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Gateway determination report – PP-2021-6050

Reclassification of land to operational at Lot 1
DP1267277, Gonn Road, Barham

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Planning Proposal, Lot 1 DP1267277, Gonn Road, Barham, Reclassification of Public Land, prepared by Habitat Planning Pty Ltd, October 2021
Murray River Council, Extraordinary Council Meeting Agenda, 4 November 2021

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Murray River
PPA	Murray River Council
NAME	Reclassification of land to operational
NUMBER	PP-2021-6050
LEP TO BE AMENDED	Wakool Local Environmental Plan 2013
ADDRESS	Gonn Road, Barham
DESCRIPTION	Lot 1 DP1267277
RECEIVED	9/11/2021
FILE NO.	IRF21/4662
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to reclassify land at Lot 1 DP1267277 from ‘community land’ to ‘operational’ land. The intended outcome of the planning proposal is to support Murray River Council to address an administrative oversight to classify the land as ‘operational’ land as required under the Local Government Act 1993. The ‘operational’ classification will permit the establishment of a micro-abattoir so that the facility can be leased and operated by a third-party.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the Wakool Local Environmental Plan 2013 (LEP) through inserting Lot 1 DP1267277 into Part 1 (Land classified, or reclassified, as operational land – no interests changed) of Schedule 4 (Classification and reclassification of public land).

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

Council advise that no interests are being changed and there is no requirement for consideration by the Executive Council and the Governor’s approval.

Council will need to comply with LEP Practice Note PN 16-001- Classification and reclassification of public land through a local environmental plan.

1.4 Site description and surrounding area

The subject land is described as Lot 1 DP1267277, Gonn Road, Barham with a site area of approximately 4ha, refer to Figure 1.

The subject land is located 4.5km to the north-east of the centre of Barham, refer to Figure 2. The subject land was recently purchased by Murray River Council and was historically used for agricultural activities.

The site is relatively flat and predominately cleared of native vegetation and is defined by frontage to Gonn Road to the east as well as an irrigation supply channel to the south.

The land is zoned RU1 Primary Production with a minimum lot size of 500ha. There are no additional environmental planning controls under the LEP as the site is not identified as containing biodiversity or wetlands or riparian lands or heritage items or bushfire prone land.

The surrounding area is characterised as a predominately rural agricultural production landscape. Other notable landscape features include Eagle Creek which is located over 600m to the west and Moulamein Road which is 700m to the south-east. Additionally, the closest residences are located over 550m to the north-west and south-east with over 900m to R5 Large Lot Residential land to the south-west.



Figure 1 Subject site (source: ePlanning Spatial Viewer)

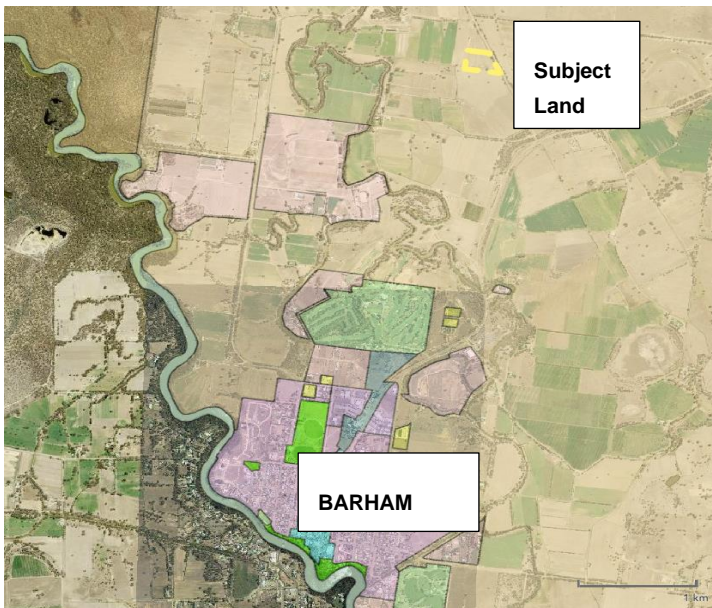


Figure 2 Site context (source: ePlanning Spatial Viewer)

1.5 Mapping

The planning proposal does not require any LEP map amendments.

