



IRF22/1789

Gateway determination report – PP-2022-1934

Reclassification of land in Warrumbungle Shire
Council

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

Contents

1	Planning proposal.....	1
1.1	Overview.....	1
1.2	Objectives of planning proposal	1
1.3	Explanation of provisions	1
1.4	Site description and surrounding area.....	2
1.5	Mapping.....	3
1.6	Background	3
2	Need for the planning proposal	4
3	Strategic assessment	4
3.1	Regional Plan	4
3.2	Local.....	4
3.3	Section 9.1 Ministerial Directions	4
3.4	State environmental planning policies (SEPPs)	8
4	Site-specific assessment	8
4.1	Environmental.....	8
4.2	Social and economic.....	9
4.3	Infrastructure	9
5	Consultation.....	9
5.1	Community	9
5.2	Agencies.....	9
6	Timeframe	9
7	Local plan-making authority	10
8	Assessment summary	10
9	Recommendation.....	10

1 Planning proposal

1.1 Overview

Table 1 Planning proposal details

LGA	Warrumbungle Shire Council
PPA	Warrumbungle Shire Council
NAME	Reclassification of land in Warrumbungle Shire Council
NUMBER	PP-2022-1934
LEP TO BE AMENDED	Warrumbungle Local Environmental Plan 2013
ADDRESS	Various (see section 1.3)
DESCRIPTION	Various (see section 1.3)
RECEIVED	27/05/2022
FILE NO.	IRF22/1789
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
DWELLINGS/JOBS	0/0

1.2 Objectives of planning proposal

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

The objective of the planning proposal is to facilitate the reclassification of 18 Council owned public land parcels from community to operational. This is an administrative change intended to rectify an administrative oversight and reflect current usage patterns on the land.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the Warrumbungle LEP 2013 by including 18 Council owned lots (see section 1.4 below) in 'Part 1 Land classified, or reclassified, as operational land – no interests changed' of 'Schedule 4 Classification and reclassification of public land'. This inclusion would reclassify the land formally from 'community' to 'operational' land for the purposes of the *Local Government Act 1993*.

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

Note that the lots comprise of Council assets which are already in use for operational purposes. The proposal does not seek to facilitate any change in land use or any change to other LEP provisions for these sites.

Council advise that no interests are being changed and therefore there is no requirement for consideration by the Executive Council or to seek the Governor's approval.

1.4 Site description and surrounding area

The planning proposal applies to the following 18 Council owned sites, which are located throughout the Warrumbungle LGA:

Table 2 Subject sites

Item Number and Description	Lot and DP	Address
1: Baradine Aerodrome	Lot 2 DP 113998 Lot 2 DP 133154 Lot A DP 418899 Lot 7,13 and 34 in DP 750246 Lot 35 DP 750319	Aerodrome Road, Baradine
2: Baradine Sewerage Treatment Plant	Lot 1 and Lot 2 DP 873702	211 Barwon Street, Baradine
3: Dapper Bushfire Shed	Lot 1 DP 1038014	1006 Spring Ridge Road, Dunedoo
4: Gowang Bushfire Shed	Lot 2 DP 1052767	48 Nashs Road, Coonabarabran
5: Leadville Bushfire Shed	Lot 7 Section 5 DP 759016	Corner Cox and Plumb Street, Leadville
6: Ulamambri Bushfire Shed	Lot 7 Section 5 DP 759016	South Street, Ulamambri
7: Yaminbah Bushfire Shed	Lot 821 DP 1188971	17048 Oxley Highway, Dandry
8: Coonabarabran Aerodrome	Lot 1 DP 219211 Lots 103,105 & 106 DP 753405 Lot 9 DP 793646	380 David Knight Drive, Coonabarabran
9: Sewerage Pump Station	Lot 8 Section 4 DP 758281	24-26 Robertson Street, Coonabarabran
10: Coonabarabran Works Depot and Sewerage Ponds	Lots 1 & 2 DP 1006511	2-6 Gardener Street, Coonabarabran

Item Number and Description	Lot and DP	Address
11: Former RFS Control Centre	Lot 2 DP 414144	51 King Street, Coonabarabran
12: Sanitary Depot	Lot 245 DP 753378	Off 35 Dandry Road, Coonabarabran
13: Sewerage Reuse Area – Dunedoo	Lot 2 DP 234563 Lot 321A DP 938173 Lot 321C DP 938174	Wargundy Street, Dunedoo
14: Town Wells Road	Lot 1 DP653078	Lot 1 DP653078
15: Waste Depot – Coonabarabran	Lot 2 DP 1030763 Lot 402 DP1077124	4202 Baradine Road, Coonabarabran
16: Water Access from Castlereagh River	Lot 7 DP 785902	944 Merryula Road, Coonabarabran
17: Works Depot – Dunedoo	Lot B DP 403064	40 Sullivan Street, Dunedoo
18: WSC Connect Five	Lot 1 DP 248906	14A Robertson Street, Coonabarabran

Appendix 1 to the planning proposal (**Attachment A**) includes individual maps of the 18 sites.

