11.1 URGENT BUSINESS – CLARIFICATION OF LAND USE DEFINITIONS ASSOCIATED WITH FEEDLOTS AND SIMILAR

SENIOR OFFICER:	Chief Executive Officer
PREVIOUS REPORT(S):	Nil.
DISCLOSURE OF INTEREST:	Nil
FILE REFERENCE:	
ATTACHMENTS:	Department of Primary Industries and Regional Development – Best Practice for the Design, Construction and Operation of Sheep Feedlots

OFFICER RECOMMENDATION

That Council ADOPTS the following position regarding Animal Husbandry – Intensive and Agriculture Extensive land uses as defined in the Shire of Wagin Local Planning Scheme No.2

1. **The Shire of Wagin is a rural community that supports and encourages the sheep industry and agricultural pursuits.**

2. **The Shire of Wagin's position is that the land use of Animal Husbandry – Intensive refers to developments of a scale where impact and/or nuisance can readily occur to neighbouring properties or the environment.**

3. **Confinement and containment feeding facilities as defined in the Department of Primary Industries and Regional Development publication Best Practice for the Design, Construction and Operation of Sheep Feedlots as:**

   "An area is used for the purpose of providing feed and water for production or maintenance of sheep on a regular, semi regular or annual basis. A containment or confinement area may assist with short term land and sheep management when minimal pasture or forage is available due to seasonal variation."

   are not to be considered to be within the scope of Animal Husbandry – Intensive where there are greater than a maximum of 400 sheep per hectare. These incorporated instead under the Agriculture Extensive land use classification.

4. **Sheep feedlots with fit-for-purpose infrastructure that can be used for year-round feeding, where sheep exit for slaughter are not considered to be Animal Husbandry – Intensive land use where the lot is greater than 200m to a sealed Rd, 50m to an unsealed Rd or 150m to a dwelling and there is a minimum of 5m2 per sheep are minor**

proposals that can be incorporated under the Agriculture Extensive land use classification.

BRIEF SUMMARY

This paper deals with an emerging issue associated with the interpretation of the development approval required for feedlots and pens.

BACKGROUND/COMMENT

The Shire of Wagin's Local Planning Scheme is a formal legal instrument that defines what land uses may be developed in various zones of land. The Local Planning Scheme is not easily changed. A modification of the Scheme takes months and requires approval from the State Government and in some cases the Minister for Planning. The Shire's Planning Scheme has been modified just six times since 1999.

The Scheme contains definitions of land uses classes across the five land zones. Use classes can be permitted (where no development approval is required); discretionary (where development may occur) or prohibited.

In the last fortnight Officers have received enquires from at least three landowners seeking to build feedlots for their sheep. The interest appears to be linked to the availability of Federal Government funding for the live export transition.

The queries have been what planning approval is required for the feedlot development.

As a technical planning enquiry Officers initially referred the enquiries to the Shire's planning external consultants. The advice provided to at least two of the landowners was that development approval would be required because it was a discretionary use in the scheme being Animal Husbandry – Intensive.

Animal Husbandry – Intensive is defined in the scheme as:

> *"premises used for keeping, rearing or fattening of pigs, poultry (for either egg or meat production), rabbits (for either meat or fur production) or other livestock in feedlots, sheds or rotational pens."*

In return, the landowners have asked Shire Officers to confirm that the viewpoint of the planning consultant's that the proposed developments meet the definition of Animal Husbandry – Intensive is consistent with the Shire's viewpoint.

The planning consultants viewpoint is set out below:

Given the sudden increase in a number of sheep farmers wanting to formalise some component of a 'feedlot' for funding purposes, there does need to be closer scrutiny of the scale and the specific nature of these proposals relative to what is already occurring on a particular property or farm.

Unfortunately, in the absence of a specific local or State planning policy guidance on what exactly a feedlot is and how it should be assessed, the Shire only have the land use classifications within the local planning scheme to work with.

When animals are taken from a paddock and put exclusively in a confined, purpose-built space:

- for multiple days or weeks;
- they are manually fed (or via some automated system) a formulated diet of grain, pellets and other supplements, without any access to roughage or pasture in an open paddock; and
- the confined area requires excrement to be periodically cleaned, piled and removed to mitigate groundwater contamination and odour impacts,

It would be difficult to argue, in planning terms, that this remains agriculture extensive.
Furthermore, clause 3.3(3) of Local Planning Scheme No. 2 states that:

> *"A specific use class referred to in the zoning table is excluded from any other use class described in more general terms".*

Therefore, they consider that the reference to premises used for the keeping, rearing or fattening of livestock in feedlots is more specific than a premises used for the raising of stock.

Noting that planning is a technical manner to which Officers employed by the Shire do not have qualifications, Officers requested that the planning consultants obtain a second opinion. This second opinion drew the same conclusion.

