

Lot 1 DP1267277 – Gonn Road, Barham  
Reclassification of Public Land

OCTOBER 2021

Submitted to Murray River Council  
On behalf of Murray River Council

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PROJECT NUMBER  
21252

REVISION NO	REVISION DATE	VERSION STATUS	AUTHOR	APPROVED
C	25/11/2021	Minor amendments for exhibition	MY	DH

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# 1. Introduction

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*. Specifically, the Planning Proposal seeks to:

- Utilise the provisions of Clause 5.2 of the Wakool Local Environmental Plan 2013 (WLEP 2013) to reclassify Lot 1 DP1267277 – Gonn Road, Barham from ‘community land’ to ‘operational land’
- Amend Schedule 4, Part 1 of the WLEP 2011 to include Lot 1 DP1267277.

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, Industry and Environment’s guidelines titled:

- *A Guide to Preparing Local Environmental Plans* (December 2018); and
- *A Guide to Preparing Planning Proposals* (December 2018)

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 under the WLEP 2013 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, Industry and Environment (DPIE) with the confidence to endorse the proposed amendment as sought by this Planning Proposal.

## 1.1. Background

On 1 April 2021, Council purchased the subject land for the purpose of constructing a micro-abattoir. Council did not resolve to classify the land as ‘operational land’ until a meeting held on 12 August 2021 which was beyond the 3 month period provided under section 31(2) of the *Local Government Act 1993*. The land has therefore been deemed to be classified as ‘community land’.

Council, at its meeting held on Tuesday 12 August 2021 resolved to take action to reclassify the land as ‘operational land’. This Planning Proposal now formally seeks to change the classification of the land as per Council’s resolution.

## 1.2. Scope and Format of Planning Proposal

The Planning Proposal details the merits of the proposed change to the WLEP 2013 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 *A Guide to Preparing Planning Proposals*; and
- Section 4.0 provides the conclusions and recommendations to proceed with the Planning Proposal to Gateway Determination to amend WLEP 2013.

### 1.3. 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**

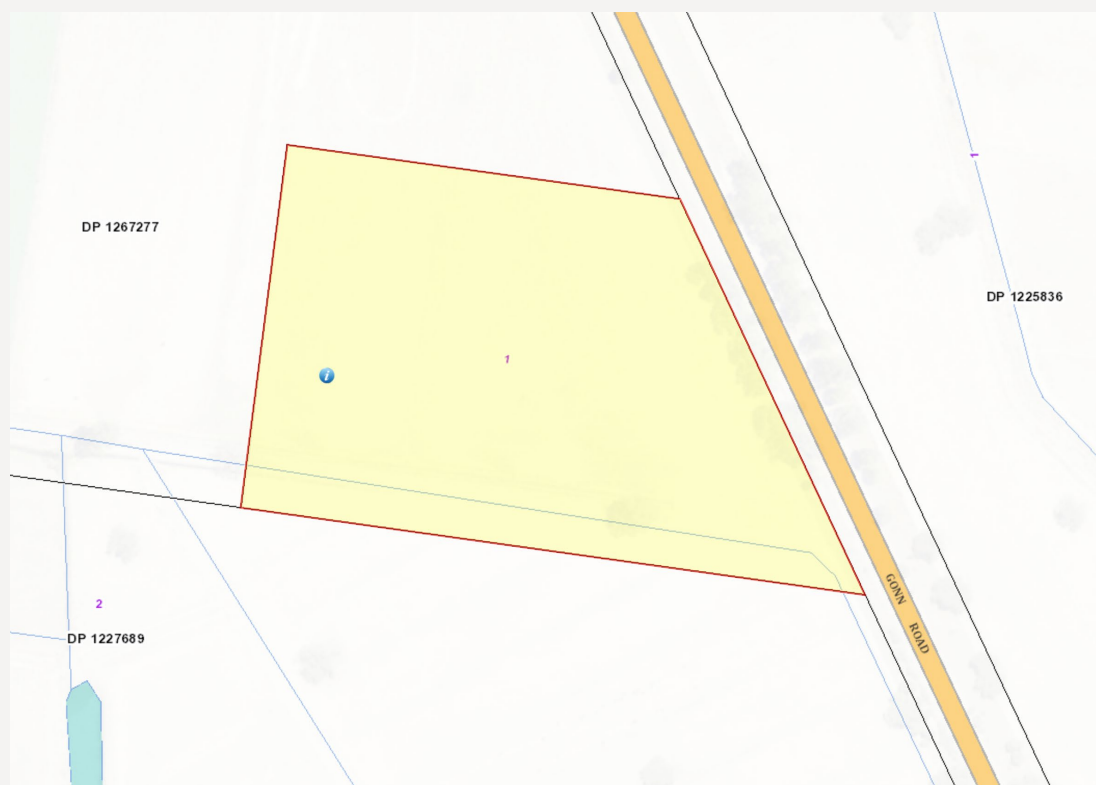
Document Name	Prepared by
Consistency with State Environmental Planning Policies	Habitat Planning
Consistency with Section 9.1 Ministerial Directions	Habitat Planning
Consistency with Riverina Murray Regional Plan 2036	Habitat Planning
LEP Practice Note PN16-001	-
PN16-001 – Information Checklist	Habitat Planning

## 2. Site & Context Description

### 2.1. Site Context & Locality

The subject land to which this Planning Proposal relates is described as Lot 1 DP1267277 and addressed as Gonn Road, Barham.

The subject site is located within a rural area located north-east of the Barham town centre. The site is shown in the Figure below.



**Figure 1 – Site Map (Source: SixMaps)**

### 2.2. Site Description

The subject land is located on the western side of Gonn Road, Barham within the primary production zone. The subject land is shaped in a rectangle trapezoid with the shorter length to the north and the longer property boundary edge to the south.

The land is currently vacant and has previously been used for broad-acre agriculture. The site contains no significant landforms and currently benefits from access to Gonn Road. The site is located in an area that exemplifies typical intensive plant agriculture and other primary production pursuits.

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



Figure 2 – Context Map (Source: NearMap – Nov 2020)



### 3. Planning Proposal

This section of the report addresses the Department of Planning’s document titled A Guide to Preparing Planning Proposals and Section 3.33 of the EP&A Act. 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 the Wakool LEP 2013 to reclassify the subject land from “Community Land” to “Operational Land”. Due to an administrative error, Council did not classify the land in accordance with section 31(2) of the Local Government Act and at the end of the three (3) month period following settlement the land is taken to have been classified as community land.

An amendment to Schedule 4 Part 1 of the LEP is required under Clause 5.2(2), which is sought by this Planning Proposal.

#### 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 is to reclassify from “community” to “operational” the Council owned public land legally described as Lot 1 DP1267277, Gonn Road, Barham. The reclassification will be achieved by amending Schedule 4 Part 1 of the WLEP 2013 in the following manner:

To insert the locality and property description under Columns 1 and 2 of Part 1 (Land classified, or reclassified, as operational land—no interests changed)

Insert into Column 1 – Locality	Insert into Column 2 - Description
Barham	Gonn Road, being Lot 1, DP1267277

The proposal does not involve any change to the existing zone and/or development standards that apply to the subject site. There are no interests in the land that Council is seeking to discharge. The Planning Proposal does not recommend any changes to the maps to WLEP 2013.

#### 3.3. Justification

This part of the planning proposal responds to Section 3.33(2)(c) of the *Environmental Planning & Assessment Act 1979* which requires the justification for the objectives, outcomes and provisions and the process for their implementation (including whether the proposed instrument will give effect to the local strategic planning statement of the council of the area and will comply with relevant directions under section 9.1).

The planning proposal is not the result of any specific strategy or study. However, the need for the planning proposal has arisen due to the need to classify the land in accordance with section 31(2) of the Local Government Act. The only way for the land to be used for the purpose intended is to carry out an amendment to the LEP under Clause 5.2 to reclassify the land.

In the interests of good governance all necessary steps are being taken to ensure that the correct classification is applied to public land under Council's control.

Despite the current planning proposal being to apply an operational public land classification to land deemed to have been omitted by error, Council is required to provide sufficient strategic justification and other information and justification in accordance with the Department of Planning & Environments LEP Practice Note "PN 16-001 - Classification and reclassification of public land through a local environmental plan", more specifically its "Attachment 1 - Information checklist for proposals to classify or reclassify public land through an LEP".

A copy of PN 16-001 is attached at **Appendix E**, whilst **Appendix F** provides the information required to be provided by PN 16-001 in a written statement for the subject land to be reclassified.

## Section A – Need for a Planning Proposal

### 3.3.1.1. 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
<b>Theme 1 – A robust, growing, and innovative economy</b>		
<b>Priority 1 – Grow, strengthen and sustain agriculture</b>	Yes	<p>The subject planning proposal is considered to be consistent with the Murray LSPS as it supports the following actions and objectives of Priority 1 as follows;</p> <ul style="list-style-type: none"> <li>• <i>promote and grow emerging agricultural activities and enterprises</i></li> </ul>

Priority	Applicable to the Planning Proposal	Comment
		<ul style="list-style-type: none"> <li>encourage agribusiness diversification and value-adding by recognising the range of modern agricultural enterprises and facilitating their growth</li> <li>allow for innovation and the expansion of industries that work in synergy with agriculture</li> </ul> <p>As such it is considered to be consistent with the aims and objectives of the priority as the reclassification of the land will enable development that ultimately supports the actions outlined above.</p>
<b>Priority 2 – Grow and strengthen tourism</b>	Not applicable to the subject Planning Proposal	Not applicable
<b>Priority 3 – Create an ‘open-for-business’ identity</b>	Yes	<p>The proposal is considered to be consistent with Priority 3 as it the objectives will enable Council to actively utilise the land for the use of a micro-abattoir. The Murray LSPS states that “<i>Council will investigate areas within Barham and surrounds that could be developed to attract business, specifically industry supporting the existing interest in agribusiness and manufacturing.... there is interest in future development opportunities in Barham and its surrounds related to a micro-abattoir and a cereal-processing facility.</i>”</p> <p>As such it is considered to be consistent with the aims and objectives of the priority.</p>

## Theme 2 – Liveable Communities with Social Capital

<b>Priority 4 – Housing growth, supply and density</b>	Not applicable to the subject Planning Proposal	Not applicable
<b>Priority 5 – Recreation and open space</b>	Not applicable to the subject Planning Proposal	Not applicable
<b>Priority 6 – Servicing and utility infrastructure</b>	Not applicable to the subject Planning Proposal	Not applicable

Priority	Applicable to the Planning Proposal	Comment
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### Theme 3 – Environment, heritage, and climate change

<b>Priority 7 – Identify and protect environmental values</b>	Not applicable to the subject Planning Proposal	Not applicable
<b>Priority 8 – Celebrate culture and heritage</b>	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 considered low as the subject land is heavily disturbed and does not contain any identified landscape features.</p>
<b>Priority 9 – Climate change and natural hazards</b>	Not applicable to the subject Planning Proposal as the land is not identified as being subject to any natural hazards.	Not applicable.

