



PLANNING PROPOSAL

Reclassification of Public Land from 'Community' to 'Operational'

2 Council-owned sites:

1 - Road reserve between Jersey Street and Wores Road, Tocumwal

2 - Land at corner of Barooga Street and Murray Street, Tocumwal

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Introduction

This Planning Proposal recommends an amendment to the Berrigan Shire *Local Environmental Plan 2013* (LEP 2013) to reclassify two (2) Council-owned sites from 'community land' to 'operational land'.

Under section 31 of the *Local Government Act 1993*, all Council-owned land must be classified as either 'community land' or 'operational land'.

'Community land' is generally available for public use and is subject to restrictions on sale, lease, and use. 'Operational land' is land that Council uses in its business operations or may hold for development, resale, or other functional purposes.

If Council does not resolve a classification within three months of acquiring land (or closing a road) land defaults to 'community land.' Land that is deemed 'community land' may only be used for the purpose it was used for immediately prior to acquisition and cannot be sold or otherwise disposed of by Council.

Reclassification of land, through an amendment to the *Berrigan Local Environmental Plan 2013* (Schedule 4) is the only statutory mechanism available to correct a default classification and change the classification to 'operational'. This is dealt with by way of a Planning Proposal and a 'basic amendment' as it seeks to reclassify land where the Governor's approval is not required.

Reclassification of two (2) Council-owned sites to 'operational land' will ensure that land is managed in line with its intended purpose and provide clarity to the community about the future use and land management. It will provide Council with flexibility to use, lease or dispose of the land parcels in line with its asset management, strategic planning framework and strategic land use priorities.

Any income from the sale of the land parcels would go into Council's general fund and Council can choose how the money is allocated.

Proposal

Council has identified 2 Council-owned sites that are deemed community land due to this default provision:

Township	Address
Tocumwal	Road reserve extending between Jersey Street and Wores Road (Lot 1 DP1307988) Figure 1
Tocumwal	Corner of Barooga Street and Murray Street (Lot 11 DP1047241; Lots 1 & 2 DP511822; Lot 1 DP101725) Figure 2



Figure 1: Road reserve between Jersey Street and Wores Road, Tocumwal (Source: Nearmaps)



Figure 2: Corner of Barooga Street and Murray Street, Tocumwal (Source: Nearmaps)

Part 1 – Objectives and Intended Outcomes

The objective of this Planning Proposal is to reclassify two Council-owned sites as *operational land* under the *Local Government Act 1993*. This will correct their current default classification as ‘community land’ and enable Council to manage these assets in line with its statutory obligations, asset management framework and strategic land use priorities.

Reclassification will provide Council with the flexibility to use, lease, or dispose of the land where appropriate.

Intended outcomes for each site is as follows:

Unused road reserve, Tocumwal

Council undertook the statutory road closure process in 2024, including notification to adjoining owners and government agencies, with the Gazette notice published in October 2024. The land was vested in Council however classification was not resolved within three months and the land defaulted to community land. A planning proposal is needed to reclassify the surplus road reserve land to operational, allowing disposal or redevelopment for industrial purposes.

Corner of Barooga Street and Murray Street, Tocumwal

Council purchased the land in 2021, and as no resolution to classify the land was made, it defaulted to community land. Council now intends to reclassify and dispose of the lots to enable commercial opportunities that strengthen Tocumwal’s local centre. A planning proposal is needed to reclassify land (which includes a building and car parking) to operational to support ongoing commercial activity and ensure appropriate integration within Tocumwal’s local centre.

Part 2 – Explanation of Provisions

This Planning Proposal amendment will seek to insert the following entries into Schedule 4, Part 2 – Land classified, or reclassified, as operational land – with no trusts or other interests changed:

Locality	Description	Any trust etc. not discharged
Tocumwal	Road reserve extending between Jersey Street and Wores Road, Tocumwal (Lot 1 DP1307988)	Nil
Tocumwal	Corner of Barooga Street and Murray Street, Tocumwal (Lot 11 DP1047241; Lots 1 & 2 DP511822; Lot 1 DP101725)	Nil

The effect of this amendment will be to formally classify the land as operational land, with no trusts or other interests discharged.

