exists to</p> <ul style="list-style-type: none"> • incorporate renewable into urban design and place-making projects

Goal, Direction & Action Title	Relevance to the Planning Proposal	Consistency
		<ul style="list-style-type: none"> • provide opportunities for future buildings and urban release areas to be renewable ready • identify opportunities for potential high energy industries, including manufacturing, materials processing • identify opportunities for renewable vehicle refuelling networks/infrastructure. <p>Council will need to consider how it can feasibly support this transition through policy implementation and other mechanisms such as development control plans and other local provisions that enable these outcomes.</p>
<p>OBJECTIVE 14: Protecting and promoting industrial and manufacturing land</p>	<p>Applies</p>	<p>The subject rezoning directly responds to this objective. The draft plan states: <i>“Existing and future employment precincts in small and middle-sized towns such as Corowa, Deniliquin, Lockhart, Moama and Jindera already face demand for industrial land. Flexible planning and development controls can support these areas without undermining regionally significant precincts. This could involve the application of open zones or master planning to create bespoke precincts, support existing industries, attract new businesses and respond to new opportunities and technologies”</i></p> <p>Specifically, Strategy 14.2 will be transformational in providing accessible and attractive industrial precincts. However, a number of the outcomes sought need to be informed through other amendments to Council’s LEP & DCP which do not form the scope of the subject proposal.</p>

Goal, Direction & Action Title	Relevance to the Planning Proposal	Consistency
OBJECTIVE 15: Support the economic vitality of CBDs and main streets	Does not apply to subject proposal.	Not applicable.
OBJECTIVE 16: Supporting tourism	Does not apply to subject proposal.	Not applicable.
OBJECTIVE 17: Strategically plan for health and education precincts	Does not apply to subject proposal.	Not applicable.
OBJECTIVE 18: Value the integration of transport and land use planning	Applies	The subject amendment will benefit from recent upgrades to the Moama-Echuca bridge and associated Cobb Highway and the interconnection it provides to the wider state road network. Again, a number of the strategic directions and strategies sought in the draft plan will require Council to undertake additional strategic planning work to incorporate these strategies into their local planning instruments to enable the outcomes sought through new or amended policy.

Appendix D: Consistency with State Environmental Planning Policies

Table 6 – Consistency with State Environmental Planning Policies

Policy	Applicable to Planning Proposal	Consistency
State Environmental Planning Policy (Biodiversity and Conservation) 2021		
Chapter 2 – Vegetation in non-rural areas	Applies to part of the Murray River Local Government Area	Not applicable to the current Planning Proposal.
Chapter 3 – Koala habitat protection 2020	Applies as the subject land is located in the RU1, RU2 or RU3 zones	<p>The Planning Proposal is consistent with this control as the amendment does not create a development outcome that intends to remove or impact any koala habitat as a result of any future development of the land.</p> <p>Furthermore, this patch of vegetation is isolated and unlikely to provide a habitat area for Koala's as there is no connectivity to nearby habitat areas and the site lacks the preferred eucalypt food for the Koala. Similarly, the site adjoins urban development and there have been few if any koala sightings in Moama with species more likely to be present in better quality habitat adjacent to the Murray River or rural and remote locations.</p>
Chapter 4 – Koala habitat protection 2021	Not applicable as the subject land is not identified as a prescribed zone within the 2021 SEPP.	Not applicable to the current Planning Proposal.
Chapter 5 – River Murray lands	Applies to the Murray River Local Government Area.	<p>The subject site is identified as being included as part of the MREP.</p> <p>The subject land is rural zoned land and is well setback from the nearby Murray River. Therefore, impacts of the proposed development on the Murray River are considered low and further consideration of the MREP is not required in this instance.</p>

Policy	Applicable to Planning Proposal	Consistency
Chapter 6 – Bushland in urban areas	Not applicable to the Murray River Local Government Area.	Not applicable.
Chapter 7 – Canal estate development	Not applicable to the Murray River Local Government Area.	Not applicable.
Chapter 8 – Sydney drinking water catchment	Not applicable to the Murray River Local Government Area.	Not applicable.
Chapter 9 – Hawkesbury-Nepean River	Not applicable to the Murray River Local Government Area.	Not applicable.
Chapter 10 – Sydney Harbour Catchment	Not applicable to the Murray River Local Government Area.	Not applicable.
Chapter 11 – Georges River Catchment	Not applicable to the Murray River Local Government Area.	Not applicable.
Chapter 12 – Willandra Lakes Region World Heritage Property	Not applicable to the Murray River Local Government Area.	Not applicable.
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Applies to all land in the State.	Not applicable to the current Planning Proposal.