### The Wakool LEP Review – Land Use Strategy Report 2009

The Wakool LEP Review – Land Use Strategy Report 2009 (the Wakool LUS) recognises agriculture and related rural industry as crucial drivers in the economic viability of the Barham township. The Wakool LUS advocates (Section 5.2.3) for the protection of agricultural uses, noting that agricultural and rural enterprises should be located in proximity to the Barham township. The Planning Proposal will facilitate the eventual use of this RU1 zoned land for compatible rural industry and is therefore considered consistent with the outcomes of the Wakool LUS. There is no site-specific strategy or goals identified for this area within the Wakool LUS.

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

Yes. In preparing a Planning Proposal to reclassify the relevant land Council is as per recommendations of Council's legal advice. There is no other mechanism to achieve the objectives or intended outcomes of this Planning Proposal.

## Section B – Relationship to Strategic Planning Framework

### 3.3.1.3. 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 considered to be consistent with the Riverina Murray Regional Plan 2036. An assessment of the planning proposal against the Regional Plan actions is in **Appendix B**.

### 3.3.1.4. Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local 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 3.3.1.1** 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*.

### 3.3.1.5. Is the planning proposal consistent with applicable State Environmental Planning Policies

**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.

### 3.3.1.6. Is the planning proposal consistent with the applicable Ministerial Directions (s9.1 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

### 3.3.1.7. 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. This is due to:

- Only the classification of the identified public land under the Local Government Act being changed; and
- the planning proposal is not proposing to rezone any land or facilitate the carrying of a particular development that would adversely impact critical habitat, threatened species, populations or ecological communities or their habitats.
- 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.

In addition, this Planning Proposal does not recommend changing the application or intent of the provisions in Wakool LEP 2013 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.

### 3.3.1.8. 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 reclassification does not result in any direct environmental impacts. It will, however, enable the development of the land in accordance with the current RU1 'Primary Production' zoning. 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 2013 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.

### **3.3.1.9. Has the planning proposal adequately addressed any social and economic effects?**

The reclassification has the potential to have positive social and economic benefits for the community, in that it enables Council to consider the potential future development of land for uses consistent with the RU1 'Primary Production' zoning under LEP 2013.

In particular, on 26 October 2020, Council resolved to accept funding through the Drought Communities Program, the Murray Darling Basin Economic Development Program, and the Growing Local Economies Program and to proceed with the Barham Micro-abattoir project. Furthermore, Council at its monthly meeting held on 23 March 2021 resolved to sign and apply the council seal to the Lease Agreement with Murray Plains Meat Cooperative to lease the Micro-abattoir when completed.

It is noted that the development application for this project has been publicly exhibited and has been subsequently determined with a deferred commencement condition requiring that the subject Planning Proposal to reclassify the land be gazetted prior to the consent legally commencing.

As such, the Planning Proposal, and resultant development opportunity created, aligns with Council's strategic direction to utilise Council's property portfolio to stimulate growth and development opportunities within the Murray River LGA.

## **Section D – State and Commonwealth interests**

### **3.3.1.10. 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. It has the potential to lead to better asset and infrastructure management outcomes overall. 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.

### **3.3.1.11. 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.

## **3.4. Mapping**

This Planning Proposal does not recommend any changes to the maps in WLEP 2013.

## **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: A Guide to Preparing Local Environmental Plans and any conditions of the Gateway Determination (to be issued). The Planning Proposal is not considered to be a 'low impact proposal' for the purposes of public exhibition and will therefore need to be publicly exhibited for a minimum period of 28 days.

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
<b>Lodgement</b> Lodge Planning Proposal with council and make any necessary adjustments or changes prior to council accepting the plan	2 weeks for council to review and provide any comments regarding the submitted Planning Proposal and for the report to be updated.
<b>Council Report (seeking Gateway Determination)</b> 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.	2 weeks to prepare council report and include on council agenda.
<b>Request Gateway Determination</b> 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)	2 weeks following Council resolution and request for a Gateway determination
<b>Public Exhibition</b> Undertake public exhibition of Planning Proposal in accordance with the conditions of the Gateway Determination.	2 weeks to prepare and place a public notice in the paper and 4 weeks to publicly exhibit the Planning Proposal.
<b>Public Hearing</b> Undertake public hearing in accordance with the conditions of the Gateway Determination and section 47G of the Local Government Act.	3 weeks to provide public notice prior to the hearing
<b>Consider Submissions &amp; Finalise Document</b> Council planning officers to consider, respond and report on submissions received and issues raised (if any) and where necessary, recommended relevant changes to the Planning Proposal.	2 weeks to collate, consider and respond to submissions received (if any).
<b>Council Report (consideration of submissions)</b> Council planning officers to prepare a report to council post public exhibition that considers any submissions received.	4 weeks to prepare council report and include on council agenda.
<b>Submission to NSW DPIE/Parliamentary Counsel</b> Forward Planning Proposal to NSW DPIE/Parliamentary Counsel (if delegated) for finalisation following public exhibition.	4 weeks
<b>Notification</b> Finalisation/gazettal of Planning Proposal	2 weeks

## 4. Conclusion

The Planning Proposal is to reclassify land from “community” to “operational” of the Council owned public land legally described as Lot 1 DP1267277, Gonn Road, Barham. The reclassification will be achieved by amending Schedule 4 of the Wakool Local Environmental Plan 2013 utilising the provisions of Clause 5.2.

The proposal does not involve any change to the existing zone and/or development standards that apply to the subject site. There are no interests in the land that Council is seeking to discharge. The Planning Proposal does not recommend any changes to the maps to Wakool Local Environmental Plan 2013.

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 guidelines titled: A Guide to Preparing Local Environmental Plans (August 2018) and A Guide to Preparing Planning Proposals (August 2018).

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 relevant legislative requirements of the 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 Barham community.

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

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## Appendix A: Title Details

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## Appendix B: Consistency with Riverina Murray Regional Plan 2036

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Table 4 – Consistency with Riverina Murray Regional Plan 2036

Goal, Direction & Action Title	Relevance to the Planning Proposal	Consistency
<b>Goal 1 – A growing and diverse economy</b>		
<b>Direction 1 – Protect the region's diverse and productive agricultural land.</b>	Applies as the planning proposal relates to rural zoned land.	Whilst relevant to the proposal, there are no definable actions contained within the Regional Plan that are relevant to the proposal.
<b>Direction 2 – Promote and grow the agribusiness sector.</b>	Applicable, as the reclassification of the land will promote and grow the agribusiness sector.	Whilst relevant to the proposal, there are no definable actions contained within the Regional Plan that are relevant to the proposal. Notwithstanding, the reclassification of the land will promote and grow the agribusiness sector thus creating the consistency.
<b>Direction 3 – Expand advanced and value-added manufacturing.</b>	Not applicable, as the proposal does not relate to or affect value-added manufacturing.	N/A
<b>Direction 4 – Promote business activities in industrial and commercial areas.</b>	Not applicable, as the proposal does not relate to or affect business or commercial areas.	N/A

Goal, Direction & Action Title	Relevance to the Planning Proposal	Consistency
<b>Direction 5 – Support the growth of the health and aged care sectors.</b>	Not applicable, as the proposal does not relate to or affect the health and aged care sectors.	N/A
<b>Direction 6 – Promote the expansion of education and training opportunities.</b>	Not applicable, as the proposal does not relate to or affect education or training.	N/A
<b>Direction 7 – Promote tourism opportunities.</b>	Not applicable, as the proposal does not relate to or affect tourism.	N/A
<b>Direction 8 – Enhance the economic self-determination of Aboriginal communities.</b>	Not applicable, as the proposal does not relate to or affect Aboriginal communities.	N/A
<b>Direction 9 – Support the forestry industry.</b>	Not applicable, as the proposal does not relate to or affect forestry.	N/A
<b>Direction 10 – Sustainably manage water resources for economic opportunities.</b>	Not applicable as the proposal does not relate to or affect water resources.	N/A

Goal, Direction & Action Title	Relevance to the Planning Proposal	Consistency
<b>Direction 11 – Promote the diversification of energy supplies through renewable energy generation.</b>	Not applicable as the proposal does not relate to or affect energy supplies.	N/A
<b>Direction 12 – Sustainably manage mineral resources.</b>	Not applicable, as the subject land is not known to contain any significant mineral resources.	N/A
<b>Goal 2 – A healthy environment with pristine waterways</b>		
<b>Direction 13 – Manage and conserve water resources for the environment.</b>	Not applicable, as the subject land is not known to contain any water resources.	N/A
<b>Direction 14 – Manage land uses along key river corridors.</b>	Not applicable as the subject land is not located within or near a river corridor.	N/A
<b>Direction 15 – Protect and manage the region’s many environmental assets.</b>	Not applicable as the subject land has no environmental assets within the context of this Direction.	N/A

Goal, Direction & Action Title	Relevance to the Planning Proposal	Consistency
<b>Direction 16 – Increase resilience to natural hazards and climate change.</b>	Not applicable as the subject land is not subject to any natural hazards.	N/A
<b>Goal 3 – Efficient transport and infrastructure networks</b>		
<b>Direction 17 – Transform the region into the eastern seaboard's freight and logistics hub.</b>	Not relevant, as the proposal does not relate to or affect industry or freight.	N/A
<b>Direction 18 – Enhance road and rail freight links.</b>	Not relevant, as the proposal does not relate to or affect freight.	N/A
<b>Direction 19 – Support and protect ongoing access to air travel.</b>	Not relevant, as the proposal will not affect air travel.	N/A
<b>Direction 20 – Identify and protect future transport corridors.</b>	Not relevant to the subject proposal.	N/A
<b>Direction 21 – Align and protect utility infrastructure investment.</b>	Not relevant to the subject proposal.	N/A



Goal, Direction & Action Title	Relevance to the Planning Proposal	Consistency
<b>Goal 4 – Strong, connected and healthy communities</b>		
<b>Direction 22 – Promote the growth of regional cities and local centres.</b>	Not relevant to the subject proposal.	N/A
<b>Direction 23 – Build resilience in towns and villages.</b>	Not relevant to the subject proposal.	N/A
<b>Direction 24 – Create a connected and competitive environment for cross-border communities.</b>	Not relevant to the subject proposal.	N/A
<b>Direction 25 – Build housing capacity to meet demand.</b>	Not relevant to the subject proposal.	N/A
<b>Direction 26 – Provide greater housing choice.</b>	Not relevant to the subject proposal.	N/A
<b>Direction 27 – Manage rural residential development.</b>	Not relevant to the subject proposal.	N/A

