

**Warrumbungle Shire Council – Dwelling house opportunity for 2013 Wambelong Bushfire
Affected Land**

Proposal Title :	Warrumbungle Shire Council – Dwelling house opportunity for 2013 Wambelong Bushfire Affected Land		
Proposal Summary :	Amend the Warrumbungle Local Environmental Plan 2013 to provide certain lots affected by the 2013 Wambelong Bushfire with dwelling house opportunities.		
PP Number :	PP_2017_WARRU_001_00	Dop File No :	16/14094

Proposal Details

Date Planning Proposal Received :	13-Apr-2017	LGA covered :	Warrumbungle
Region :	Western	RPA :	Warrumbungle Shire Council
State Electorate :	BARWON	Section of the Act :	55 - Planning Proposal
LEP Type :	Housekeeping		

Location Details

Street :	Various		
Suburb :	Coonabarabran	City :	Coonabarabran
		Postcode :	2357
Land Parcel :	Land parcels identified on the Council Wambelong Bushfire Recovery Centre List (refined by Council to those lots where an amendment of the LEP is required) – being lots that had dwellings destroyed in the 2013 Wambelong fire.		

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

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Land Release Data

Growth Centre :		Release Area Name :	
Regional / Sub Regional Strategy :		Consistent with Strategy :	

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Affected Land

MDP Number :

Date of Release :

Area of Release (Ha)

Type of Release (eg
Residential /
Employment land) :

No. of Lots : 0

No. of Dwellings : 0
(where relevant) :

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 :

During the 2013 Wambelong Bushfire a number of dwellings were destroyed or significantly damaged. Council advise that under the Warrumbungle LEP 2013 it is unclear that some of the affected properties have dwelling house opportunities under Clause 4.2A.

This planning proposal intends to provide these properties with an opportunity to lawfully rebuild dwellings or at least recognise the lot as having a dwelling house opportunity. This will provide certainty to Council, landowners and the community.

Council advised that a number of the dwellings in this area may not have satisfactory building approvals. The sensitive nature of the bushfire recovery has meant that Council cannot guarantee that all affected lots have been identified. It is Council's intention to provide further opportunity to all affected landowners to be consulted during the community consultation period to ensure all affected lots are identified.

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 intent of the planning proposal is to provide dwelling house opportunity for some lots which have been identified on the Council Wambelong Bushfire Recovery Centre List (as revised by Council).

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

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

Comment : The planning proposal can be achieved by amending the Warrumbungle Local Environmental Plan 2013 to provide dwelling house opportunity for certain lots which have been identified on the Council Wambelong Bushfire Recovery Centre List (as refined by Council), or that might be identified during the community consultation process.

The mechanism to achieve this is by amending the relevant Minimum Lot Size Map or to

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create a dwelling house opportunity map. The mechanism will be determined post community consultation after all affected land has been identified.

Some of the lots identified on the original Council Wambelong Bushfire Recovery Centre List had existing dwelling entitlements through existing holdings, or legally created lots. However, Council can not be certain about this.

The planning proposal will provide the land owners, the community and Council with a transparent and simple acknowledgment of dwelling house opportunities.

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? **No**

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

d) Which SEPPs have the RPA identified?

SEPP (Rural Lands) 2008

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

1.2 Rural Zones: The Ministerial Direction is relevant to the planning proposal as the proposal affects land within existing rural zones. The Direction requires a planning proposal must not rezone land from a rural zone to a residential zone or contain provisions that will increase the permissible density of land within a rural zone. The Director Region, Western can be satisfied the planning proposal is consistent with the Direction as it does not propose to amend the land use zone or permit an increased density of residential development over and above existing dwellings on the land.

1.5 Rural Lands: The Ministerial Direction is relevant to the planning proposal as the planning proposal affects land within a rural zone. The Direction requires the planning proposal be consistent with the rural planning principles and rural subdivision principles in the SEPP (Rural Lands) 2008.

The Director Regions, Western can be satisfied that the planning proposal is consistent with this Direction and supports productive sustainable economic activities by providing a mechanism which provides transparency in dwelling house opportunities for particular affected lots. The proposal does not permit the creation of additional allotments or additional dwelling houses. It will not result in the fragmentation of rural land and does not impact on services and infrastructure.