Policy	Applicable to Planning Proposal	Consistency
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	Applies to all land in the State.	The Planning Proposal does not conflict with the aims and functions of this SEPP with respect to exempt and complying development provisions.
State Environmental Planning Policy (Housing) 2021		
Chapter 2 – Affordable housing	Applies to all land in the State.	Not applicable to the current Planning Proposal.
Chapter 3 – Diverse housing	Applies to all land in the State.	Not applicable to the current Planning Proposal.
State Environmental Planning Policy (Industry and Employment) 2021		
Chapter 2 – Western Sydney employment area	Not applicable to the Murray River Local Government Area.	Not applicable.
Chapter 3 – Advertising and signage	Applies to all land in the State.	Not applicable to the current Planning Proposal.
State Environmental Planning Policy No. 65 – Design Quality of Residential Apartments	Applies to all land in the State.	Not applicable to the current Planning Proposal.
State Environmental Planning Policy (Planning Systems) 2021		
Chapter 2 – State and Regional Development	Applies to all land in the State.	Not applicable to the current Planning Proposal.

Policy	Applicable to Planning Proposal	Consistency
Chapter 3 – Aboriginal land	Not applicable to the Murray River Local Government Area.	Not applicable.
Chapter 4 – Concurrences and consents	Applies to all land in the State.	Not applicable to the current Planning Proposal.
State Environmental Planning Policy (Precincts – Central River City) 2021		
Chapter 2 – State significant precincts	Applies to all land in the State.	Not applicable to the current Planning Proposal.
Chapter 3 – Sydney region growth centres	Not applicable to the Murray River Local Government Area.	Not applicable.
Chapter 4 – Homebush Bay area	Not applicable to the Murray River Local Government Area.	Not applicable.
Chapter 5 – Kurnell Peninsula	Not applicable to the Murray River Local Government Area.	Not applicable.
Chapter 6 – Urban renewal precincts	Not applicable to the Murray River Local Government Area.	Not applicable.
State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021		

Policy	Applicable to Planning Proposal	Consistency
Chapter 2 – State significant precincts	Applies to all land in the State.	Not applicable to the current Planning Proposal.
Chapter 3 – Darling Harbour	Not applicable to the Murray River Local Government Area.	Not applicable.
Chapter 4 – City West	Not applicable to the Murray River Local Government Area.	Not applicable.
Chapter 5 – Walsh Bay	Not applicable to the Murray River Local Government Area.	Not applicable.
Chapter 6 – Cooks Cove	Not applicable to the Murray River Local Government Area.	Not applicable.
Chapter 7 – Moore Park Showground	Not applicable to the Murray River Local Government Area.	Not applicable.
State Environmental Planning Policy (Precincts – Regional) 2021		
Chapter 2 – State significant precincts	Applies to all land in the State.	Not applicable to the current Planning Proposal.
Chapter 3 – Activation precincts	Not applicable to the Murray River Local Government Area.	Not applicable.

Policy	Applicable to Planning Proposal	Consistency
Chapter 4 – Kosciuszko National Park and alpine resorts	Not applicable to the Murray River Local Government Area.	Not applicable.
Chapter 5 – Gosford city centre	Not applicable to the Murray River Local Government Area.	Not applicable.
State Environmental Planning Policy (Precincts – Western Parkland City) 2021		
Chapter 2 – State significant precincts	Applies to all land in the State.	Not applicable to the current Planning Proposal.
Chapter 3 – Sydney region growth centres	Not applicable to the Murray River Local Government Area.	Not applicable.
Chapter 4 – Western Sydney Aerotropolis	Not applicable to the Murray River Local Government Area.	Not applicable.
Chapter 5 – Penrith Lakes Scheme	Not applicable to the Murray River Local Government Area.	Not applicable.
Chapter 6 – St Mary’s	Not applicable to the Murray River Local Government Area.	Not applicable.

Policy	Applicable to Planning Proposal	Consistency
Chapter 7 – Western Sydney Parklands	Not applicable to the Murray River Local Government Area.	Not applicable.
State Environmental Planning Policy (Primary Production) 2021		
Chapter 2 – Primary production and rural development	Applicable as the subject land has been partially identified as state significant agricultural land on the draft SSAL Map prepared by NSW DPI.	<p>The western portion of the subject land has been identified on NSW DPI's draft State Significant Agricultural Land (SSAL) mapping and consideration of this SEPP is therefore necessary.</p> <p>Whilst it is acknowledged that the planning proposal seeks to reclassify the land to facilitate its future development for commercial and industrial purposes, the proposed reclassification is considered appropriate in this instance.</p> <p>More specifically the SSAL mapping is only a preliminary draft and is subject to review and finalisation as it has been derived from state wide information that is yet to be 'ground truthed' at the local level. In particular, the subject land is identified as Class 4 – Moderate to severe limitation agricultural quality in accordance with the statewide Land and Soil Capability Mapping.</p> <p>The land is bordered by urban development on two sides, which limits the agricultural value of the land and the land has been identified in previous strategic planning investigations as being appropriate for long term commercial/industrial expansion.</p> <p>The development also does not propose any artificial waterbodies.</p>
Chapter 3 – Central Coast plateau areas	Not applicable to the Murray River Local Government Area.	Not applicable.