Goal, Direction & Action Title	Relevance to the Planning Proposal	Consistency
<b>Direction 28 – Deliver healthy built environments and improved urban design.</b>	Not relevant to the subject proposal.	N/A
<b>Direction 29 – Protect the region's Aboriginal and historic heritage.</b>	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>

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## Appendix C: Consistency with State Environmental Planning Policies

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**Table 5 – Consistency with State Environmental Planning Policies**

Title	Applicable to Planning Proposal	Consistency
State Environmental Planning Policy No. 19 (Bushland in Urban Areas)	Not applicable to the Murray River Local Government Area.	Not applicable.
State Environmental Planning Policy No. 21 (Caravan Parks)	Applies to all land in the State.	Not applicable to the current Planning Proposal.
State Environmental Planning Policy No. 33 (Hazardous & Offensive Development)	Applies to all land in the State.	Not applicable to the current Planning Proposal.
State Environmental Planning Policy No. 36 (Manufactured Home Estate)	Applies to all land in the State.	Not applicable to the current Planning Proposal.
State Environmental Planning Policy No. 47 (Moore Park Showground)	Not applicable to the Murray River Local Government Area.	Not applicable.
State Environmental Planning Policy No. 50 (Canal Estate Development)	Applies to all land in the State.	Not applicable to the current Planning Proposal.
State Environmental Planning Policy No. 55 (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 No. 64 (Advertising & 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 Apartment Development)	Applies to all land in the State.	Not applicable to the current Planning Proposal.
State Environmental Planning Policy No. 70 (Affordable Housing) (Revised Schemes)	Applies to all land in the State.	Not applicable to the current Planning Proposal.
State Environmental Planning Policy - Aboriginal Land 2019	Not applicable to the Murray River Local Government Area.	Not applicable.

Title	Applicable to Planning Proposal	Consistency
State Environmental Planning Policy - Activation Precincts 2020	Not applicable to the Murray River Local Government Area.	Not applicable.
State Environmental Planning Policy - Affordable Rental Housing 2009	Applies to all land in the State.	Not applicable to the current Planning Proposal.
State Environmental Planning Policy -Building Sustainability Index (BASIX) 2004	Applies to all land in the State.	Not applicable to the current Planning Proposal.
State Environmental Planning Policy -Coastal Management 2018	Not applicable to the Murray River Local Government Area.	Not applicable.
State Environmental Planning Policy - Concurrences and Consents 2018	Applies to all land in the State.	The Planning Proposal does not conflict with the concurrence and consent requirements as provided for in the SEPP.
State Environmental Planning Policy - Educational Establishments & Child Care Facilities 2017	Applies to all land in the State.	Not applicable to the current Planning Proposal.
State Environmental Planning Policy -Exempt & 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 -Gosford City Centre 2018	Not applicable to the Murray River Local Government Area.	Not applicable.
State Environmental Planning Policy -Housing for Seniors & People with a Disability 2004	Applies to all land in the State.	Not applicable to the current Planning Proposal.
State Environmental Planning Policy - Infrastructure 2007	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 undertake additional uses, adjacent, exempt and complying development provisions as provided in the SEPP.

Title	Applicable to Planning Proposal	Consistency
State Environmental Planning Policy -Koala Habitat Protection 2020	Applicable as the subject land is located in the RU1, RU2 or RU3 zones	The Planning Proposal is considered to be consistent with this control as the reclassification 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.
State Environmental Planning Policy -Koala Habitat Protection 2021	Not applicable as the subject land is not identified as a prescribed zone within the 2021 SEPP.	Not applicable.
State Environmental Planning Policy - Kosciuszko National Park – Alpine Resorts 2007	Not applicable to the Murray River Local Government Area.	Not applicable.
State Environmental Planning Policy -Kurnell Peninsula 1989	Not applicable to the Murray River Local Government Area.	Not applicable.
State Environmental Planning Policy -Major Infrastructure Corridors 2020	Not applicable to the Murray River Local Government Area.	Not applicable.
State Environmental Planning Policy -Mining, Petroleum Production & Extractive Industries 2007	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.
State Environmental Planning Policy -Penrith Lakes Scheme 1989	Not applicable to the Murray River Local Government Area.	Not applicable.
State Environmental Planning Policy -Primary Production and Rural Development 2019	Not applicable as the subject land is not state significant agricultural land and does not propose any artificial waterbodies.	Not applicable.
State Environmental Planning Policy - State and Regional Development 2011	Not applicable as the Planning Proposal is not for State significant development.	Not applicable.

Title	Applicable to Planning Proposal	Consistency
State Environmental Planning Policy - State Significant Precincts 2005	Not applicable as the subject land is not within a State significant precinct.	Not applicable.
State Environmental Planning Policy - Sydney Drinking Water Catchment 2011	Not applicable to the Murray River Local Government Area.	Not applicable.
State Environmental Planning Policy - Sydney Region Growth Centres 2006	Not applicable to the Murray River Local Government Area.	Not applicable.
State Environmental Planning Policy - Three Ports 2013	Not applicable to the Murray River Local Government Area.	Not applicable.
State Environmental Planning Policy - Urban Renewal 2010	Not applicable to the Murray River Local Government Area.	Not applicable.
State Environmental Planning Policy - Vegetation in Non-Rural Areas 2017	Does not apply as the subject land is zoned RU1 Primary Production	Not applicable
State Environmental Planning Policy - Western Sydney Aerotropolis 2020	Not applicable to the Murray River Local Government Area.	Not applicable.
State Environmental Planning Policy - Western Sydney Employment Area 2009	Not applicable to the Murray River Local Government Area.	Not applicable.
State Environmental Planning Policy - Western Sydney Employment Area	Not applicable to the Murray River Local Government Area.	Not applicable.
State Environmental Planning Policy -Western Sydney Parklands 2009	Not applicable to the Murray River Local Government Area.	Not applicable.
Murray Regional Environmental Plan No 2 – Riverine Land (MREP)	Applies to the Murray River Local Government Area.	The subject site is identified as being included as part of the MREP. 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.

Title	Applicable to Planning Proposal	Consistency
<b>Deemed (Draft) State Environmental Planning Policies</b>		
Draft 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.
Design and Place SEPP	Applies to all land in the State.	Not applicable to the current Planning Proposal.



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## Appendix D: Consistency with Section 9.1 Ministerial Directions

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Table 6 – Consistency with Section 9.1 Ministerial Directions

No.	Title	Applicable to Planning Proposal	Consistency
<b>1. Employment and Resources</b>			
1.1	Business and Industrial Zones	Not applicable as the subject land is not zoned business or industrial.	Not applicable.
1.2	Rural Zones	Applicable as the land is Rural Zoned	<p>Direction 1.2(2)(a) stipulates that the direction applies to the development and that consideration of Clause 4(a) is relevant to Murry River Council.</p> <p>Clause 4(a) states:</p> <p><i>(4) A planning proposal must: (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone</i></p> <p>As the Planning Proposal does not seek the rezoning of the land it is considered to be consistent with this direction.</p>
1.3	Mining, Petroleum Production and Extractive Industries	Not applicable as the Planning Proposal does not impact on mining, petroleum or extractive industries.	Not applicable.
1.4	Oyster Aquaculture	Not applicable as the subject land is not within a Priority Oyster Aquaculture Area.	Not applicable.
1.5	Rural Lands	Applies as the subject land is zoned rural.	The Planning Proposal is considered to be consistent with this direction as follows;

No.	Title	Applicable to Planning Proposal	Consistency
			<ul style="list-style-type: none"> <li>The development is consistent with the directions of regarding rural lands in the relevant regional plan and local LSPS.</li> <li>The re-classification of the land will not result in the loss of productive primary production land for the purposes of agricultural and agricultural industries.</li> <li>There is no identified impact on environmental constraints, including biodiversity, cultural heritage and water resources.</li> <li>The re-classification of the land will not impact the natural and physical constraints of the land</li> <li>The re-classification will not impact a farmers right to farm</li> <li>The re-classification will not fragment agricultural land or create any land-use conflicts between residential and agricultural uses.</li> <li>The re-classification of the land will result in positive social, economic and environmental outcomes for the community.</li> </ul>

## 2. Environment and Heritage

2.1	Environment Protection 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.
2.2	Coastal Management	Not applicable, the subject site is not identified under the <i>Costal Management Act 2016</i> or <i>State Environmental Planning Policy (Costal Management 2018)</i> .	Not applicable.

No.	Title	Applicable to Planning Proposal	Consistency
2.3	Heritage Conservation	Yes, as this Direction applies to all Planning Proposals.	The Planning Proposal is consistent with this Direction because it does not seek to vary the existing provisions in WLEP at clause 5.10 that already facilitate the conservation of “items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance” or Aboriginal areas, places, landscapes or objects.
2.4	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> .
2.5	Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs.	Not applicable to the Murray River Local Government Area.	Not applicable.
2.6	Remediation of Contaminated Land	Yes, Clause 2(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"> <li>- the subject land is not identified as an investigation area under the Contaminated Land Management Act 1997, and</li> <li>- any future development of the land will not be for residential, educational, recreational or childcare purposes, or for the purposes of a hospital.</li> <li>- 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 agricultural type activities.</li> <li>- With reference to clause (4) of the direction, the Planning Proposal does not seek to rezone the land. The intent of the Planning Proposal</li> </ul>

No.	Title	Applicable to Planning Proposal	Consistency
			would not result in the introduction new uses above and beyond what is already permissible in the current zone (RU1 – Primary Production).
<b>3. Housing, Infrastructure and Urban Development</b>			
<b>3.1</b>	Residential Zones	No, as the Planning Proposal does not seek to make any changes to a residential zone	Not applicable.
<b>3.2</b>	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.
<b>3.3</b>	Home Occupations	Revoked 9 November 2020	Not applicable.
<b>3.4</b>	Integrating Land Use and Transport	Not applicable as the subject Planning Proposal does not seek to create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.	Not applicable.
<b>3.5</b>	Development Near Licensed Aerodromes and Defence Airfields	Not applicable, as the subject land is not in the vicinity of a licensed aerodrome.	Not applicable.

