

**Warrumbungle Local Environmental Plan 2013 - Dwelling permissibility in Zone RU1
Primary Production**

Proposal Title : **Warrumbungle Local Environmental Plan 2013 - Dwelling permissibility in Zone RU1 Primary Production**

Proposal Summary : **To permit the erection of a dual occupancy or dwelling house in Zone RU1 Primary Production, on an allotment on which a dwelling house could have been lawfully erected on land zoned 1(b) Rural - General or 1(c) Rural - Small Holdings under the provisions of the former Coonabarabran LEP 1990.**

PP Number : **PP_2014_WARRU_001_00** Dop File No : **14/19936**

Proposal Details

Date Planning Proposal Received : **27-Nov-2014** LGA covered : **Warrumbungle**

Region : **Western** RPA : **Warrumbungle Shire Council**

State Electorate : **BARWON** Section of the Act : **55 - Planning Proposal**

LEP Type : **Policy**

Location Details

Street :

Suburb : City : Postcode :

Land Parcel : **Part of the Warrumbungle Shire Council Local Government Area**

DoP Planning Officer Contact Details

Contact Name : **Jessica Holland**

Contact Number : **0268401280**

Contact Email : **jessica.holland@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Alia Slamet**

Contact Number : **0249200000**

Contact Email : **alia.slamet@warrumbungle.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name : **Wayne Garnsey**

Contact Number : **0268412180**

Contact Email : **wayne.garnsey@planning.nsw.gov.au**

Land Release Data

Growth Centre : Release Area Name :

Regional / Sub : **N/A** Consistent with Strategy : **N/A**

Regional Strategy :

Warrumbungle Local Environmental Plan 2013 - Dwelling permissibility in Zone RU1

Primary Production

MDP Number :

Date of Release :

Area of Release
(Ha) :

Type of Release (eg
Residential /
Employment land) :

Residential

No. of Lots : 0

No. of Dwellings
(where relevant) : 0

Gross Floor Area : 0

No of Jobs Created : 0

The NSW Government Lobbyists Code of
Conduct has been
complied with : **Yes**

If No, comment :

Have there been meetings or
communications with
registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting
Notes :

External Supporting
Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment :

The statement of objectives clearly states the purpose of the planning proposal is:-
- to permit the erection of a dwelling on an allotment in zone RU1 Primary Production
where the allotment was created prior to the commencement of the Warrumbungle LEP
2013, and was previously zoned 1(b) Rural - General or 1(c) Rural - Small Holdings under
the Coonabarabran LEP 1990 and
- is not less than the minimum lot size applicable to the land under the Coonabarabran LEP
1990.

The proposed provision is intended to apply for a period of five years.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment :

The explanation of provisions clearly states that the objective of the planning proposal will
be achieved through the addition of a sub clause in Clause 4.2A - Erection of dual
occupancies and dwelling houses on land in Zone RU1. The sub clause will be subject to a
sunset provision which allows five years to apply for development consent for
development and subject to Parliamentary Counsel approval.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

1.2 Rural Zones

* May need the Director General's agreement

1.5 Rural Lands

4.4 Planning for Bushfire Protection

Is the Director General's agreement required?

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

SEPP (Building Sustainability Index: BASIX) 2004

SEPP (Rural Lands) 2008

Orana REP No. 1 - Siding Spring

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

s117 Directions

1.2 Rural Zones - This Ministerial Direction is relevant. The Planning Proposal is inconsistent with this Direction as it contains provisions that will increase permissible density of rural land. The inconsistency has been justified by the endorsed Warrumbungle Shire Council Land Use Strategy(2013).

1.5 Rural Lands - This Ministerial Direction is relevant. The Planning Proposal is inconsistent with this Direction as it affects land in Zone RU1 Primary Production. The Planning Proposal does not include an amendment to the minimum lot size but does permit a lesser Minimum Lot Size for land in the specified former zones. The proposal has been assessed to be consistent with the Rural Planning Principles and Rural Subdivision Principles within SEPP (Rural Lands) 2008. The inconsistency has been justified by the endorsed Warrumbungle Shire Council Land Use Strategy(2013).

4.4 Planning for Bushfire Protection - The Ministerial Direction is relevant to the Planning Proposal as the proposal seeks to include a provision to permit the erection of dual occupancies and dwelling houses on land that is identified as bushfire prone. Council is to address this issue at s59 submission after consultation with NSW Rural Fire Service.

SEPPs

SEPP 44 Koala Habitat Protection - The SEPP will be relevant in the assessment of development applications under the proposed provision if the site is located within Core or Potential Koala Habitat. It is noted that land within Warrumbungle Shire is listed in Schedule 1 of the SEPP.

SEPP 55 Remediation of Land - The SEPP requires the potential for land to be contaminated as a consideration in the preparation of an EPI, where land is proposed to be included in a zone that would permit a change of use of the land. The Planning Proposal does not seek to rezone land. Potential contamination is to be assessed as part of the development application process.