Policy	Applicable to Planning Proposal	Consistency
State Environmental Planning Policy (Resilience and Hazards) 2021		
Chapter 2 – Coastal management	Not applicable to the Murray River Local Government Area.	Not applicable.
Chapter 3 – Hazardous and offensive development	Applies to all land in the State.	Not applicable to the current Planning Proposal.
Chapter 4 – Remediation of land	Applies to all land in the State.	Not applicable as clause 6 Contamination and remediation to be considered in zoning or rezoning proposal was repealed on 17 April 2020.
State Environmental Planning Policy (Resources and Energy) 2021		
Chapter 2 – Mining, petroleum production and extractive industries	Applies to all land in the State.	The Planning Proposal does not conflict with the aims, permissibility, development assessment requirements relating to mining, petroleum production and extractive industries as provided for in the SEPP.
Chapter 3 – Extractive industries in Sydney area	Not applicable to the Murray River Local Government Area.	Not applicable.
State Environmental Planning Policy (Transport and Infrastructure) 2021		
Chapter 2 – Infrastructure	Applies to all land in the State.	The Planning Proposal does not conflict with the aims, permissibility, development consent, assessment and consultation requirements, capacity to

Policy	Applicable to Planning Proposal	Consistency
		undertake additional uses, adjacent, exempt and complying development provisions as provided in the SEPP.
Chapter 3 – Educational establishments and child care facilities	Applies to all land in the State.	Not applicable to the current Planning Proposal.
Chapter 4 – Major infrastructure corridors	Not applicable to the Murray River Local Government Area.	Not applicable.
Chapter 5 – Three ports – Port Botany, Port Kembla and Newcastle	Not applicable to the Murray River Local Government Area.	Not applicable.
Draft State Environmental Planning Policies		
Environment SEPP	Not applicable to the Murray River Local Government Area.	Not applicable.
Corridor Protection SEPP	Not applicable to the Murray River Local Government Area.	Not applicable.

Appendix E: Consistency with Section 9.1 Ministerial Directions

Table 7 – Consistency with Section 9.1 Ministerial Directions

No.	Title	Applicable to Planning Proposal	Consistency
1. Planning Systems			
1.1	Implementation of Regional Plans	Yes, as this Direction applies to all Planning Proposals that apply to land where a Regional Plan has been prepared.	The Planning Proposal is consistent with the goals, directions and actions as contained within the <i>Riverina Murray Regional Plan 2036</i> . A full response in relation to this Regional Plan has been provided as Appendix C .
1.2	Development of Aboriginal Land Council Land	Not applicable, as the subject land is not identified on the Land Application Map of State Environmental Planning Policy (Aboriginal Land) 2019	Not applicable.
1.3	Approval and Referral Requirements	Yes, as this Direction applies to all Planning Proposals.	The Planning Proposal is consistent with this direction because it does not propose any referral or concurrence requirements or nominate any development as ‘designated development’.
1.4	Site Specific Provisions	Not applicable as the proposal does not propose any site-specific provisions.	Not applicable.
1. Planning Systems – Place Based			

No.	Title	Applicable to Planning Proposal	Consistency
1.5	Parramatta Road Corridor Urban Transformation Strategy	Not applicable, does not apply to the Murray River Local Government Area.	Not applicable.
1.6	Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Not applicable, does not apply to the Murray River Local Government Area.	Not applicable.
1.7	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable, does not apply to the Murray River Local Government Area.	Not applicable.
1.8	Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable, does not apply to the Murray River Local Government Area.	Not applicable.
1.9	Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not applicable, does not apply to the Murray River Local Government Area.	Not applicable.
1.10	Implementation of Western Sydney Aerotropolis Plan	Not applicable, does not apply to the Murray River Local Government Area.	Not applicable.

No.	Title	Applicable to Planning Proposal	Consistency
1.11	Implementation of Bayside West Precincts 2036 Plan	Not applicable, does not apply to the Murray River Local Government Area.	Not applicable.
1.12	Implementation of Planning Principles for the Cooks Cove Precinct	Not applicable, does not apply to the Murray River Local Government Area.	Not applicable.
1.13	Implementation of St Leonards and Crows Nest 2036 Plan	Not applicable, does not apply to the Murray River Local Government Area.	Not applicable.
1.14	Implementation of Greater Macarthur 2040	Not applicable, does not apply to the Murray River Local Government Area.	Not applicable.
1.15	Implementation of the Pymont Peninsula Place Strategy	Not applicable, does not apply to the Murray River Local Government Area.	Not applicable.
1.16	North West Rail Link Corridor Strategy	Not applicable, does not apply to the Murray River Local Government Area.	Not applicable.

No.	Title	Applicable to Planning Proposal	Consistency
1.17	Implementation of Bays West Place Strategy	Not applicable, does not apply to the Murray River Local Government Area.	Not applicable.
1.18	Implementation of the Macquarie Park Innovation District	Not applicable, does not apply to the Murray River Local Government Area.	Not applicable.
1.19	Implementation of the Westmead Place Strategy	Not applicable, does not apply to the Murray River Local Government Area.	Not applicable.
Design and Place Systems			
Nil			
Biodiversity and Conservation			
3.1	Conservation Zones	Yes, as this Direction applies to all Planning Proposals.	The Planning Proposal is consistent with this Direction because it does not involve land identified as environmentally sensitive and does not seek to reduce the environmental protection standards that apply to the land.
3.2	Heritage Conservation	Yes, as this Direction applies to all Planning Proposals.	The Planning Proposal is consistent with this direction because it does not affect existing provisions within MLEP 2011 relating to the protection of known European and Aboriginal heritage.