1.6 Background

The planning proposal is addressing an administrative error as Murray River Council (Council) did not classify the land as 'operational' within the three months statutory timeframe after the subject land was transferred to Council's ownership in April 2021. Operational land classification is required to support the permissibility of a micro-abattoir.

The development of a multi-species micro-abattoir in Barham was being pursued by the Murray Plains Meat Cooperative (MPMC) to support local artisan meat producers. The MPMC sought funding for the facility, however the various funding bodies had concerns about the MPMC having no operating history. The MPMC and NSW Regional Development approached Council to be the lead funding applicant and owner of the facility. A detailed breakdown of Council's involvement in the project is provided below.

Council agreed to support the project and the subject land was transferred to Council's ownership on 1 April 2021.

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."

The classification of the land as 'operational' did not occur within 3 months of title transfer and was by default classified as 'community' land. Consequently, a planning proposal is required to address this administrative oversight.

Timeline overview of Council involvement in the abattoir project:

- 28 January 2020 – Council passed a resolution and agreed to be lead funding applicant and owner of the abattoir
- 27 October 2020 – Council passed resolution to accept total funding and sign funding agreements and approved proceeding with the project
- 23 March 2021 – Council passed resolution to approve the lease document with MPMC
- 1 April 2021 – Subject land was transferred to Council ownership
- 12 August 2021 – Council passed resolution to classify land as operational
- 26 August 2021 – Deferred commencement development consent issued for a livestock processing facility with capacity of 723 tonnes live weight of animals per year
- 4 November 2021 – Report to Council that land was not classified as ‘operational’ within 3-month period of transfer and requires a planning proposal to rectify this oversight. Council passed resolution to endorse the planning proposal to amend Schedule 4 of the LEP to classify the land as operational.

2 Need for the planning proposal

The planning proposal is not the result of a strategic study or report. Council is supporting a local economic development opportunity through being the funding project applicant and owner of the land. The subject land was not intended to ever be used as ‘community’ land.

The planning proposal is intended to address an administrative oversight by Council in not classifying the subject land as ‘operational’ within the 3-month statutory timeframe of acquiring the land as specified under s31(2A) the *Local Government Act 1993*. The default classification as ‘community’ land requires amendment through inserting the subject land (i.e. Lot 1 DP1267277) in Part 1 of Schedule 4 of the Wakool LEP 2013.

However, the reclassification is consistent with the Murray River Council Local Strategic Planning Statement (LSPS) including Planning Priority 3: ‘Create an open-for-business identity’. The LSPS narrative for Planning Priority 3 refers to development interest in establishing a micro-abattoir in Barham.

The planning proposal to reclassify the land as ‘operational’ is the best means to facilitate the intended outcome of establishing a micro-abattoir.

There are no changes proposed to LEP zoning, MLS or other provisions.

3 Strategic assessment

3.1 Regional Plan

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

Table 3 Regional Plan assessment

Regional Plan Objectives	Justification
Direction 2: Promote and grow the agribusiness sector	The Regional Plan identifies growing the agribusiness sector through recognising, protecting and expanding agricultural supply chains. The planning proposal is consistent with Direction 2 through facilitating the establishment of a multi-species micro-abattoir to support local artisan meat producers.
Direction 3: Expand advanced and value-add manufacturing	The Regional Plan outlines supporting the establishment of agricultural manufactured products including processed foods as well as packing raw fruits, vegetables and meats. Whilst the planning proposal report indicated that Direction 3 was not applicable, a review of the Regional Plan indicates that the planning proposal is consistent with this direction through facilitating the establishment of small scale value-adding meat manufacturing for local producers.
Direction 7: Promote tourism opportunities	The Regional Plan discusses promoting tourism including eco-tourism, agritourism and lifestyle activities to sustain local towns and villages and aid food growers. Whilst the planning proposal report indicated that Direction 3 was not applicable, a review of the Regional Plan indicates that the planning proposal will likely indirectly support this direction. The establishment of a micro-abattoir enables locally produced meat products to be utilised in food-tourism ventures either on-farm or in town businesses.