No.	Title	Applicable to Planning Proposal	Consistency
3.6	Shooting Ranges	Not applicable, as the subject land is not located in the vicinity of a shooting range.	Not applicable.
3.7	Reduction in non-hosted short term rental accommodation period	Not applicable to the Murray River Local Government Area.	Not applicable.
<b>4. Hazard and Risk</b>			
4.1	Acid Sulphate Soils	Not applicable, as the subject land is not identified as containing acid sulphate soils.	Not applicable.
4.2	Mine Subsidence & Unstable Land	Not applicable, as the subject land is not within a Mine Subsistence District.	Not applicable.
4.3	Flood Prone Land	Not applicable, as the subject land is not identified as being flood prone.	Not applicable.
4.4	Planning for Bushfire Protection	Not applicable, as the subject land is not identified as being bushfire prone.	Not applicable.
<b>5. Regional Planning</b>			

No.	Title	Applicable to Planning Proposal	Consistency
5.1	Implementation of Regional Strategies	Revoked 17 October 2017.	Not applicable.
5.2	Sydney Drinking Water Catchment	Not applicable, as the land is not located within the Sydney Drinking Water Catchment.	Not applicable.
5.3	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.
5.4	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.
5.5	Development in the Vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	Revoked 18 June 2010.	Not applicable.
5.6	Sydney to Canberra Corridor	Revoked 10 July 2008.	Not applicable.
5.7	Central Coast	Revoked 10 July 2008.	Not applicable.
5.8	Second Sydney Airport: Badgerys Creek	Revoked 20 August 2018.	Not applicable.

No.	Title	Applicable to Planning Proposal	Consistency
5.9	North West Rail Link Corridor Strategy	Not applicable, does not apply to the Murray River Local Government Area.	Not applicable.
5.10	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 generally consistent with the goals, directions and actions as contained within the <i>Riverina Murray Regional Plan 2036</i> and discussed in <b>Appendix B</b>  A full response in relation to this Regional Plan has been provided in <b>Appendix B</b> .
5.11	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.

## 6. Local Plan Making

6.1	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'.
6.2	Reserving Land for Public Purposes	Yes, as this Direction applies to all Planning Proposals.	The reclassification of the land will not require concurrence of the Director General as the land has not been reserved for a public purpose. Therefore, the reclassification will not have an effect on reservations of land for public purposes.



No.	Title	Applicable to Planning Proposal	Consistency
6.3	Site Specific Provisions	Not applicable as the proposal does not propose any site-specific provisions.	Not applicable.
<b>7. Metropolitan Planning</b>			
7.1	Implementation of A Plan for Growing Sydney	Revoked 9 November 2020.	Not applicable.
7.2	Implementation of Greater Macarthur Land Release Investigation	Revoked 28 November 2019.	Not applicable.
7.3	Parramatta Road Corridor Urban Transformation Strategy	Not applicable, does not apply to the Murray River Local Government Area.	Not applicable.
7.4	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.
7.5	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and	Not applicable, does not apply to the Murray River Local Government Area.	Not applicable.

No.	Title	Applicable to Planning Proposal	Consistency
	Infrastructure Implementation Plan		
7.6	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.
7.7	Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not applicable, does not apply to the Murray River Local Government Area.	Not applicable.
7.8	Implementation of Western Sydney Aerotropolis Plan	Not applicable, does not apply to the Murray River Local Government Area.	Not applicable.
7.9	Implementation of Bayside West Precincts 2036 Plan	Not applicable, does not apply to the Murray River Local Government Area.	Not applicable.
7.10	Implementation of Planning Principles for the Cooks Cove Precinct	Not applicable, does not apply to the Murray River Local Government Area.	Not applicable.
7.11	Implementation of St Leonards and Crows Nest 2036 Plan	Not applicable, does not apply to the Murray River Local Government Area.	Not applicable.

No.	Title	Applicable to Planning Proposal	Consistency
7.12	Implementation of Greater Macarthur 2040	Not applicable, does not apply to the Murray River Local Government Area.	Not applicable.
7.13	Implementation of the Pymont Peninsula Place Strategy	Not applicable, does not apply to the Murray River Local Government Area.	Not applicable.

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## Appendix E: LEP Practice Note - PN16-001

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## Appendix F: 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 *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 *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 7** below) for Gateway consideration. 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 *A guide to preparing planning proposals* and *A guide to preparing local environmental plans*).

**Table 7 – 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 construction of a Micro-Abattoir.  At a meeting of council held on the 26 October 2020, council resolved to: 'Accept funding totalling \$2,209,000 to construct the Micro-Abattoir and approve proceeding with the Barham Micro-Abattoir Project'

Matters for Consideration	Response
	<p>A report to council on 23 March 2021 included the information below:</p> <p><i>'In the intervening time council solicitors have completed purchase of the 4Ha abattoir site on Lot 1 DP1267277 at 123 Gonn Road Barham NSW 2732 and finalised the lease agreement with Murray Plains Meat Cooperative.'</i></p> <p>At that meeting council resolved to: <i>'Approve the lease with Murray Plains Meet Cooperative and delegate to the Mayor and CEO to sign and apply the seal of council'.</i></p>
<p><b>whether the planning proposal is the result of a strategic study or report;</b></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><b>whether the planning proposal is consistent with council's community plan or other local strategic plan;</b></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 <b>Section 3.3.1.4.</b></p>
<p><b>a summary of council's interests in the land, including:</b></p> <p><b>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)</b></p> <p><b>if council does not own the land, the land owner's consent;</b></p>	<p>Murray River Council purchased the land on 1<sup>st</sup> April 2021</p> <p>Murray Plains Meat Cooperative provided funds totalling \$20,000 to purchase the land, in Murray River Council's Name, and cover all legal and lodgement costs.</p> <p>The funding identified below was not used to purchase land.</p> <p>At its monthly meeting held on 26th October 2020, Council resolved to accept funding through the Drought Communities Program, the Murray Darling Basin Economic Development</p>

Matters for Consideration	Response
the nature of any trusts, dedications etc;	<p>Program, and the Growing Local Economies Program and to proceed with the Barham Micro-abattoir project.</p> <p>On 18th May 2021, Council's solicitor wrote to inform council that the purchase of Lot 1 DP1267277 had been finalised and that the Transfer of Land had now been registered in the name of Murray River Council.</p>
whether an interest in land is proposed to be discharged, and if so, an explanation of the reasons why;	Council has no plans to discharge any interest in the land.
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);	The land was purchased for the express purpose to construct the Micro-Abattoir.
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);	The relevant title searches that apply to the land are included as <b>Appendix A</b> to the Planning Proposal.
current use(s) of the land, and whether uses are authorised or unauthorised;	<p>The land is zoned RU1 and was used for Dairying.</p> <p>The land is not currently being used for any purpose.</p> <p>There is development approval for the construction of a 'livestock processing facility' processing up to 730 Tonnes live weight of animals per year.</p>



Matters for Consideration	Response
<p><b>current or proposed lease or agreements applying to the land, together with their duration, terms and controls;</b></p>	<p>Council has agreed to lease the facility, when constructed, to Murray Plains Meat Cooperative Pty Ltd for a period of five years and a lease fee of \$25,000 per annum.</p> <p>Council at its monthly meeting held on 23rd March 2021 Council resolved to sign and apply the council seal to the Lease Agreement with Murray Plains Meat Cooperative to lease the Micro-abattoir when completed.</p>
<p><b>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);</b></p>	<p>Land is not intended to be sold following the reclassification. Council will retain the land and operate the micro abattoir under a commercial lease (refer to response above).</p>
<p><b>any rezoning associated with the reclassification (if yes, need to demonstrate consistency with an endorsed Plan of Management or strategy);</b></p>	<p>No rezoning is associated with the reclassification of the land.</p>
<p><b>how council may or will benefit financially, and how these funds will be used;</b></p>	<p>Council will receive a lease fee of \$25,000 per annum over a 5 year period. The funds will be used exclusively to maintain the facility and land.</p>
<p><b>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;</b></p>	<p>Not relevant to the proposal.</p>

Matters for Consideration	Response
<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>
<p>preliminary comments by a relevant government agency, including an agency that dedicated the land to council, if applicable.</p>	<p>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.</p>

## Gateway Determination

**Planning proposal (Department Ref: PP-202-6050):** *Reclassification of land to operational at Lot 1 DP1267277, Gonn Road, Barham.*

I, the Director, Western Region at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Wakool Local Environmental Plan (LEP) 2013 to reclassifying land as operational at Lot 1 DP1267277, Gonn Road, Barham should proceed subject to the following conditions:

1. Prior to community consultation the planning proposal documentation is to be updated to include that section 9.1 Ministerial Direction 2.6 Remediation of Contaminated Land applies to the proposal.
2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
  - (a) the planning proposal must be made publicly available for a minimum of **14 days**; and
  - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018).
3. A public hearing is required to be held into the matter.
4. No agency consultation is required.
5. The time frame for completing the LEP is to be **9 months** following the date of the Gateway determination.

Dated                      23<sup>rd</sup> day of November                      2021.



**Garry Hopkins**  
Director, Western Region  
Local and Regional Planning  
Department of Planning, Industry and  
Environment

**Delegate of the Minister for Planning  
and Public Spaces**



Mr Terry Dodds  
General Manager  
Murray River Council  
PO Box 906  
MOAMA NSW 2731

Dear Mr Dodds,

**Planning proposal PP-2021-6050 to amend Wakool Local Environmental Plan 2013- Reclassification of Lot 1 DP 1267277 from community to operational land, Gonn Road, Barham.**

I am writing in response to Council's request for a Gateway determination under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal to reclassify land at Lot 1 DP 1267277, Gonn Road, Barham.

As delegate of the Minister for Planning and Public Spaces, I have now determined that the planning proposal should proceed subject to the conditions in the enclosed Gateway determination.

I have considered the nature of Council's planning proposal and have determined not to condition the Gateway for Council to be the local plan-making authority. This is due to that Council is the owner of the subject land and that the planning proposal involves the reclassification of community land to operational land.

Council is reminded to follow the reclassification and public hearing procedure as outlined in LEP Practice Note PN 16-001- Classification and reclassification of public land through a local environmental plan and the requirements of the *Local Government Act 1993*.

The amending local environmental plan (LEP) is to be finalised within nine months of the date of the Gateway determination however this is a maximum and Council should strive to finalise the proposal earlier. Council's request for the Department of Planning, Industry and Environment to draft and finalise the LEP should be made six weeks prior to the projected publication date.

The state government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 3.32(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any enquiries about this matter, I have arranged for Meredith McIntyre to assist you. Ms McIntyre can be contacted on (02) 62297912.

Yours sincerely

A handwritten signature in black ink, appearing to read 'G. Hopkins', with a stylized, cursive script.

23 November 2021

**Garry Hopkins**  
**Director, Western Region**  
**Local and Regional Planning**

Encl: Gateway determination

<b>Ref No.</b>	PN 16-001
<b>Issued</b>	5 October 2016
<b>Related</b>	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.33<sup>1</sup>) 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.

<sup>1</sup> 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](mailto:information@planning.nsw.gov.au)

**Authorised by:**  
**Carolyn McNally**  
**Secretary**

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**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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[www.planning.nsw.gov.au](http://www.planning.nsw.gov.au)

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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.