No.	Title	Applicable to Planning Proposal	Consistency
3.3	Sydney Drinking Water Catchment	Not applicable, as the land is not located within the Sydney Drinking Water Catchment.	Not applicable.
3.4	Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs.	Not applicable, does not apply to the Murray River Local Government Area.	Not applicable.
3.5	Recreation Vehicle Areas	Yes, as this Direction applies to all Planning Proposals.	The Planning Proposal is consistent with this direction because it does not advocate the designation of the subject land as a recreation vehicle area pursuant to an order in force under section 11 (1) of the <i>Recreation Vehicles Act 1983</i> .
3.6	Strategic Conservation Planning	No, as this direction relates to land identified as 'avoided land' or a 'strategic conservation area' as defined in the Biodiversity and Conservation SEPP	The land is not known to be identified as either 'avoided land' or a 'strategic conservation area' for the purposes of the SEPP.

Resilience and Hazards

4.1	Flooding	No, as the subject site is not known to be flood prone.	Not applicable.
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No.	Title	Applicable to Planning Proposal	Consistency
4.2	Coastal Management	Not applicable as the subject land is not located in a coastal management area.	Not applicable.
4.3	Planning for Bushfire Protection	Not applicable as the subject land is not mapped as bushfire prone.	Not applicable.
4.4	Remediation of Contaminated Land	Yes, Clause 4.4(b) of the direction triggers consideration of this matter.	<p>The Planning Proposal is considered to be consistent with this direction as:</p> <ul style="list-style-type: none"> the subject land is not identified as an investigation area under the Contaminated Land Management Act 1997, and any future development of the land will not be for residential, educational, recreational or childcare purposes, or for the purposes of a hospital. The land has previously been used for a purpose (agriculture) which is referred to in Table 1 of the contaminated land planning guidelines. However, the ongoing use of the land will enable the continuation of industrial type activities.
4.5	Acid Sulphate Soils	Not applicable, as the subject land is not identified as containing acid sulphate soils.	Not applicable.
4.6	Mine Subsidence & Unstable Land	Not applicable, as the subject land is not within a Mine Subsistence District.	Not applicable.

Transport and Infrastructure

No.	Title	Applicable to Planning Proposal	Consistency
5.1	Integrating Land Use and Transport	Not applicable as does not propose to create, alter or remove a zone or provision relating to urban land	Not applicable.
5.2	Reserving Land for Public Purposes	Yes, as this Direction applies to all Planning Proposals.	The Planning Proposal is consistent with this Direction because it does not create, alter or reduce any provisions relating to land for public acquisition purposes.
5.3	Development Near Regulated Airports and Defence Airfields	Not applicable, the planning proposal does not seek to create, alter or remove a zone or a provision relating to land near a regulated airport which includes a defence airfield.	Not applicable.
5.4	Shooting Ranges	Not applicable, as the subject land is not located in the vicinity of a shooting range.	Not applicable.

Housing

6.1	Residential Zones	Not applicable, as the subject planning proposal does not affect land within an existing or proposed residential zone.	Not applicable.
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No.	Title	Applicable to Planning Proposal	Consistency
6.2	Caravan Parks & Manufactured Home Estates	Yes, as this Direction applies to all Planning Proposals.	The Planning Proposal is consistent with this Direction as it does not reduce the opportunities for caravan parks and manufactured homes estates on the subject land.

Industry and Employment

7.1	Business and Industrial Zones	This direction applies to all relevant planning authorities when preparing a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).	<p>The planning proposal:</p> <ul style="list-style-type: none"> (a) gives effect to the objectives of this direction, (b) Increases the areas and locations of for new business and industrial zones, (c) will increase the total potential floor space area for employment uses and related public services in business zones, (d) will increase the total potential floor space area for industrial uses in industrial zones, and (e) the new employment areas are in accordance with a strategy that is approved by the Planning Secretary.
7.2	Reduction in non-hosted short term rental accommodation period	Not applicable to the Murray River Local Government Area.	Not applicable.
7.3	Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable, as the subject land is not located within proximity to the Pacific Highway.	Not applicable.