SEPP (BASIX) 2004 - The SEPP will apply in the assessment of development applications under the proposed provision with respect to dwelling design.

SEPP (Rural Lands) 2008 - This SEPP requires proper management, protection and

Warrumbungle Local Environmental Plan 2013 - Dwelling permissibility in Zone RU1
Primary Production

planning of rural lands which promotes social, environmental and economic outcomes.

The proposal has been assessed to be consistent with the Rural Planning Principles. Council have assessed the consideration of impacts on services and infrastructure and a chapter will be prepared in a Development Control Plan that guides appropriate rural-residential development.

The proposed 5 year sunset clause would ensure that the opportunity for rural-residential development in the zone RU1 (where not currently permitted under the gazetted version of clause 4.2A) does not continue in perpetuity and is consistent with the endorsed Warrumbungle Shire Council Land Use Strategy.

Orana REP No.1 - Siding Spring - The SEPP will apply to the assessment of development applications under the proposed provision with respect to lighting impact on the Siding Spring Observatory at development application stage.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : Adequate maps are provided which identify land affected by the Planning Proposal. A condition will be imposed on the Gateway Determination requiring the preparation of a land application map in accordance with the standard technical requirements for LEP maps.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Council's proposed community consultation is acceptable. Council intends to publicly exhibit the Planning Proposal for a period of 28 days.

Council proposed community consultation that will include notification on Council's website, within the local newspaper and written notification to the affected landowners is satisfactory.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : **November 2013**

Comments in relation to Principal LEP : **Warrumbungle Local Environmental Plan 2013 was notified on 29 November 2013.**

Assessment Criteria

Need for planning proposal : **The Planning Proposal is required to permit the erection of a dual occupancy or dwelling house in Zone RU1 Primary Production, on an allotment on which a dwelling house could have been lawfully erected on land zoned 1(b) Rural - General or 1(c) Rural - Small**

Warrumbungle Local Environmental Plan 2013 - Dwelling permissibility in Zone RU1 Primary Production

Holdings under the provisions of the former Coonabarabran LEP 1990.

Consistency with strategic planning framework :

The Planning Proposal is consistent with the endorsed Warrumbungle Shire Council Land Use Strategy (2013) which recommends the following action:

Include a special provision in Council's upcoming LEP that provides for a sunset period of 5 years after the zoning changes for an applicant to lodge an application for a single dwelling on a holding that was previously zoned for rural residential purposes, is less than 500ha and does not have a dwelling on it or an approval for a dwelling.

Environmental social economic impacts :

The Planning Proposal has the potential to restore a number of dwelling house entitlements in areas that are heavily vegetated and in the vicinity of Siding Spring Observatory. The environmental impacts will need to be thoroughly assessed by Council at development application stage. The cumulative environmental impacts are unknown at this stage.

Social and economic impacts would be positive as the dwelling house entitlements are being restored and dwelling house construction will be beneficial for the Warrumbungle economy although this needs to be balanced against agricultural use of the land.

Assessment Process

Proposal type : **Consistent** Community Consultation Period : **28 Days**

Timeframe to make LEP : **9 months** Delegation : **Nil**

Public Authority Consultation - 56(2) (d) : **NSW Rural Fire Service**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Request for Initial Gateway Determination.pdf	Proposal	No

**Warrumbungle Local Environmental Plan 2013 - Dwelling permissibility in Zone RU1
Primary Production**

Planning Proposal (vA4200051).pdf	Proposal	No
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Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions: **1.2 Rural Zones**
 1.5 Rural Lands
 4.4 Planning for Bushfire Protection

Additional Information : **The Planning Proposal should proceed with the following conditions:**

- 1. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 (EP&A Act) as follows:**
 - a) The planning proposal is to be made publicly available for 28 days;and**
 - b) The relevant planning 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 5.5.2 of A Guide to Preparing LEPs (Department of Planning and Infrastructure 2013).**
- 2. Consultation is required with the NSW Rural Fire Service under section 56(2)(d) of the EP&A Act. (NSW Rural Fire Service is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal**
- 3. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).**
- 4. Prior to the submission of the Planning Proposal under section 59 of the EP&A Act, a land application map is to be prepared and be compliant with the Departments 'Standard Technical Requirements for LEP Maps.**
- 5. The timeframe for completing the LEP is to be 9 months from the week following the date of the Gateway Determination.**

Supporting Reasons : **The objectives of the Planning Proposal are strategically justified and supported by the recommendations of the endorsed Warrumbungle Shire Council Land Use Strategy (2013).**

The relevant s117 Directions and SEPPs are considered to be appropriately addressed. Inconsistencies identified have been justified by the endorsed Warrumbungle Shire Council Land Use Strategy (2013). The 5 year sunset period is also supported.

Signature: _____



Printed Name: _____

JESSICA HOLLAND

Date: _____

3.12.2014

Endorsed
Warrumbungle 3/12/14
TLWR