NSW LAND REGISTRY SERVICES - INTEGRATED TITLING SYSTEM

CERTIFICATES OF TITLE DELIVERED

on 2/4/2021 8:31:25 AM

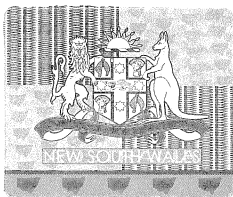
1W DAWES & VARY RIORDAN DAWES & VARY RIORDAN - ECHUCA  
201 Hare ST  
Echuca 3564

<u>Dealing</u>	<u>Certificate(s) of Title</u>	<u>Lodging Party Reference</u>	<u>Invoice</u>
AQ930420 T	1/1267277	HM:Murray River	D1537242

CERTIFICATE(S) OF TITLE: 1

MULTI PAGE CERTIFICATE(S) OF TITLE: 0

BOX 1W  
(AQ930420)



NEW SOUTH WALES  
**CERTIFICATE OF TITLE**

REAL PROPERTY ACT, 1900



TORRENS TITLE REFERENCE

1/1267277

EDITION

2

DATE OF ISSUE

1/4/2021

CERTIFICATE AUTHENTICATION CODE

LPS6-GW-GQQL

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 1267277

AT BARHAM.

LOCAL GOVERNMENT AREA: MURRAY RIVER.

PARISH OF BARHAM COUNTY OF WAKOOL

TITLE DIAGRAM: DP1267277

FIRST SCHEDULE

-----

MURRAY RIVER COUNCIL

(T AQ930420)

SECOND SCHEDULE

-----

1. LAND EXCLUDES MINERALS AND IS SUBJECT TO RESERVATIONS AND CONDITIONS IN FAVOUR OF THE CROWN - SEE CROWN GRANT(S)
2. DP1253876 EASEMENT FOR WATER SUPPLY 8 METRE(S) WIDE APPURTENANT TO THE LAND ABOVE DESCRIBED
3. DP1253876 RIGHT OF ACCESS 10 METRE(S) WIDE APPURTENANT TO THE LAND ABOVE DESCRIBED
4. DP1253962 EASEMENT FOR WATER SUPPLY 8 METRE(S) WIDE APPURTENANT TO THE LAND ABOVE DESCRIBED
5. DP1253962 RIGHT OF ACCESS 10 METRE(S) WIDE APPURTENANT TO THE LAND ABOVE DESCRIBED
6. DP1267277 EASEMENT FOR WATER SUPPLY 5 METRE(S) WIDE APPURTENANT TO THE LAND ABOVE DESCRIBED

\*\*\*\* END OF CERTIFICATE \*\*\*\*

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

**5 DIRECTOR COMMUNITY AND ECONOMIC DEVELOPMENT AND SUPPLEMENTARY MATTERS****5.1 CLASSIFICATION OF LAND - LOT 1 DP1267277 GONN ROAD BARHAM**

**File Number:** -

**Author:** John Harvie, Director Community and Economic Development

**Authoriser:** Terry Dodds, Chief Executive Officer

**RECOMMENDATION**

That Council resolve:

1. In accordance with s31 (2) of the NSW Local Government Act 1993, to classify Lot 1 DP1267277 Gonn Road Barham as Operational Land and
2. Record these details into Murray River Council Land Register.

**BACKGROUND**

At its monthly meeting held on 26<sup>th</sup> October 2020, Council resolved to accept funding through the Drought Communities Program, the Murray Darling Basin Economic Development Program, and the Growing Local Economies Program and to proceed with the Barham Micro-abattoir project.

Council at its monthly meeting held on 23<sup>rd</sup> March Council resolved to sign and apply the council seal to the Lease Agreement with Murray Plains Meat Cooperative to lease the Micro-abattoir when completed.

On 18<sup>th</sup> May 2021, Council's solicitor wrote to inform council that the purchase of Lot 1 DP1267277 had been finalised and that the Transfer of Land had now been registered in the name of Murray River Council.

**DISCUSSION**

This piece of correspondence was placed into councils' records on 25<sup>th</sup> May 2021, and in accordance with s31(2) of the NSW Local Government Act 1993, council is now required to resolve that Lot 1 DP1267277 be classified as Operational Land.

**STRATEGIC IMPLICATIONS**

4 - Strategic Theme 4: Economic Growth

4.1 - Encourage and support economic development across a range of sectors

4.1.2 - Support the local business sector to grow, adapt and respond to new opportunities

**BUDGETARY IMPLICATIONS**

Nil

**POLICY IMPLICATIONS**

Nil.

**LEGISLATIVE IMPLICATIONS**

**RISK ANALYSIS**

- **What can happen?**  
NA
- **How can it happen?**  
NA
- **What are the consequences of the event happening?**  
NA
- **What is the likelihood of the event happening?**  
NA
- **Adequacy of existing controls?**  
NA
- **Treatment options to mitigate the risk?**  
NA

**CONCLUSION**

The land was purchased for the sole purpose of construction of a Micro-Abattoir and should be classified as Operational Land.

**ATTACHMENTS**

1. **Dawes & Vary Riordan Letter** [↓](#) 

ECHUCA  
Telephone: 03 5483 0200  
Facsimile: 03 5831 5377  
Post: PO Box 378, Echuca, VIC 3564  
Address: 201 Hare Street, Echuca  
www.dvrilawyers.com.au



Our Ref: HJSM:CJP:20205615

18 May 2021

Murray River Council  
PO Box 906  
MOAMA NSW 2731

Dear Sir/Madam

**Purchase from Mathers**  
**Property: Gonn Road, Barham**

We advise that the above matter was settled on 1 April 2021.

**Registration of Transfers**

We confirm the Transfer of Land has now been registered in the name of Murray River Council and enclose a copy of the Certificate of Title for your records. We will hold the Certificate of Title in safe custody unless instructed otherwise by you.

**Water Transfer**

We have sent the transfer of the 1ML water right within the Eagle Creek Pumping Scheme to the water registry for registration. There is no title to this water entitlement as the water entitlement is contained on a jointly held water access licence with other members of the Eagle Creek Water Syndicate.

Please now find enclosed:

1. Distribution Statement;
2. Statement of Adjustments;
3. Mathers GST Tax Invoice;
4. DVR Tax Invoice (PAID);
5. Copy Contract of Sale;
6. Copy Agreement to Lease;

**Statement of Adjustments**

The Murray River Council rates have been paid by the Vendor to 30 June 2021 and an adjustment was made against you.

We have advised the rate authorities of the change in the ownership of the property to ensure that future rate assessment notices issue to you.

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ABN: 48 005 380 352



Murray River Council

- 2 -

6 August 2021

**Contract of Sale**

We enclose copy signed Contract of Sale for you to retain in your records. Please note that we hold an electronic copy of the signed Contract on file.

**Agreement to Lease**

The Agreement to lease was dated 1 April 2021 where the lease will be entered into once the MRC procures a certificate of occupancy for the construction of the abattoirs on the premises. It would be useful if you could provide some advanced notice as to when you believe the certificate of occupancy will be issued so we can make arrangements for the lease to be updated to have commencement dates inserted and be signed by the parties. The lease should then be registered on the title.

Whilst we are waiting for the construction of the abattoirs to be completed, please find enclosed our tax invoice for our fees in having the ownership of the land conveyed to Council and the Agreement to Lease being entered into with the Murray Plains Meat Co-Operative.

If there are any queries, please contact our office.

Yours faithfully

**DAWES & VARY RIORDAN PTY LTD**



Hugh Melville BCom, LLB

**Director**

Email: HMelville@dvrlawyers.com.au

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**5.4.2 AMENDMENT 5 OF THE WAKOOL LOCAL ENVIRONMENTAL PLAN 2013 - PLANNING PROPOSAL FOR THE RECLASSIFICATION OF LAND FROM 'COMMUNITY' TO 'OPERATIONAL' AT LOT 1 DP1267277, GONN ROAD, BARHAM**

**File Number:** -

**Author:** Llyan Smith, Senior Town Planner

**Authoriser:** Rod Croft, Director Planning & Environment

**RECOMMENDATION**

That Council

1. Endorse staff to finalise proposed Amendment 5 of the Wakool Local Environmental Plan 2013 including any alteration to the Planning Proposal which may be required throughout the course of the LEP amendment process

**BACKGROUND**

On 27 October 2020, Item 8.1 of the agenda titled "Barham Micro Abattoir – Update report" noted the following in relation the Lot 1 DP1267277, Gonn Road, Barham (the land):

*The Murray Plains Meat Cooperative was formed for the purpose of pursuing the development of a Micro-abattoir in Barham to meet the processing needs of local artisan meat producers.*

*The organisation sought council's assistance to identify suitable funding programs and assistance to write applications.*

*The various funding bodies reported to NSW Regional Development that whilst they were impressed by the application and believed that the project was worthy of funding, they had concerns about providing funding to an organisation with no trading or operating history.*

*Murray Plains Meat Cooperative board and a representative of NSW Regional Development approached Council to ask if Council would consider assisting the group by agreeing to be lead funding applicant, project manager and initial owner of the facility. Council, at its monthly meeting held on 28 January 2020 resolved as follows:*

1. *Confidential motion titled Proposed Barham Micro-Abattoir – Update (Item 17.5 of the Confidential Reports) that was lost at the meeting of 26 November 2019 be rescinded.*
2. *Council agrees to act as the lead applicant for funding for the proposed Barham Micro-Abattoir project through the Growing Local Economies Program, the Drought Communities Program and the Murray Darling Basin Economic Development Program.*
3. *Council agrees to act as the project manager for the Barham Micro-Abattoir project.*
4. *Council agrees to accept ownership of the Barham Micro-Abattoir upon completion.*
5. *The Barham Micro-Abattoir project be fully funded from grant funding and lease fees; and that no ratepayer funds be committed to the project.*



6. Council receive a further report, including a feasibility study, business case and details of the draft lease agreed between Murray Plains Meat Cooperative (Barham Micro-Abattoir) and Murray River Council for its consideration before proceeding to construction.

As a result of Item 4, the land was transferred to Council's ownership, with settlement occurring on 1 April 2021.

In accordance with various sections of the *Local Government Act* 1993 the following points are noted:

- All land vested in a Council (except a road or land to which the *Crown Land Management Act* 2016 applies) must be classified as either "community" or "operational".
- The purpose of these classifications is to clearly identify the Council land which should be kept for use by the general public (community) and land which is to be used for other purposes (operational).
- Community land would ordinarily comprise land such as a public park.
- Operational land would ordinarily comprise:
  - land held as a temporary asset or as an investment
  - land which facilitates the carrying out the functions of Council, or
  - land which may not be open to the general public, such as a works depot or a Council garage.
- The use and management of community land is to be regulated by a plan of management. Until a plan of management is adopted, the nature and use of the land must not change.
- Except in the limited circumstances referred to in section 45(4) of the *Local Government Act* 1993, 'community' classified land must not be sold.