Part 3 – Justification of strategic and site-specific merit

This section details how the Planning Proposal aligns with, and gives effect to, relevant State and local government plans, strategies, policies, and directions, and how it aims to deliver the intended strategic development outcome for the Shire.

Section A – Need for the Planning Proposal

Under section 31 of the *Local Government Act 1993*, land acquired by Council after 1 July 1993 must be classified as either community or operational within three months of acquisition (or, in the case of road closures, within three months of the closure being completed). If Council does not resolve a classification within that period, the land is automatically deemed community land. While unclassified or deemed community land, the land:

- may only be used for the purpose it was used for immediately prior to acquisition; and
- cannot be sold or otherwise disposed of by Council.

Reclassification through an amendment to the LEP 2013 is the only statutory mechanism available to correct these default classifications.

The parcels of land are not intended to function as community land. They are either surplus to Council's requirements (e.g. disused road reserve) or would be more appropriately managed as an asset with potential for sale, lease, or redevelopment, consistent with Council's asset management framework (e.g. Barooga Street).

Therefore, this Planning Proposal is necessary to:

- rectify the classification of the land to operational;
- ensure Council can manage the land in line with its intended purpose; and
- provide statutory clarity and transparency to the community about the future use and management of these sites.

Section B – Relationship to Strategic Planning Framework

This Planning Proposal is consistent with the strategic planning framework at the State, regional and local levels, as follows:

Riverina Murray Regional Plan 2041

The Riverina Murray Regional Plan provides a 20-year vision for growth, housing, infrastructure, and the environment across the Riverina Murray. While the proposed reclassifications are administrative in nature, they support the objectives of the Plan by:

- ensuring Council land assets are managed efficiently, which underpins the delivery of housing and employment opportunities (Objectives 5, 7 and 15);
- supporting the economic vitality of Tocumwal's town centre by enabling the Barooga Street site to be managed and developed appropriately (Objective 15); and
- ensuring surplus or underutilised land, such as the disused road reserve, can be recycled for productive purposes (Objective 14).

The reclassification will not create any adverse impacts on environmental values, natural hazards, or infrastructure planning, and is therefore consistent with the intent of the Plan.

Berrigan Shire Community Strategic Plan 2040

The Community Strategic Plan identifies six planning priorities, including the need for housing diversity and affordability, enhancing the distinct character of each township, and ensuring well-planned and efficient urban settlement.

The reclassification of the Barooga Street site allows Council to dispose of the site for commercial opportunities for Tocumwal's local economy and services.

The reclassification of the road reserve ensures Council's property portfolio is used efficiently, avoiding ongoing management costs for land that has no community function.

Collectively, these outcomes align with the Plan's focus on sustainable service delivery and effective use of Council's resources.

Berrigan Local Strategic Planning Statement 2020–2040 (LSPS)

The LSPS sets a 20-year vision for land use planning and growth across the Shire and includes township masterplans for Berrigan, Barooga, Tocumwal, and Finley. It emphasises coordinated development, improved housing choice, and maintaining the character and functionality of each centre.

The Barooga Street reclassification supports Tocumwal's role as a local centre, ensuring the site can contribute to retail and commercial activity.

The road reserve reclassification reflects the LSPS principle of making best use of Council assets and avoiding fragmented or redundant land uses.

State Environmental Planning Policies (SEPPS)

This Planning Proposal is consistent with all applicable State Environmental Planning Policies. The reclassification is administrative in nature and does not alter zoning, land uses, or development standards. As such, it does not generate any conflict with State policies.

Ministerial Directions (Section 9.1s)

Ministerial Direction	Application	Comments
1.1 Implementation of Regional Plans	This direction applies to a relevant planning authority when preparing a planning proposal for land to which a Regional Plan has been released by the Minister for Planning	As discussed in Section B of this report, this Planning Proposal is consistent with the <i>Riverina Murray Regional Plan 2041</i> .
3.2 Heritage Conservation	This direction applies to all relevant planning authorities when preparing a planning proposal.	The proposed reclassification only changes the land's administrative classification and does not seek to alter its heritage values or significance.