3.2 Local

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

Table 4 Local strategic planning assessment

Local Strategies	Justification
Murray River Council Local Strategic Planning Statement 2020-2040	<p>The planning proposal report outlines that it is consistent with the Murray River LSPS including supporting the following planning priorities:</p> <ul style="list-style-type: none"> • Planning priority 1: Grow, strengthen and sustain agriculture • Planning priority 3: Create an ‘open-for-business’ identity <p>The agricultural sector is the main economic activity in the local government area and the establishment of a micro-abattoir supports agricultural industry diversification and value-adding.</p> <p>Additionally, the planning proposal will indirectly support an additional LSPS planning priority 2: “Grow and strengthen tourism” through providing locally grown and slaughtered meat products for food-based tourism (e.g. boutique butchers, restaurants, on-farm tours).</p>

Wakool Shire LEP Review – Land use strategy report 2009

The planning proposal report outlines it is consistent with the outcomes of the Wakool Land Use Strategy (Department endorsed strategy 24 March 2011). Whilst the establishment of the Barham micro-abattoir is not identified in the strategy, it supports the delivery of the following principle:

- Principle: Protect and ensure certainty for agricultural and rural enterprises in proximity to the township.

3.3 Section 9.1 Ministerial Directions

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

Table 5 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.2 Rural zones	Yes	<p>The aim of Direction 1.2 is to protect the agricultural production value of rural land. This Direction applies to the planning proposal as it will affect land with an existing RU1 Primary Production zone.</p> <p>The planning proposal is consistent with this Direction as it does not rezone land or increase the permissible residential density of land within the existing rural zone.</p>
1.5 Rural lands	Yes	<p>The aim of Direction is to protect and minimise fragmentation of rural land as well as facilitate the economic development and viability of rural lands. This Direction applies to the planning proposal as it will affect land within RU1 Primary Production Zone.</p> <p>The planning proposal is consistent with this Direction as it supports the economic viability and diversification of local agricultural producers and does not result in fragmented rural lands.</p>
2.1 Environment Protection Zones	Yes	<p>The aim of this Direction is to protect environmentally sensitive lands.</p> <p>The planning proposal is consistent with this Direction as the subject land does not contain environmentally sensitive lands or seek to modify development standards.</p>

2.6 Contaminated Lands	Yes	<p>The aim of this Direction is to ensure that planning proposals consider contamination and remediation of land to reduce the risk of harm to human health and the environment. While this is an administrative proposal the terms of the Direction applies to the land.</p> <p>The planning proposal report (page 37) specifies that this Direction is not applicable as the land was not used for a purpose identified in Table 1 of the contaminated land planning guidelines. However, the land was historically used for dairying (page 47) which is a form of agricultural activity that may cause contamination (e.g. chemical storage). Consequently, this Direction is applicable.</p> <p>The planning proposal is consistent as it does not contravene the aim or objectives of the Direction. The likelihood of historical contamination is also likely considered minor and the planning proposal is not for a highly sensitive land-use (e.g. residential) which reduces the overall risk of contamination.</p> <p>While no further work is required in relation to this Direction the planning proposal should be amended to address that this Direction is applicable.</p>
5.10 Implementation of Regional Plans	Yes	<p>The aim of Direction 5.10 is to give legal effect to the goals and directions contained in Regional Plans. The planning proposal is consistent with this Direction as it implements three directions of the Riverina Murray Regional Plan as previously outlined in Section 3.1 of this report.</p>

3.4 State environmental planning policies (SEPPs)

With exception of SEPP No. 55 – Remediation of Land], the planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 6 - Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
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No. 55 – Remediation of Land	Reducing risk of harm to human health and environment	Yes	<p>SEPP No. 55 is relevant to the planning proposal as the development application for the micro-abattoir will need to consider the potential contamination and remediation of the land from any historical agricultural activities.</p> <p>However, the planning proposal report specifies that SEPP No. 55 is not applicable, and that development consent has been issued. However, overall the planning proposal is consistent with this SEPP as it is for administrative purposes only and not changing the zoning of the land or for the development of the land.</p>
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4 Site-specific assessment

4.1 Environmental

The reclassification does not result in any direct environmental impacts, however the potential environmental impacts of an 'operational' classification and the proposed abattoir are considered in the table below.