In accordance with Section 31(2A) of the *Local Government Act* 1993:

*(2) Before a council acquires land, or within 3 months after it acquires land, a council may resolve (in accordance with this Part) that the land be classified as community land or operational land.*

***(2A) Any land acquired by a council that is not classified under subsection (2) is, at the end of the period of 3 months referred to in that subsection, taken to have been classified under a local environmental plan as community land.*** [emphasis added]

Unfortunately, due to an internal Council error the land was not classified as 'operational' within the three-month period from settlement and the land has automatically reverted to a 'community' land classification. As noted above, the land cannot currently be utilised for its intended use as a Council owned micro abattoir until the land is reclassified from 'community' to 'operational'.

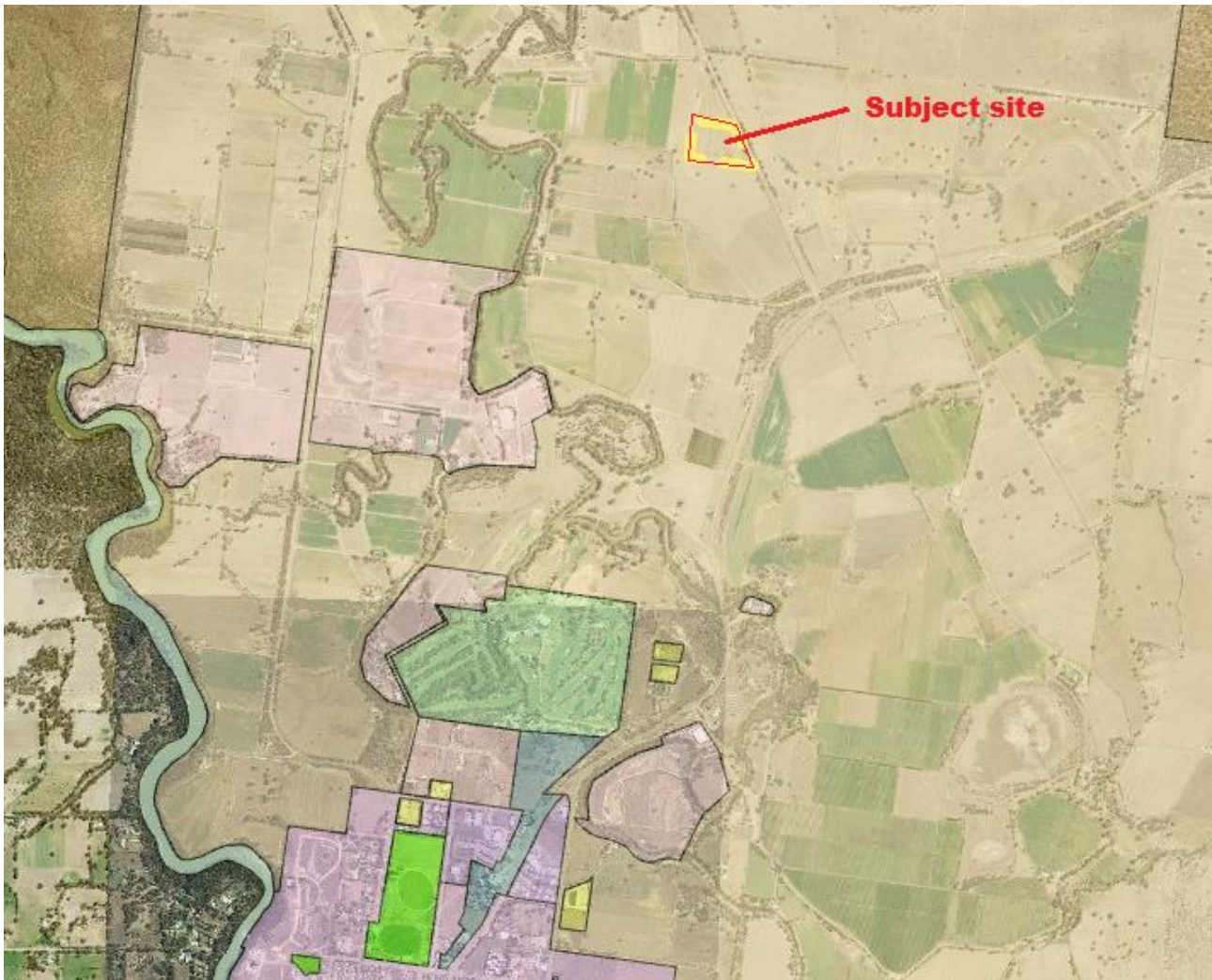
To facilitate this reclassification, a Planning Proposal has been drafted by Habitat Planning (Attachment 1) to amend Schedule 4, Part 1 of the Wakool Local Environmental Plan 2013 (WLEP 2013) to reclassify this land from "community" to "operational". The zoning of the land is not proposed to be amended as part of this proposal, and no Local Environmental Plan Mapping is required to be amended.

## DISCUSSION

### Site characteristics

Lot 1 DP1267277 is zoned RU1 Primary Production and has an area of 4 hectares. The land is unencumbered by any easements or restrictions however is benefited by easements for water supply burdening the adjoining Lot 2. The site has vehicle access from Gonn Road and is currently (and has historically) been used as private farmland. The site is relatively flat with an irrigation supply channel located along the southern boundary of the lot. With the exception of 1 tree within the lot, the land does not contain any planted or remnant vegetation. The land is not covered by Council's biodiversity mapping, is not mapped as bushfire prone or flood prone, and is not known to contain any items local heritage significance or of Aboriginal heritage significance. The subject land is shown below in Figure 1 and Figure 2. The land is afforded a deferred commencement development

consent issued on 26 August 2021 for a “Livestock processing industry (Abattoir with processing/slaughtering capacity of 723 tonnes live weight of animals per year)”.



**Figure 1 – Locality map**



**Figure 2 – Aerial photography of the site**

### **Planning Proposal adequacy assessment**

The Planning Proposal has been assessed against all relevant provisions and is consistent with the following:

- Murray River Council Local Strategic Planning Statement 2020-2040
- Wakool Land Use Strategy Report 2009
- Riverina Murray Regional Plan 2036
- Applicable State Environmental Planning Policies
- Applicable Section 9.1 Ministerial Directions
- Practice Note “PN 16-001 - Classification and reclassification of public land through a local environmental plan” and associated “Attachment 1 - Information checklist for proposals to classify or reclassify public land through an LEP”.

The comments and assessment contained within the Planning Proposal align with Council’s evaluation of the Proposal. The transfer of the land to Council ownership was initiated purely to support a grants application process for development of a micro-abattoir onsite with no intent to ever utilise the land as a ‘community’ use. As the land has never been previously utilised for a public use or public reserve, there is no effectual loss of active or passive community space associated with the subject reclassification to operation land.

It is noted that the references within the Planning Proposal and Council reports relating to resolutions passed on ‘26 October 2020’ are administrative errors and should instead refer to ‘27 October 2020’.

### **Strategic and site-specific merits of the reclassification**

The eventual development of the site as a micro abattoir has been subject to the following reports and analysis:

- *Growing Local Economies Fund - Business Case*
- *Murray Plains Meat Cooperative - Business Case*
- *Remplan Impact Report - Confidential*

The micro-abattoir proposed for this site (upon conclusion of this Planning Proposal) is directly related to the agricultural output of the area and will provide an opportunity for co-location of compatible rural industry (a livestock processing facility) at this site. This outcome is considered to provide significant economic benefit to the community and supports the agricultural drivers which operate within Barham and the Murray River Council area.

The land is not positioned to provide public benefit as a traditional community space and should the Planning Proposal not be supported, significant reassessment of the strategic and economic viability of this land as community space would be required. In addition, funding awarded under the *Growing Local Economies Program*, the *Drought Communities Program*, and the *Murray Darling Basin Economic Development Program* will likely be lost for this development.

It is noted that the business cases and reports referenced above have not been released in a public forum and are considered to be confidential under Section 10A(2) - c, d(i) and d(ii) of the *Local Government Act 1993*. Should copies of these reports be requested to assist DPIE in their assessment of Gateway Determination, such reports are not to be disclosed as public documents. Similarly, a copy of the Lease associated with the use of this site can also be supplied on request for confidential reference. Copies of all available public agenda items have also been included as part of this report.

### **Timeline for completion**

It is noted that the submission of this Planning Proposal to the DPIE will overlap with the Local Government election period and therefore associated operational delays should be factored into the proposed timeline set out in the Planning proposal. All required consultation (including Public Hearing requirements) and administrative tasks will nonetheless be carried out as close the proposed timeline as possible.

### **STRATEGIC IMPLICATIONS**

5 - Strategic Theme 5: Leadership and Governance

5.1 - An effective, efficient and progressive Council that provides leadership to the community

5.1.1 - Council decision making takes into account the needs and priorities of our local communities and the longer term social, cultural, economic and environmental viability and sustainability of our region

### **BUDGETARY IMPLICATIONS**

There are no budgetary implications as a result of the Planning Proposal for reclassification. Budgetary consideration for the eventual use of the site as a micro abattoir facility is to be considered separately to the subject Planning Proposal to correct an operational error.

### **POLICY IMPLICATIONS**

Murray River Council Asset Management Policy (POL305).

### **LEGISLATIVE IMPLICATIONS**

Local Government Act 1993.

Environmental Planning & Assessment Act 1979.

Wakool Local Environmental Plan 2013



## RISK ANALYSIS

- **What can happen?**

The land remains classified as community land and the site is not usable for the intended purpose.

- **How can it happen?**

The subject Planning Proposal is not supported by Council and/or the State Government

- **What are the consequences of the event happening?**

Council will be burdened with additional community land which will serve no immediate public purpose. Funding awarded for the micro abattoir project in Barham will likely be lost.

- **What is the likelihood of the event happening?**

Low

- **Adequacy of existing controls?**

The Planning Proposal is considered the only means of achieving the reclassification. The *Local Government Act* 1993 governing the use of community land restricts the intended eventual use of the site as a micro abattoir.






- **Treatment options to mitigate the risk?**

Support the Planning Proposal and resolutions of this report.