Officers do not believe that this interpretation is in the best interests of the Shire.

This definition would capture intended developments such as large scale piggeries, cattleyards and sheep facilities but also capture pens used to temporarily store livestock for feeding, cleaning or other routine livestock management.

Officers have suggested to the planning consultant that the developments may be better considered to be agriculture extensive which

> *"means premises used for the raising of stock or crops but does not include agriculture - intensive or animal husbandry – intensive."*

As such in the Officer's view the scale and impact of the development must be considered when establishing the land use

Ultimately, it is Council as the decision-maker that determines whether a land use meets a particular criteria. During the process of lodgement and preparation of an

application however there is a need for consistent and reliable advice to landowners which occurs through Officers but mostly through the technical experts.

This is an important area to gain consensus to avoid waste for landowners and ensure the integrity the planning system.

To move forward the planning consultants have proposed that the Council clarify the Council's position on what is meant to be captured under this scheme.

One landowner has provided their perspective to exclude sheep confinement pens where the closest point is less than 300 metres from a dwelling and a maximum of 400 sheep per hectare.

The Department of Primary Industries and Regional Development has produced a Best Practice for the Design, Construction and Operation of Sheep Feedlots.

The Department's document notes that certain types of feedlot that reach a sufficient scale are prescribed premises under the Environmental Protection Act 1986 as defined as:

> *"Livestock saleyard or holding pen: premises on which live animals are held pending their sale, shipment or slaughter', and with a throughput of 10,000 animals or more per year are considered 'prescribed' and require a works approval to construct, and a licence to operate from the Department of Water and Environmental Regulation (DWER). Issues to be considered include solid and liquid waste disposal, permeability of the infrastructure and odour from the site."*

The document sets out a recommended stocking density for outdoor feedlots is 3-5m2 per head where there are more than 31 sheep.

The document goes on to provide recommendations about separation distances

Feature	Minimum Distance Required (m)
Public road (general)	200
Public road (unsealed, <50 vehicles/day, excl. feedlot traffic)	50
Major watercourse	200
Other watercourse	100
Property boundary	20

Importantly, the factsheet's scope applies to sheep feedlots with fit-for-purpose infrastructure that can be used for year-round feeding, where sheep exit for slaughter. It is not designed for application to confinement and containment feeding facilities (such as drought feeding).

Confinement and containment feeding facilities in turn are defined by the factsheet as:

> *"An area is used for the purpose of providing feed and water for production or maintenance of sheep on a regular, semi regular or annual basis. A containment or confinement area may assist with short term land and sheep management when minimal pasture or forage is available due to seasonal variation."*

Based on the landowner's perspective and the State Government factsheet Officers suggest that Council clarify its position as it relates to Animal Husbandry – Intensive and Agriculture Extensive land uses as follows:

1. The Shire of Wagin is a rural community that supports and encourages the sheep industry and agricultural pursuits.

2. The Shire of Wagin's position is that the land use of Animal Husbandry – Intensive refers to developments of a scale where impact and/or nuisance can readily occur to neighbouring properties or the environment.

3. Confinement and containment feeding facilities as defined in the Department of Primary Industries and Regional Development publication Best Practice for the Design, Construction and Operation of Sheep Feedlots as:

   > *"An area is used for the purpose of providing feed and water for production or maintenance of sheep on a regular, semi regular or annual basis. A containment or confinement area may assist with short term land and sheep management when minimal pasture or forage is available due to seasonal variation."*

   are not to be considered to be within the scope of Animal Husbandry – Intensive where there are greater than a maximum of 400 sheep per hectare. These incorporated instead under the Agriculture Extensive land use classification.

4. Sheep feedlots with fit-for-purpose infrastructure that can be used for year-round feeding, where sheep exit for slaughter are not considered to be Animal Husbandry – Intensive land use where the lot is greater than 200m to a sealed Rd, 50m to an unsealed Rd or 150m to a dwelling and there is a minimum of $5m^2$ per sheep are minor proposals that can be incorporated under the Agriculture Extensive land use classification.

Officers recommend that Council consider introducing a component to the position that clarifies total number of sheep.

CONSULTATION/COMMUNICATION
As detailed.

STATUTORY/LEGAL IMPLICATIONS
Council is the decision maker in relation to planning matters but relies of the advice of officers in making recommendations and providing good customer service to ensure the good governance of the district. Officers are bound by public service standards and the independent consultants by their code.

POLICY IMPLICATIONS
The preparation of a local planning policy requires advertising and this approach is considered to be a set to provide clarification without resorting to modification to planning scheme or introduction of a planning policy.

FINANCIAL IMPLICATIONS
Nil.

STRATEGIC IMPLICATIONS
Town and natural environment.

VOTING REQUIREMENTS
Simple Majority