Resources and Energy

No.	Title	Applicable to Planning Proposal	Consistency
8.1	Mining, Petroleum Production and Extractive Industries	Not applicable as the Planning Proposal does not impact on mining, petroleum or extractive industries.	<p>The subject planning proposal will not</p> <p>(a) prohibit the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or</p> <p>(b) restrict the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.</p>

Primary Production

9.1	Rural Zones	Yes, the subject site is located in a rural zone.	<p>This direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary). In particular Direction (1)(a) applies to all relevant planning authorities, including Murray River Council LGA.</p> <p>Direction 9.1(1)(a) states a planning proposal must: (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.</p> <p>The direction states that a planning proposal may be inconsistent with the terms of the direction and it is argued that the rezoning will be of insignificance and outweighs the benefits that will be resultant from the amendment. It is considered this for the following reasons:</p> <ul style="list-style-type: none"> • The land has been identified for the purposes of employment lands for over 10 years in Council’s endorsed strategies and policies. This includes the Strategic Land Use Plan (2010-2030), the Murray River LSPS. • The amendment will not result in land use conflicts between a rural zones and a residential zones. The amendment will result in infrastructure and facilities that will support existing rural industries and supply chains
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No.	Title	Applicable to Planning Proposal	Consistency
			<ul style="list-style-type: none"> • The amendment will promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities. • The land is currently not used for active agricultural purposes, therefore having no impact on the State or rural communities. • The subject land is devoid of environmental features and has been extensively grazed over time. The subject land is also well setback from nearby waterways. • Whilst it is acknowledged that rural land plays an important role in the economic viability of the area, region or state, as outlined above, the land is not considered to have an economic future in a rural context.
9.2	Rural Lands	Yes, the subject site is located in a rural zone.	<p>This direction applies to a relevant planning authority outside of the local government areas of lake Macquarie, Newcastle, Wollongong and LGAs in the Greater Sydney Region (as defined in the Greater Sydney Commission Act 2015) other than Wollondilly and Hawkesbury, that: (a) will affect land within an existing or proposed rural or conservation zone (including the alteration of any existing rural or conservation zone boundary) or (b) changes the existing minimum lot size on land within a rural or conservation zone.</p> <p>The proposed amendment is considered to be justifiably inconsistent with Direction 9.2 (1) and (2) for the following reasons:</p> <ul style="list-style-type: none"> • The land has been identified for employment lands for over 10 years in Council's endorsed strategies and policies. This includes the Strategic Land Use Plan (2010-2030), the Murray River LSPS. • The amendment will not result in land use conflicts between a rural zones and a residential zones. The amendment will result in infrastructure and facilities that will support existing rural industries and supply chains • The amendment will promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities.

No.	Title	Applicable to Planning Proposal	Consistency
			<ul style="list-style-type: none"> The land is currently not used for active agricultural purposes, therefore having no impact on the State or rural communities. The subject land is devoid of environmental features and has been extensively grazed over time. The subject land is also well setback from nearby waterways. Whilst it is acknowledged that rural land plays an important role in the economic viability of the area, region or state, as outlined above, the land is not considered to have an economic future in a rural context.
9.3	Oyster Aquaculture	Not applicable as the subject site is not identified as a 'Priority Oyster Aquaculture Area' and is not identified in the <i>NSW Oyster Industry Sustainable Aquaculture Strategy (2006)</i>	Not applicable.
9.4	Farmland of State & Regional Significance on the NSW Far North Coast	Not applicable, does not apply to the Murray River Local Government Area.	Not applicable.

Appendix F: LEP Practice Note - PN16-001

Ref No.	PN 16-001
Issued	5 October 2016
Related	Supersedes PN 09-003

Classification and reclassification of public land through a local environmental plan

The purpose of this practice note is to update guidance on classifying and reclassifying public land through a local environmental plan (LEP). This practice note emphasises the need for councils to demonstrate strategic and site specific merit, includes a comprehensive information checklist and clarifies issues arising for public reserves and interests in land. It should be read in conjunction with *A guide to preparing local environmental plans* and *A guide to preparing planning proposals*.

Classification of public land

Public land is managed under the *Local Government Act 1993* (LG Act) based on its classification. All public land must be classified as either community land or operational land (LG Act ss.25, 26).

- *Community* land – is land council makes available for use by the general public, for example, parks, reserves or sports grounds.
- *Operational* land – is land which facilitates the functions of council, and may not be open to the general public, for example, a works depot or council garage.

What is public land?

Public land is defined in the LG Act as any land (including a *public reserve*) vested in, or under council control. Exceptions include a public road, land to which the *Crown Lands Act 1989* applies, a common, land subject to the *Trustees of Schools of Arts Enabling Act 1902* or a regional park under the *National Parks and Wildlife Act 1974*.

Why classify public land?

The purpose of classification is to identify clearly that land made available for use by the general public (community) and that land which need not (operational). How public land is classified determines the ease or difficulty a council can have dealings in public land, including its sale, leasing or licensing. It also provides for transparency in council's strategic asset management or disposal of public land.

Community land must not be sold, exchanged or otherwise disposed of by a council. It can be leased,

but there are restrictions on the grant of leases and licences, and also on the way community land can be used. A plan of management (PoM), adopted by council, is required for all community land, and details the specific uses and management of the land.

There are no special restrictions on council powers to manage, develop, dispose, or change the nature and use of operational land.

How is public land classified or reclassified?