## CONCLUSION

The subject Planning Proposal has been assessed against all necessary frameworks and is considered adequate to proceed to lodgement for Gateway Determination with Department of Planning, Infrastructure and Environment. The current 'community' classification of the land does not reflect the intended use of the site as a micro abattoir, nor does it provide any community benefit as a traditional public use area. As the land has never been used or intended for a public access/community area, the Proposal will act purely to correct an administrative error associated with the initial transfer of land to Council. The Planning Proposal will facilitate an opportunity for co-location of compatible rural industry (a livestock processing facility) and is considered to present a positive economic opportunity for Barham and Murray River Council.

## ATTACHMENTS

1. **Planning Proposal - Reclassification of land - PP\_2021\_6050 (under separate cover)** 
2. **Certificate of Title - Lot 1 DP1267277** [↓](#) 
3. **Agenda excerpt - 27 Oct 2020 meeting** [↓](#) 
4. **Agenda excerpt - 23 March 2021 meeting** [↓](#) 
5. **Agenda excerpt - 12 August 2021 meeting** [↓](#) 

## NSW LAND REGISTRY SERVICES - INTEGRATED TITLING SYSTEM

## CERTIFICATES OF TITLE DELIVERED

on 2/4/2021 8:31:25 AM

1W DAWES & VARY RIORDAN DAWES & VARY RIORDAN - ECHUCA  
201 Hare ST  
Echuca 3564

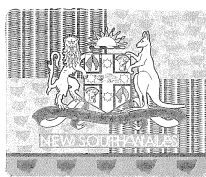
<u>Dealing</u>	<u>Certificate(s) of Title</u>	<u>Lodging Party Reference</u>	<u>Invoice</u>
AQ930420 T	1/1267277	HM:Murray River	D1537242

CERTIFICATE(S) OF TITLE: 1

MULTI PAGE CERTIFICATE(S) OF TITLE: 0

100 - 9 APR 2021  
DELIVERED

(AQ930420)



NEW SOUTH WALES  
**CERTIFICATE OF TITLE**  
 REAL PROPERTY ACT, 1900



TORRENS TITLE REFERENCE	
1/1267277	
EDITION	DATE OF ISSUE
2	1/4/2021
CERTIFICATE AUTHENTICATION CODE	
LPS6-GW-GQQL	

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



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

## LAND

-----  
 LOT 1 IN DEPOSITED PLAN 1267277  
 AT BARHAM.  
 LOCAL GOVERNMENT AREA: MURRAY RIVER.  
 PARISH OF BARHAM COUNTY OF WAKOOL  
 TITLE DIAGRAM: DP1267277

## FIRST SCHEDULE

-----  
 MURRAY RIVER COUNCIL

(T AQ930420)

## SECOND SCHEDULE

- 
1. LAND EXCLUDES MINERALS AND IS SUBJECT TO RESERVATIONS AND CONDITIONS IN FAVOUR OF THE CROWN - SEE CROWN GRANT(S)
  2. DP1253876 EASEMENT FOR WATER SUPPLY 8 METRE(S) WIDE APPURTENANT TO THE LAND ABOVE DESCRIBED
  3. DP1253876 RIGHT OF ACCESS 10 METRE(S) WIDE APPURTENANT TO THE LAND ABOVE DESCRIBED
  4. DP1253962 EASEMENT FOR WATER SUPPLY 8 METRE(S) WIDE APPURTENANT TO THE LAND ABOVE DESCRIBED
  5. DP1253962 RIGHT OF ACCESS 10 METRE(S) WIDE APPURTENANT TO THE LAND ABOVE DESCRIBED
  6. DP1267277 EASEMENT FOR WATER SUPPLY 5 METRE(S) WIDE APPURTENANT TO THE LAND ABOVE DESCRIBED

\*\*\*\* END OF CERTIFICATE \*\*\*\*

WARNING: BEFORE DEALING WITH THIS LAND, SEARCH THE CURRENT FOLIO OF THE REGISTER

8258262

## MURRAY RIVER COUNCIL Ordinary Council Meeting Agenda

27 October 2020

**8 DIRECTOR COMMUNITY AND ECONOMIC DEVELOPMENT AND SUPPLEMENTARY MATTERS****8.1 BARHAM MICRO ABATTOIR - UPDATE REPORT****File Number:**

-

**Author:**

John Harvie, Director Community and Economic Development

**Authoriser:**

Des Bilske, Chief Executive Officer

**RECOMMENDATION**

That council;

1. Accept the \$2,209,000 total funding offered through the Growing Local Economies Program, the Drought Communities Program and the Murray Darling Basin Economic Development Program and authorise the CEO and Mayor to sign the funding agreements and apply the council seal where required.
2. Approve proceeding with the Barham Micro-Abattoir Project.

**BACKGROUND**

The Murray Plains Meat Cooperative was formed for the purpose of pursuing the development of a Micro-abattoir in Barham to meet the processing needs of local artisan meat producers.

The organisation sought council's assistance to identify suitable funding programs and assistance to write applications.

The various funding bodies reported to NSW Regional Development that whilst they were impressed by the application and believed that the project was worthy of funding, they had concerns about providing funding to an organisation with no trading or operating history.

Murray Plains Meat Cooperative board and a representative of NSW Regional Development approach council to ask if council would consider assisting the group by agreeing to be lead funding applicant, project manager and initial owner of the facility.

Council, at its monthly meeting held on 28 January 2020 resolved as follows;

1. Confidential motion titled Proposed Barham Micro-Abattoir – Update (Item 17.5 of the Confidential Reports) that was lost at the meeting of 26 November 2019 be rescinded.
  2. Council agrees to act as the lead applicant for funding for the proposed Barham Micro- Abattoir project through the Growing Local Economies Program, the Drought Communities Program and the Murray Darling Basin Economic Development Program.
  3. Council agrees to act as the project manager for the Barham Micro-Abattoir project.
  4. Council agrees to accept ownership of the Barham Micro-Abattoir upon completion.
  5. The Barham Micro-Abattoir project be fully funded from grant funding and lease fees; and that no ratepayer funds be committed to the project.
  6. Council receive a further report, including a feasibility study, business case and details of the draft lease agreed between Murray Plains Meat Cooperative (Barham Micro-Abattoir) and Murray River Council for its consideration before proceeding to construction.
- This report has been prepared in accordance with item 6 of council's resolution.



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MURRAY RIVER COUNCIL Ordinary Council Meeting Agenda27 October 2020

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**DISCUSSION**

Applications for funding through several funding programs have all been successful. They are;

Drought Communities Program	\$375,000
Murray Darling Basin Economic Development Program	\$450,000 and
Growing Local Economies Program	\$1,384,000

Total funding of \$2,209,000 has been allocated to the project.

Copies of the Murray Plains Meat Cooperative Business Case and the Growing Local Economies Business Case together with a copy of the draft lease agreement are attached to this report in accordance with council's resolution.

**Please note the Draft Lease Agreement has only just been drafted and as a result has not yet been reviewed at the time of writing.**

**STRATEGIC IMPLICATIONS**

4 - Strategic Theme 4: Economic Growth

4.1 - Encourage and support economic development across a range of sectors

4.1.3 - Identify new opportunities and actively encourage investment in agriculture, agribusiness, value added manufacturing, alternate and renewable energy, health, wellbeing, aged care, and education

**BUDGETARY IMPLICATIONS**

Nil

**POLICY IMPLICATIONS**

Nil.

**LEGISLATIVE IMPLICATIONS****RISK ANALYSIS**

- **What can happen?**

Murray Plains Meat Cooperative may be unsuccessful in operating the meat processing business.

- **How can it happen?**

Poor Management.

- **What are the consequences of the event happening?**

Murray River Council would have to offer the facility for lease to another party or offer the modular facility for sale.

- **What is the likelihood of the event happening?**

Low

- **Adequacy of existing controls?**

Adequate

- **Treatment options to mitigate the risk?**

Manage

**MURRAY RIVER COUNCIL Ordinary Council Meeting Agenda****27 October 2020**

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**CONCLUSION**

Applications for funding have been successful and council may now resolve to proceed to tender for the Design, Development approvals, construction and installation of the Barham Micro-abattoir facility.

By doing so 29 artisan producers will be able to continue to supply high quality, sustainable, locally grown meats to their markets and create 21 direct and indirect jobs in an area significantly impacted by drought and Murray Darling Basin Plan implementation.

**ATTACHMENTS**

1. **Growing Local Economies Fund - Business Case - Confidential**
2. **Murray Plains Meat Cooperative - Business Case - Confidential**
3. **Remplan Impact Report - Confidential**
4. **Site Plan - Confidential**
5. **Draft Lease Agreement - Confidential**
6. **Contract Special Conditions - Confidential**
7. **Lease Annexure A & B - Confidential**

## MURRAY RIVER COUNCIL Ordinary Council Meeting Agenda

23 March 2021

**9.5.3 BARHAM MICRO ABATTOIR UPDATE****File Number:**

-

**Author:**

John Harvie, Director Community and Economic Development

**Authoriser:**

Terry Dodds, Chief Executive Officer

**RECOMMENDATION**

That Council

1. Approve the lease document and delegate authority to the Mayor and Chief Executive Officer to sign and apply the council seal.

**BACKGROUND**

At councils monthly meeting held on 26 October 2020 council resolved to:

1. *Accept the \$2,209,000 total funding offered through the Growing Local Economies Program, the Drought Communities Program and the Murray Darling Basin Economic Development Program and authorise the CEO and Mayor to sign the funding agreements and apply the council seal where required.*
2. *Approve proceeding with the Barham Micro-Abattoir Project.*

At that same meeting council were provided with a copy of the proposed draft lease agreement between MRC and Murray Plains Meat Cooperative.

**DISCUSSION**

In the intervening time council solicitors have completed purchase of the 4Ha abattoir site on Lot 1 DP1267277 at 123 Gonn Road Barham NSW 2732 and finalised the lease agreement with Murray Plains Meat Cooperative.

A copy of the lease is an attachment to this report.

Tender documentation for design and construction has been prepared and issued and acceptance of tenders close on 23 March 2021.

On the ground, the site has been fenced and quotes for the site access road construction, electricity supply and water supply have been sought.

**STRATEGIC IMPLICATIONS**

4 - Strategic Theme 4: Economic Growth

4.1 - Encourage and support economic development across a range of sectors

4.1.3 - Identify new opportunities and actively encourage investment in agriculture, agribusiness, value added manufacturing, alternate and renewable energy, health, wellbeing, aged care, and education

**BUDGETARY IMPLICATIONS**

The project is fully funded by grant funds through the following programs:

Drought Communities Program

Murray Darling Basin Economic Development Program and

Growing local Economies Program

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MURRAY RIVER COUNCIL Ordinary Council Meeting Agenda

23 March 2021

**POLICY IMPLICATIONS**

Nil.