	As such, this direction applies because the site at the corner of Barooga Street and Murray Street, Tocumwal (Lot 11 DP1047241; Lots 1 & 2 DP511822; Lot 1 DP101725) is located within a heritage conservation area listed in Schedule 5 of the LEP 2013.	
5.2 Reserving Land for Public Purposes	This direction applies to all relevant planning authorities when preparing a planning proposal. This direction applies because the planning proposal seeks to reduce existing reservations of land for public purposes.	The Council owned sites require reclassification because Council did not resolve their classification within the statutory timeframe following acquisition or vesting, causing them to default to community land despite their intended operational use. The Planning Proposal therefore also seeks the Secretary's agreement to proceed with the reclassification.
6.1 Residential Zones	This direction applies to all relevant planning authorities when preparing a planning proposal that will affect land within an existing or proposed residential zone (including the alteration of any existing residential zone boundary), or any other zone in which significant residential development is permitted or proposed to be permitted.	Although land zoned residential is included in this Planning proposal, the proposed reclassification of land does not alter any permissibility.
7.1 Employment Zones	This direction applies to all relevant planning authorities when preparing a planning proposal that will affect land within an existing or proposed Employment zone (including the alteration of any existing Employment zone boundary)	Although land zoned E4 General Residential is included in this Planning Proposal, the proposed reclassification of land does not alter any permissibility. Notwithstanding, the proposed reclassification of land at the corner of Barooga Street and

		Murray Street, Tocumwal (Lot 11 DP1047241; Lots 1 & 2 DP511822; Lot 1 DP101725) to operational land, will support ongoing commercial activity and integration with the local centre, consistent with the objectives of the direction.
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Section C – Environmental, Social and Economic Impacts

Environmental impacts

The land reclassification will have no direct environmental impacts. All land parcels are located within established urban areas and are either vacant and used for car parking; or comprise a closed road reserve. They do not contain native vegetation, threatened species, ecological communities, or critical habitat.

The Planning Proposal does not alter zoning, development standards or environmental protections in the LEP 2013. Any future proposals for development will be subject to assessment under the development application process.

Social impacts

The Planning Proposal will not reduce access to public open space or community facilities as none of the land is currently used for community recreation or amenity purposes.

Reclassification will instead give Council flexibility to manage the sites in a way that supports community outcomes, such as:

- enabling more efficient use of surplus road reserve land in Tocumwal; and
- sustaining the vitality of Tocumwal’s town centre through the Barooga Street site.

Public exhibition and a mandatory public hearing will ensure transparency and allow the community to provide feedback before finalisation.

Economic impacts

Reclassification will improve Council’s ability to manage its property portfolio efficiently, reducing the cost of holding land that has no community function and allowing reinvestment in community priorities.

At a local scale, the Barooga Street land parcels could support housing and commercial activity, while the Tocumwal road reserve may be repurposed for an employment-related use. These outcomes are consistent with Council’s strategic goals for sustainable growth and economic resilience.

Section D – State and Commonwealth Interests

The Planning Proposal will not create demand for additional public infrastructure, as it does not rezone land or enable new land uses. Any future development proposals would be assessed through the development application process, including consideration of infrastructure capacity and funding arrangements.

Consultation with State and Commonwealth agencies has not yet occurred. Relevant agencies and the community will be consulted in accordance with the Gateway Determination.

Part 4 – Mapping

The Planning Proposal does not require any change to the maps in the LEP 2013.

Part 5 – Community Consultation

The Planning Proposal would be publicly exhibited for 28 calendar days in accordance with the Department's *Practice Note PN16-001 Classification and reclassification of public land through a LEP* and *Best Practice Guideline for LEP's and Council Land*.

The Planning Proposal would be publicly exhibited at venues including, Councils Civic Centre (56 Chanter Street, Berrigan) and the Tocumwal library, Tocumwal.

The Planning Proposal would be publicly exhibited on Council's website.