SEPP (Rural Lands) 2008: The SEPP is relevant as the planning proposal affect rural land. The planning proposal is consistent with the rural planning and rural subdivision principles of the SEPP due to the particular circumstances.

4.4 Planning for Bush fire Protection

This Direction applies given the planning proposal will affect land in the land use zone RU1 which is predominantly mapped as bushfire prone land.

The planning proposal intends to replace previously existing dwelling houses destroyed in bushfires and may create limited opportunity for additional dwellings in bushfire prone land. Individual development applications will need to address site suitability and in some cases it may warrant a referral to NSW Rural Fire Service.

To satisfy this Direction a condition will be placed on the Gateway determination requiring consultation with the RFS prior to community consultation.

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

If No, explain :

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Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **The planning proposal seeks to provide and confirm dwelling house opportunities on the subject land.
Lot identification maps reflecting the list of lots will be required as part of the community consultation package.**

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 proposes community consultation that will include notification in the local media and Council's website.

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 : **The planning proposal is adequate in the information provided.**

Proposal Assessment

Principal LEP:

Due Date :

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

Assessment Criteria

Need for planning proposal : **The planning proposal is required to provide dwelling house opportunity on land which currently the minimum lot size and uncertainty by Council of clause 4.2A provisions. The planning proposal will provide transparency and reduce this uncertainty.**

Consistency with strategic planning framework : **The planning proposal is consistent with the Warrumbungle Shire Council – Land Use Strategy 2013. In particular it is consistent with section 10.1.14 Coonabarabran Rural Residential Land Use.**
The subject land is located in close proximity to the Siding Spring Observatory. Referral to Siding Spring Observatory will be required. Given the LEP has planning controls in place to mitigate and prevent light pollution from dwellings, these potential concerns can be addressed at the DA stage.

Environmental social economic impacts : **The planning proposal will provide greater certainty for Council, landowners and the community.**
The proposed provision does not permit fragmentation of rural land or create demand for services and infrastructure given that no additional dwelling house opportunities are being permitted.

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Affected Land

There are no known significant environmental, social or economic outcomes identified.
The planning proposal will result in positive social and economic outcomes as it will allow landowners to rebuild after the devastating bushfire.

Assessment Process

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

Timeframe to make LEP : **0 months** Delegation : **RPA**

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
Warrumbungle Planning Proposal.pdf	Proposal	Yes
Warrumbungle Busfire affected lots - 4 April 2017.pdf	Proposal	Yes

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 to proceed subject to the following conditions:**

- 1. Prior to community consultation Council is to consult with NSW Rural Fire Service to satisfy Section 117 Direction 4.4 Planning for Bushfire Protection. Council is to provide the response from NSW Rural Fire Service and address how this section Direction is satisfied**

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to the Department of Planning and Environment and seek approval to proceed to community consultation.

2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 as follows:

- (a) the planning proposal must be made publicly available for a minimum of 28 days;
- (b) the list of properties included in the planning proposal is to form part of the community consultation package; and
- (c) 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 & Infrastructure 2013).

3. Consultation is required with the Director of the Research School of Astronomy and Astrophysics at the Australian National University. The Observatory Director is to be provided with a copy of the planning proposal (as amended) and any relevant supporting material, and given at least 21 days to comment on the proposal.

4. Prior to submission of the planning proposal under section 59 of the Environmental Planning and Assessment Act, 1979, the final LEP maps must be prepared and be compliant with the Department's 'Standard Technical Requirements for Spatial Datasets and Maps' 2015.

5. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

6. Council be authorised to exercise planmaking delegations

Supporting Reasons :

The planning proposal will allow for the legal reconstruction of damaged/destroyed dwellings by identifying the lots in the WLEP 2013 Minimum Lot Size Map. The planning proposal can be supported as it provides Council and landowners with dwelling entitlement certainty without creating additional allotments. It also allows these properties to better reflect the applicable zone objectives.

Signature: _____

Printed Name: _____

Date: _____

Endorsed
W Gamsey
TLWR
21/4/17