**LEGISLATIVE IMPLICATIONS****RISK ANALYSIS**

- **What can happen?**  
Insufficient funds
- **How can it happen?**  
Tendered costs greater than funds available.
- **What are the consequences of the event happening?**  
Murray Plains Meat Cooperative will have to source additional funds
- **What is the likelihood of the event happening?**  
Possible
- **Adequacy of existing controls?**  
Adequate
- **Treatment options to mitigate the risk?**  
Manage

**CONCLUSION**

Murray Plains Meat Cooperative (MPMC) have provided council with freehold title to the proposed micro abattoir site at 123 Gonn Road Barham 2732. To conclude the contractual arrangements between Council and MPMC council is required to approve and sign the lease agreement.

**ATTACHMENTS**

1. **Murray Plains Meat Cooperative Draft Lease Agreement - Confidential**

## MURRAY RIVER COUNCIL Extraordinary Council Meeting Agenda

12 August 2021

**5 DIRECTOR COMMUNITY AND ECONOMIC DEVELOPMENT AND SUPPLEMENTARY MATTERS****5.1 CLASSIFICATION OF LAND - LOT 1 DP1267277 GONN ROAD BARHAM****File Number:**

-

**Author:**

John Harvie, Director Community and Economic Development

**Authoriser:**

Terry Dodds, Chief Executive Officer

**RECOMMENDATION**

That Council resolve:

1. In accordance with s31 (2) of the NSW Local Government Act 1993, to classify Lot 1 DP1267277 Gonn Road Barham as Operational Land and
2. Record these details into Murray River Council Land Register.

**BACKGROUND**

At its monthly meeting held on 26<sup>th</sup> October 2020, Council resolved to accept funding through the Drought Communities Program, the Murray Darling Basin Economic Development Program, and the Growing Local Economies Program and to proceed with the Barham Micro-abattoir project.

Council at its monthly meeting held on 23<sup>rd</sup> March Council resolved to sign and apply the council seal to the Lease Agreement with Murray Plains Meat Cooperative to lease the Micro-abattoir when completed.

On 18<sup>th</sup> May 2021, Council's solicitor wrote to inform council that the purchase of Lot 1 DP1267277 had been finalised and that the Transfer of Land had now been registered in the name of Murray River Council.

**DISCUSSION**

This piece of correspondence was placed into councils' records on 25<sup>th</sup> May 2021, and in accordance with s31(2) of the NSW Local Government Act 1993, council is now required to resolve that Lot 1 DP1267277 be classified as Operational Land.

**STRATEGIC IMPLICATIONS**

4 - Strategic Theme 4: Economic Growth

4.1 - Encourage and support economic development across a range of sectors

4.1.2 - Support the local business sector to grow, adapt and respond to new opportunities

**BUDGETARY IMPLICATIONS**

Nil

**POLICY IMPLICATIONS**

Nil.

**LEGISLATIVE IMPLICATIONS**

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MURRAY RIVER COUNCIL Extraordinary Council Meeting Agenda

12 August 2021

**RISK ANALYSIS**

- **What can happen?**  
NA
- **How can it happen?**  
NA
- **What are the consequences of the event happening?**  
NA
- **What is the likelihood of the event happening?**  
NA
- **Adequacy of existing controls?**  
NA
- **Treatment options to mitigate the risk?**  
NA

**CONCLUSION**

The land was purchased for the sole purpose of construction of a Micro-Abattoir and should be classified as Operational Land.

**ATTACHMENTS**

1. **Dawes & Vary Riordan Letter** [📄](#) 

MURRAY RIVER COUNCIL Extraordinary Council Meeting Agenda

12 August 2021

ECHUCA  
Telephone: 03 5483 0200  
Facsimile: 03 5831 5377  
Post: PO Box 378, Echuca, VIC 3564  
Address: 201 Hare Street, Echuca  
www.dvrlawyers.com.au



Our Ref: HJSM:CJP:20205615

18 May 2021

Murray River Council  
PO Box 906  
MOAMA NSW 2731

Dear Sir/Madam

**Purchase from Mathers**  
**Property: Gonn Road, Barham**

We advise that the above matter was settled on 1 April 2021.

**Registration of Transfers**

We confirm the Transfer of Land has now been registered in the name of Murray River Council and enclose a copy of the Certificate of Title for your records. We will hold the Certificate of Title in safe custody unless instructed otherwise by you.

**Water Transfer**

We have sent the transfer of the 1ML water right within the Eagle Creek Pumping Scheme to the water registry for registration. There is no title to this water entitlement as the water entitlement is contained on a jointly held water access licence with other members of the Eagle Creek Water Syndicate.

Please now find enclosed:

1. Distribution Statement;
2. Statement of Adjustments;
3. Mathers GST Tax Invoice;
4. DVR Tax Invoice (PAID);
5. Copy Contract of Sale;
6. Copy Agreement to Lease;

**Statement of Adjustments**

The Murray River Council rates have been paid by the Vendor to 30 June 2021 and an adjustment was made against you.

We have advised the rate authorities of the change in the ownership of the property to ensure that future rate assessment notices issue to you.

L:\Docs\20205615\3862598.docx

ABN: 48 005 380 352



Murray River Council

- 2 -

6 August 2021

**Contract of Sale**

We enclose copy signed Contract of Sale for you to retain in your records. Please note that we hold an electronic copy of the signed Contract on file.

**Agreement to Lease**

The Agreement to lease was dated 1 April 2021 where the lease will be entered into once the MRC procures a certificate of occupancy for the construction of the abattoirs on the premises. It would be useful if you could provide some advanced notice as to when you believe the certificate of occupancy will be issued so we can make arrangements for the lease to be updated to have commencement dates inserted and be signed by the parties. The lease should then be registered on the title.

Whilst we are waiting for the construction of the abattoirs to be completed, please find enclosed our tax invoice for our fees in having the ownership of the land conveyed to Council and the Agreement to Lease being entered into with the Murray Plains Meat Co-Operative.

If there are any queries, please contact our office.

Yours faithfully

**DAWES & VARY RIORDAN PTY LTD**



Hugh Melville BCom, LLB  
**Director**

Email: HMelville@dvrlawyers.com.au

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**9.5.3 BARHAM MICRO ABATTOIR UPDATE**

**File Number:** -

**Author:** John Harvie, Director Community and Economic Development

**Authoriser:** Terry Dodds, Chief Executive Officer

**RECOMMENDATION**

That Council

1. Approve the lease document and delegate authority to the Mayor and Chief Executive Officer to sign and apply the council seal.

**BACKGROUND**

At councils monthly meeting held on 26 October 2020 council resolved to:

1. *Accept the \$2,209,000 total funding offered through the Growing Local Economies Program, the Drought Communities Program and the Murray Darling Basin Economic Development Program and authorise the CEO and Mayor to sign the funding agreements and apply the council seal where required.*
2. *Approve proceeding with the Barham Micro-Abattoir Project.*

At that same meeting council were provided with a copy of the proposed draft lease agreement between MRC and Murray Plains Meat Cooperative.

**DISCUSSION**

In the intervening time council solicitors have completed purchase of the 4Ha abattoir site on Lot 1 DP1267277 at 123 Gonn Road Barham NSW 2732 and finalised the lease agreement with Murray Plains Meat Cooperative.

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On the ground, the site has been fenced and quotes for the site access road construction, electricity supply and water supply have been sought.

**STRATEGIC IMPLICATIONS**

4 - Strategic Theme 4: Economic Growth

4.1 - Encourage and support economic development across a range of sectors

4.1.3 - Identify new opportunities and actively encourage investment in agriculture, agribusiness, value added manufacturing, alternate and renewable energy, health, wellbeing, aged care, and education

**BUDGETARY IMPLICATIONS**

The project is fully funded by grant funds through the following programs:

Drought Communities Program

Murray Darling Basin Economic Development Program and

Growing local Economies Program

**POLICY IMPLICATIONS**

Nil.

**LEGISLATIVE IMPLICATIONS****RISK ANALYSIS**

- **What can happen?**  
Insufficient funds
- **How can it happen?**  
Tendered costs greater than funds available.
- **What are the consequences of the event happening?**  
Murray Plains Meat Cooperative will have to source additional funds
- **What is the likelihood of the event happening?**  
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- **Adequacy of existing controls?**  
Adequate
- **Treatment options to mitigate the risk?**  
Manage

**CONCLUSION**

Murray Plains Meat Cooperative (MPMC) have provided council with freehold title to the proposed micro abattoir site at 123 Gonn Road Barham 2732. To conclude the contractual arrangements between Council and MPMC council is required to approve and sign the lease agreement.

**ATTACHMENTS**

1. **Murray Plains Meat Cooperative Draft Lease Agreement - Confidential**

**8 DIRECTOR COMMUNITY AND ECONOMIC DEVELOPMENT AND SUPPLEMENTARY MATTERS****8.1 BARHAM MICRO ABATTOIR - UPDATE REPORT**

**File Number:** -

**Author:** John Harvie, Director Community and Economic Development

**Authoriser:** Des Bilske, Chief Executive Officer

**RECOMMENDATION**

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  6. Council receive a further report, including a feasibility study, business case and details of the draft lease agreed between Murray Plains Meat Cooperative (Barham Micro-Abattoir) and Murray River Council for its consideration before proceeding to construction.
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## DISCUSSION

Applications for funding through several funding programs have all been successful. They are;

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**Please note the Draft Lease Agreement has only just been drafted and as a result has not yet been reviewed at the time of writing.**

## STRATEGIC IMPLICATIONS

4 - Strategic Theme 4: Economic Growth

4.1 - Encourage and support economic development across a range of sectors

4.1.3 - Identify new opportunities and actively encourage investment in agriculture, agribusiness, value added manufacturing, alternate and renewable energy, health, wellbeing, aged care, and education

## BUDGETARY IMPLICATIONS

Nil

## POLICY IMPLICATIONS

Nil.

## LEGISLATIVE IMPLICATIONS

## RISK ANALYSIS

- **What can happen?**

Murray Plains Meat Cooperative may be unsuccessful in operating the meat processing business.

- **How can it happen?**

Poor Management.

- **What are the consequences of the event happening?**

Murray River Council would have to offer the facility for lease to another party or offer the modular facility for sale.

- **What is the likelihood of the event happening?**

Low

- **Adequacy of existing controls?**

Adequate

- **Treatment options to mitigate the risk?**

Manage

**CONCLUSION**

Applications for funding have been successful and council may now resolve to proceed to tender for the Design, Development approvals, construction and installation of the Barham Micro-abattoir facility.

By doing so 29 artisan producers will be able to continue to supply high quality, sustainable, locally grown meats to their markets and create 21 direct and indirect jobs in an area significantly impacted by drought and Murray Darling Basin Plan implementation.

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- 5. Draft Lease Agreement - Confidential**
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- 7. Lease Annexure A & B - Confidential**