An independently chaired public hearing would be arranged for the Planning Proposal. This will take place approximately three weeks after the close of the public exhibition. Notice of the public hearing would be given in the local newspaper and on Council's website.

Notification letters would be sent to any person or organization who makes a submission in response to the public exhibition.

Part 6 – Project Timeline

No	Action	Dates
2	Council Meeting	15 October 2025
2	Gateway determination	November / December 2025
3	28-day public exhibition	January / February 2026
4	Public hearing	March 2026
5	Consideration of community feedback	April 2026
6	Request finalisation by Department of Planning, Housing, and Infrastructure	May 2026
7	Anticipated notification of reclassification amendment to LEP 2013	July 2026

Part 7 – Appendices

Appendix 7.1: Land details

The following Titles have been obtained (refer to attachments):

Corner of Barooga Street and Murray Street

- Lot 11 DP1047241
- Lots 1 DP511822
- Lots 2 DP511822
- Lot 1 DP101725

Road reserve extending between Jersey Street and Wores Road

- Lot 1 DP1307988

Appendix 7.2: Practice Note PN 16-001

NSW Planning and Environment has published [LEP practice note – PN 16-001 – Classification and reclassification of public land through a local environmental plan](#) which provides guidance on matters to be addressed in any Planning Proposal to classify or reclassify public land.

The table below addresses these matters and identifies where matters are addressed in the Planning Proposal:

No	Information	Response
1	The current and proposed classification of the land	Refer to the Introduction and Part 1 of this Planning Proposal.
2	Whether the land is a 'public reserve'	The Council owned sites are not a 'public reserve.'
3	The Strategic and site merits of the reclassification and evidence to support this	Refer to the Introduction and Part 1 of this Planning Proposal.
4	Whether the planning proposal is the result of a strategic study or report	The Planning Proposal is a result of a strategic review process by Council for all Council owned land.
5	Whether the planning proposal is consistent with council's community plan or other local strategic plan	The Planning Proposal is consistent. Refer to Part 3 of this Planning Proposal.
6	A summary of council's interests in the land including: • How and when the land was first acquired • If council does not own the land, the owner's consent • The nature of any trusts, etc	Council acquired the Council owned land through purchase or statutory processes between 2021 and 2025. As Council is the landowner, no third-party consent is required. There are no trusts or other interests affecting the land.
7	Whether an interest in land is proposed to be discharged, and if so, an explanation of the reasons why	There are no interests to be discharged for the Council owned land.
8	The effect of the reclassification (particular interests will be discharged)	The effect of the reclassification is that the land will change from community to operational, enabling Council to sell the sites if required. Any income from the sale of the land parcels would go into Council's general fund and Council can choose how the money is allocated. As there are no trusts, dedications, or

		other interests affecting the land, no interests will be discharged through the reclassification.
9	Evidence of relevant interests or lack thereof applying to the land (e.g. Electronic title searches, notice in Gov. Gazette, trust documents)	Refer to Appendix 7.1 of this Planning Proposal.
10	Current uses(s) or the land, and whether uses are authorised or unauthorised	The Council owned land is currently vacant or developed with a building and car parking. These uses are authorised and consistent with Council's ownership of the land.
11	Current or proposed lease or agreements applying to the land, together with their duration, terms, and controls	Not applicable. There are no current or proposed lease or agreements applying to the Council owned land.
12	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 reclassification or at a later time).	Not applicable.
13	Any rezoning associated with the reclassification	Rezoning is not proposed.
14	How council may or will benefit financially, and how these funds will be used	Any income from the sale of the Council owned land would go into Council's general fund and Council can choose how the money is allocated.
15	How council will ensure funds remain available to fund proposed open space sites or improvements referred to in justifying the reclassification, if relevant	Any income from the sale of the Council owned land would go into Council's general fund and Council can choose how the money is allocated.
16	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	Not applicable. There are no corresponding maps for Schedule 4 of the LEP. The Council owned land in their entirety is to be reclassified.

17	Preliminary comments by a relevant government agency, including an agency that dedicated the land to council, if applicable	Not applicable.
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