Depending on circumstances, this is undertaken by either:

- council resolution under ss.31, 32, or 33 (through LG Act s.27(2)), or
- an LEP under the *Environmental Planning and Assessment Act* (through LG Act s.27(1)).

Councils are encouraged to classify or reclassify land by council resolution where suitable.

Classification of public land occurs when it is first acquired by a council and classified as either community or operational.

Reclassification of public land occurs when its classification is changed from community to operational, or from operational to community.

Reclassification through an LEP

Classification and reclassification of public land through an LEP is subject to both the local plan-making process in the EP&A Act and the public land management requirements of the LG Act.

A planning proposal to classify or reclassify public land, will need to be prepared in accordance with this practice note and the additional matters specified in Attachment 1 to this practice note.

Reclassification through an LEP is the mechanism with which council can remove any public reserve status applying to land, as well as any interests affecting all or part of public land (LG Act s.30).

It is critical that all interests are identified upfront as part of any planning proposal. If public land is reclassified from community to operational, without relevant interests being identified and discharged, then the land will need to be reclassified back to community (usually by council resolution under LG Act s.33¹) before being reclassified in a new planning proposal to operational, to explicitly discharge any interests.

While a reclassification proposal to remove the public reserve status of land and/or discharge interests may not necessarily result in the immediate sale or disposal of the land, the community should be aware the public land in question is no longer protected under the LG Act from potential future sale once it has been reclassified to operational.

Councils should obtain their own advice when proposing to discharge any interests and be aware that this may attract a claim for compensation under the *Land Acquisition (Just Terms Compensation) Act 1991*.

Where land has been dedicated to council by a State agency for a particular purpose and a trust exists, it is advisable for council to seek the views of that agency prior to council commencing any planning proposal affecting the land.

Public reserve is defined in the LG Act and includes a public park and land declared or dedicated as a public reserve.

Land can be dedicated as a public reserve by either:

- registering a deposited plan with a statement creating a lot(s) as 'public reserve', or
- publishing a notification in the Government Gazette for an existing parcel.

Interests in land refers to property ownership as well as rights and privileges affecting land, such as leasehold, easements, covenants and mortgages.

For the purpose of reclassification through an LEP, 'interests' means trusts, estates, dedications, conditions, restrictions and covenants affecting the land.

A legal owner of land may not be the only person with an interest in the land. For example, one person may have the benefit of an easement for services, such as water, electricity or sewerage over someone else's land.

Certain interests are registered on title to ensure they are on record and cannot be disregarded if sold to a new owner. An electronic title search is generally conducted to determine the land owner, correct land description and the type of interests which may affect the land.

Standard Instrument LEP requirements

Clause 5.2—Classification and reclassification of public land in Standard Instrument LEPs enables councils to classify or reclassify public land as operational land or community land in accordance with the LG Act. The land to be reclassified or classified is described in Schedule 4 of the LEP.

Schedule 4 is not to refer to any land already classified or reclassified.

Where there is no public land to be classified, or reclassified, through a principal LEP (i.e. the LEP applies to the whole of a local government area), Schedule 4 will appear blank.

Note: At a later stage council may lodge a planning proposal to remove previous listings in Schedule 4. This will not affect the classification status of these parcels of land.

Department assessment

A proposal to classify or reclassify public land through an LEP must have planning merit. The Department will undertake an assessment to determine whether the proposal demonstrates strategic and site specific merit.

Community consultation

Planning proposals to reclassify public land are to be publicly exhibited for at least 28 days.

A copy of this practice note is to be included in the public exhibition materials.

¹ Note: Council is required to give public notice of the proposed resolution and provide a period of at least 28 days during which submissions may be made (LG Act s.34).

Public hearings

Councils must hold a public hearing when reclassifying public land from community to operational (EP&A Act s.57 & LG Act s.29). This gives the community an opportunity to expand on written submissions and discuss issues with an independent person in a public forum.

After the exhibition period has ended, at least 21 days public notice is to be given before the hearing. This allows the person chairing the hearing sufficient time to consider written submissions and all issues raised.

There are specific requirements for the independence of the person chairing the hearing, their preparation of a public hearing report and council making the report publicly available (LG Act s.47G).

Governor's approval

The Governor's approval is required when a reclassification proposal seeks to remove any public reserve status and/or discharge any interests affecting public land (s.30).

When a council reports back to the Department on the community consultation undertaken and requests the Department make the LEP, the Department will arrange legal drafting of the LEP, including recommending the Governor approve the provisions before the LEP can be legally made.

Where the Governor's approval is required, the council's report accompanying the final planning proposal must address:

- council's interests in the land;
- whether the land is a 'public reserve';
- the effect of the reclassification, including loss of open space, any discharge of interests, and/or removal of public reserve status;
- the strategic and site specific merits of the reclassification and evidence to support this;
- any current use of the land, and whether uses are authorised or unauthorised;
- how funds obtained from any future sale of the land will be used;
- the dates the planning proposal was publicly exhibited and when the public hearing was held;
- issues raised in any relevant submissions made by public authorities and the community;
- an explanation of how written and verbal submissions were addressed or resolved; and
- the public hearing report and council resolution.