Table 7 - Environmental impact assessment

Environmental Impact	Assessment
Threatened species	The planning proposal outlines that there are no known impacts on critical habitat or threatened species, populations or ecological communities. The subject land is located in a cleared landscape with no native vegetation present.
Noise and odour	The nearest sensitive receivers to the subject land are over 550m away which reduces the likelihood of detrimental noise and odour impacts and needs to be assessed in the development application by Council for the proposed abattoir use.
Landscape and visual amenity	The intended use of the site as an abattoir is consistent with the RU1 Primary Production Zone and surrounding agricultural land uses and will unlikely adversely affect the amenity of nearby residences due to being located over 550m away.
Water quality and waste	There are potential impacts on surface water and groundwater as well as waste generation which should have been addressed in the development application.
Environmental legislation	The micro-abattoir does not require an environment protection licence under the <i>Protection of the Environment Operations Act 1997</i> as the livestock processing activities are below the licensing threshold of 750 tonnes live weight per year.

4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

Table 8 - Social and economic impact assessment

Social and Economic Impact	Assessment
Employment and investment opportunities	The reclassification will facilitate employment and investment opportunities in Barham and surrounding area through growing and diversifying the local agricultural supply chain. A total of \$2,209,000 of government funding has been allocated to the abattoir and the project is anticipated to create 21 direct and indirect jobs. A total of 29 local livestock producers will benefit from the operation of the micro-abattoir.
Tourism ventures	The planning proposal will have an indirect positive impact on the local food-tourism ventures through providing and showcasing locally made meat products. Locally made meat products also caters to changing consumer preferences for paddock to plate products.
Animal welfare	A new local abattoir will assist raising livestock animal welfare standards through reducing transport travel times and handling stress prior to slaughtering.

4.3 Infrastructure

The following table provides an assessment of the adequacy of infrastructure to service the site and the development of the proposed abattoir and what infrastructure is proposed in support of the proposal.

Table 9 - Infrastructure assessment

Infrastructure	Assessment
Local road network	The subject land has frontage to Gonn Road along the eastern boundary which should provide ease of vehicular access during construction and operation.
Irrigation channel	The southern boundary of the lot contains an irrigation supply channel. There are potential impacts on the channel and access easement requirements which should have been addressed in the development application.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days. In addition, a public hearing is also required for reclassifications under section 29 of the *Local Government Act 1993*.

Given the nature of the proposal and the public hearing, a 14 day exhibition period is considered appropriate, and is supported by conditions of the Gateway determination.

5.2 Agencies

The planning proposal does not identify any government agencies to be consulted.

The subject land does not contain any environmental constraints that require consultation with government agencies. It is recommended that no government agencies be consulted on the planning proposal.

6 Timeframe

The planning proposal recommends a 23-weeks (i.e. six-month) time frame to complete the LEP. However, Council notes that there will likely be delays associated with the local government elections.

The Department recommends a time frame of nine (9) months to account for the local government elections and Christmas shutdown period to ensure it is completed in line with its commitment to reduce processing times. It is recommended that if the gateway is supported it also includes requirements for council to exhibit and report on the proposal by specified milestone dates.

7 Local plan-making authority

The planning proposal does not mention or request Council be the local plan-making authority.

It is noted that Council has an interest in the planning proposal as the owner and manager of the subject land. Therefore, the Department recommends that Council is not authorised as the local plan-making authority for this proposal.

8 Assessment summary

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

- The planning proposal addresses an administrative oversight of Council in not classifying the subject land as 'operational' within the 3-month statutory timeframe of acquiring the land
- There are no inconsistencies with the regional plan or local strategic planning statement
- The proposed reclassification is unlikely to cause any significant adverse environment, social or infrastructure impacts

9 Recommendation

It is recommended the delegate of the Secretary:

- Note that section 9.1 Directions 2.6 Remediation of Contaminated Land applies to the proposal and should be addressed in the planning proposal documentation and no further work is required.

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

1. Prior to community consultation the planning proposal documentation is to be updated to refer that Section 9.1 Ministerial Direction 2.6 Remediation of Contaminated Land is applicable.
2. The planning proposal should be made available for community consultation for a minimum of 14 days.
3. A public hearing is required to be held into the matter.
4. No agency consultation is required.

5. The planning proposal must be exhibited 3 months from the date of the Gateway determination.
6. The timeframe for completing the LEP is to be 9 months from the date of the Gateway determination.
7. Council should not be authorised to be the local plan-making authority.
8. Compliance with PN16-001 and the Local Government Act 1993 reclassification and public hearing procedure.



_____ (Signature)

23 November 2021

(Date)

Wayne Garnsey
Manager, Western Region



_____ (Signature)

23 November 2021

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