Authorisation of delegation

Local plan making functions are now largely delegated to councils.

A Written Authorisation to Exercise Delegation is issued to a council as part of the Gateway determination. However, where an LEP requires the Governor's approval, this council delegation cannot be issued. In this instance, the council must request the Department make the LEP.

A decision to classify or reclassify public land cannot be sub-delegated by council to the general manager or any other person or body (LG Act s.377(1)(l)).

Background

On July 1, 1993 when the LG Act commenced, the following land under council ownership or control, was automatically classified as *community* land:

- land comprising a public reserve,
- land subject to a trust for a public purpose,
- land dedicated as a condition of consent under s.94 of the EP&A Act,
- land reserved, zoned or otherwise designated for use under an environmental planning instrument as open space,
- land controlled by council and vested in Corporation Sole - Minister administering the EP&A Act.

Councils must keep a register of land under their ownership or control (LG Act s.53) and anybody can apply to a council to obtain a certificate of classification (LG Act s.54).

Further information

A copy of this practice note, *A guide to preparing planning proposals* and *A guide to preparing local environmental plans* is available at:

<http://www.planning.nsw.gov.au>

For further information, please contact the Department of Planning and Environment's Information Centre by one of the following:

Post: GPO Box 39, Sydney NSW 2001.

Tel: 1300 305 695

Email: information@planning.nsw.gov.au

Authorised by:
Carolyn McNally
Secretary

Important note: This practice note does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this practice note.

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ATTACHMENT 1 – INFORMATION CHECKLIST FOR PROPOSALS TO CLASSIFY OR RECLASSIFY PUBLIC LAND THROUGH AN LEP

The process for plan-making under the EP&A Act is detailed in *A guide to preparing planning proposals* and *A guide to preparing local environmental plans*.

Importantly, *A guide to preparing local environmental plans* contains the Secretary's requirements for matters that must be addressed in the justification of all planning proposals to reclassify public land. Councils must ensure the Secretary's requirements are addressed.

Councils must also comply with any obligations under the LG Act when classifying or reclassifying public land. More information on this can be found in *Practice Note No. 1 - Public Land Management* (Department of Local Government, 2000).

All planning proposals classifying or reclassifying public land must address the following matters for Gateway consideration. These are in addition to the requirements for all planning proposals under section 55(a) – (e) of the EP&A Act (and further explained in *A guide to preparing planning proposals* and *A guide to preparing local environmental plans*).

- the current and proposed classification of the land;
- whether the land is a 'public reserve' (defined in the LG Act);
- the strategic and site specific merits of the reclassification and evidence to support this;
- whether the planning proposal is the result of a strategic study or report;
- whether the planning proposal is consistent with council's community plan or other local strategic plan;
- a summary of council's interests in the land, including:
 - how and when the land was first acquired (e.g. was it dedicated, donated, provided as part of a subdivision for public open space or other purpose, or a developer contribution)
 - if council does not own the land, the land owner's consent;
 - the nature of any trusts, dedications etc;
- whether an interest in land is proposed to be discharged, and if so, an explanation of the reasons why;
- the effect of the reclassification (including, the loss of public open space, the land ceases to be a public reserve or particular interests will be discharged);
- evidence of public reserve status or relevant interests, or lack thereof applying to the land (e.g. electronic title searches, notice in a Government Gazette, trust documents);
- current use(s) of the land, and whether uses are authorised or unauthorised;
- current or proposed lease or agreements applying to the land, together with their duration, terms and controls;
- current or proposed business dealings (e.g. agreement for the sale or lease of the land, the basic details of any such agreement and if relevant, when council intends to realise its asset, either immediately after rezoning/reclassification or at a later time);
- any rezoning associated with the reclassification (if yes, need to demonstrate consistency with an endorsed Plan of Management or strategy);
- how council may or will benefit financially, and how these funds will be used;
- how council will ensure funds remain available to fund proposed open space sites or improvements referred to in justifying the reclassification, if relevant to the proposal;
- a Land Reclassification (part lots) Map, in accordance with any standard technical requirements for spatial datasets and maps, if land to be reclassified does not apply to the whole lot; and
- preliminary comments by a relevant government agency, including an agency that dedicated the land to council, if applicable.

Appendix G: PN16-001 – Information Checklist

INFORMATION CHECKLIST FOR PROPOSALS TO CLASSIFY OR RECLASSIFY PUBLIC LAND THROUGH AN LEP

The process for plan-making under the EP&A Act is detailed in the *Local Environmental Plan Making Guideline* (December 2021).

Importantly, the Guideline contains the Secretary's requirements for matters that must be addressed in the justification of all planning proposals to reclassify public land.

Councils must ensure the Secretary's requirements are addressed. Councils must also comply with any obligations under the *Local Government Act* when classifying or reclassifying public land. More information on this can be found in Practice Note No. 1 - Public Land Management (Department of Local Government, 2000).

All planning proposals classifying or reclassifying public land must address the following matters (**Table 8** below) for Gateway consideration in accordance with PN16-001 – Information Checklist. These are in addition to the requirements for all planning proposals under section 3.33(2)(a) – (e) of the *Environmental Planning & Assessment Act* (and further explained in *Local Environmental Plan Making Guideline*).

Table 8 – Matters for Consideration

Matters for Consideration	Response
the current and proposed classification of the land;	Current: community land Proposed: operational land
whether the land is a 'public reserve' (defined in the LG Act);	The land is not defined as a 'public reserve' for the purposes and definition as set out in the Local Government Act.
the strategic and site-specific merits of the reclassification and evidence to support this;	The site was purchased specifically for the expansion of the Moama Business Park. A confidential report to council on 26 May 2020 included the following information below:

Matters for Consideration	Response
	<p><i>Lot 1, DP793207 and Lot 231, DP751152 are ideally located to expand the Moama Business Park. Council should concentrate efforts to reach an agreement to purchase either of the two lots.</i></p> <p>A subsequent report to Council on 28 July 2020 provided a project update confirming that a successful agreement was reached with the owners of Lot 1, DP793207.</p>
<p>whether the planning proposal is the result of a strategic study or report;</p>	<p>The Planning Proposal is not as a result of a strategic study or report. It is a result of Council being unable to re-classify the land under the Local Government Act (LG Act) within 3 months of acquiring the land. Therefore, the reclassification now has to take place as an amendment to the Local Environmental Plan (section 27(a) of LG Act).</p> <p>Notwithstanding, the proposal is consistent with the recommendations of the Murray River Strategic Land Use Plan.</p>
<p>whether the planning proposal is consistent with council's community plan or other local strategic plan;</p>	<p>The Proposal is considered to be consistent with Council's Community Strategic Plan (CSP) and Local Strategic Planning Statement (LSPS). Further detail is discussed in Section 3.3.4.</p>
<p>a summary of council's interests in the land, including:</p> <p>how and when the land was first acquired (e.g. was it dedicated, donated, provided as part of a subdivision for public open space or other purpose, or a developer contribution)</p>	<p>Murray River Council purchased the land on 5 February 2021.</p> <p>Council is the owner of the land.</p> <p>There are no trusts, dedications or the like applicable to the land.</p>

Matters for Consideration	Response
<p>if council does not own the land, the land owner's consent;</p> <p>the nature of any trusts, dedications etc;</p>	
<p>whether an interest in land is proposed to be discharged, and if so, an explanation of the reasons why;</p>	<p>Council has no plans to discharge any interest in the land.</p>
<p>the effect of the reclassification (including, the loss of public open space, any discharge of interests and/or removal of public reserve status</p>	<p>The land was purchased for the express purpose to expand the Moama Business Park.</p>
<p>evidence of public reserve status or relevant interests, or lack thereof applying to the land (e.g. electronic title searches, notice in a Government Gazette, trust documents);</p>	<p>The relevant title searches that apply to the land are included as Appendix A to the Planning Proposal.</p>
<p>current use(s) of the land, and whether uses are authorised or unauthorised;</p>	<p>The land is zoned RU1 and is used for cereal cropping by way of a one-year lease which expired in March 2022.</p>
<p>current or proposed lease or agreements applying to the land, together with their duration, terms and controls;</p>	<p>Council leased the land to Gidney's Hut Farming, for the purpose of cereal cropping. The lease commenced on 1 April 2021 and will be terminated on 31 March 2022.</p> <p>The annual lease fee is \$1,500 per annum including GST.</p>

Matters for Consideration	Response
<p>current or proposed business dealings (e.g. agreement for the sale or lease of the land, the basic details of any such agreement and if relevant, when council intends to realise its asset, either immediately after rezoning/reclassification or at a later time);</p>	<p>Once reclassified and rezoned, the intention is to subdivide the land into individual commercial and industrial allotments that will be sold with conditions to commence development of the land within 12 months of purchase.</p>
<p>any rezoning associated with the reclassification (if yes, need to demonstrate consistency with an endorsed Plan of Management or strategy);</p>	<p>There is no plan of management or strategy that relates this this parcel of land.</p>
<p>how council may or will benefit financially, and how these funds will be used;</p>	<p>Council will profit from the development of the land (after costs) and the funds will be allocated to the purchasing of additional land for future expansion/purchase of industrial land within the LGA.</p>
<p>how council will ensure funds remain available to fund proposed open space sites or improvements referred to in justifying the reclassification, if relevant to the proposal;</p>	<p>Not relevant to the proposal.</p>
<p>a Land Reclassification (part lots) Map, in accordance with any standard technical requirements for spatial datasets and maps, if land to be reclassified does not apply to the whole lot; and</p>	<p>The land reclassification applies to the entirety of the subject lot</p>

Matters for Consideration	Response
preliminary comments by a relevant government agency, including an agency that dedicated the land to council, if applicable.	No preliminary comments are available at the stage of drafting the Planning Proposal. Relevant government agencies will be consulted in accordance with the Gateway determination.