Note that the Department has identified 5 minor administrative errors in Appendix 1 to the planning proposal. These need to be corrected prior to exhibition. This has been included as a condition on the Gateway determination.

1.5 Mapping

The planning proposal does not seek any changes to the Warrumbungle LEP 2013 maps.

1.6 Background

The planning proposal seeks to resolve an administrative oversight in terms of the land classification under the *Local Government Act 1993*. An 'operational' land classification is required to reflect the land current uses, but the sites had incorrectly defaulted to 'community' land when the *Local Government Act 1993* came into effect.

The historic classification issues were identified when renewal was sought for existing leases on some of the subject sites.

At its ordinary meeting on 19 May 2022, Council resolved that:

1. *The list of nominated Heritage Items listed in Table 6 of the Warrumbungle Community Based Heritage Study be added to the LEP Review Planning Proposal.*
2. *Council is to prepare a Planning Proposal to reclassify the Council owned land outlined in Table 1 from Community to Operational for the purposes outlined in Table 1.*

3. *The General Manager, in consultation with the Mayor is delegated to place the Planning Proposals on public exhibition and to hold a public hearing for the reclassification of land Planning Proposal.*
4. *Council will not accept plan making delegations for the LEP Review Planning Proposal and the Reclassification of Land Planning Proposal and seek this to be completed by the Department of Planning and Environment.*
5. *A report be prepared on the submissions received to the exhibition of the Planning Proposals.*

The planning proposal has been prepared in response to this resolution and was lodged with the Department for Gateway assessment on 27 May 2022.

2 Need for the planning proposal

The planning proposal is not the result of any specific strategy or study. It is needed to correct a previous administrative oversight and ensure appropriate administration of public land.

Under section 25 of the *Local Government Act 1993*, all publicly owned land must be classified as either 'community' or 'operational'. Community land is generally for public access and use, so it cannot be sold (section 45), leased for more than 21 years without Ministerial consent (section 47) or be without a plan of management (section 35). Operational land is not subject to such restrictions and is generally used by Council to carry out its functions and/or generate income.

When the *Local Government Act 1993* came into force, many Council owned sites were classified as 'community' by default, even though they were already in use for operational purposes.

Under section 27 of the *Local Government Act 1993*, reclassification of public land can be made either by a local environmental plan, or by resolution of council (subject to conditions). The subject land does not meet the criteria for reclassification via council resolution, so the planning proposal is the only means of achieving the intended outcome.

3 Strategic assessment

3.1 Regional Plan

The Warrumbungle local government area (LGA) is subject to the Central West and Orana Regional Plan 2036 and the draft Central West and Orana Regional Plan 2041 which was exhibited from 22 November 2021 to 18 February 2022.

The planning proposal is local and administrative in nature, does not impact on land use permissibility and is not inconsistent with the applicable Regional Plan(s).

3.2 Local

The proposal states that it is not inconsistent with the 'Warrumbungle Shire Community Strategic Plan (Reviewed) 2017-2032' and the 'Warrumbungle Shire Council Land Use Strategy 2013'.

3.3 Section 9.1 Ministerial Directions

The planning proposal is not inconsistent with the relevant section 9.1 Directions, as discussed in **Table 3** below.

The Department notes that the Section 9.1 Ministerial Directions assessment table included in the planning proposal is missing the subheading 'Focus area 3: Biodiversity and Conservation'.

Table 3 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Direction 1.1 Implementation of Regional Plans	Consistent	<p>Direction 1.1 aims to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.</p> <p>The planning proposal is consistent with this Direction because it is administrative in nature and is not inconsistent with the applicable Regional Plans and does not affect their implementation.</p>
Direction 1.3 Approval and Referral Requirements	Consistent	<p>Direction 1.3 aims to ensure that LEP provisions encourage the efficient and appropriate assessment of development.</p> <p>The proposal is consistent with this Direction because it is administrative in nature and does not include provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority.</p>
Direction 1.4 Site Specific Provisions	Consistent	<p>Direction 1.4 aims to discourage unnecessarily restrictive site specific planning controls.</p> <p>The proposal is consistent with this Direction because it is administrative in nature and does not seek to facilitate new development activity. The planning proposal does not contain or refer to drawings that show details of any proposed development.</p>
Direction 3.1 Conservation Zones	Consistent	<p>Direction 3.1 aims to protect and conserve environmentally sensitive areas.</p> <p>The proposal is consistent with this Direction because it is administrative in nature and does not affect or reduce the conservation provisions applying to environmentally sensitive areas.</p>
Direction 3.2 Heritage Conservation	Consistent	<p>Direction 3.2 aims to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p> <p>The proposal is consistent with this Direction because it is administrative in nature and does not reduce or affect the ongoing application of existing LEP provisions for heritage conservation.</p>
Direction 4.1 Flooding	Consistent	<p>Direction 4.1 aims to ensure that development of flood prone land is consistent with the relevant flood planning policies and principles and that</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
		<p>planning controls applying to flood prone land are appropriate for the flood behaviour and consider impacts both on and off the subject site.</p> <p>The Department notes that the proposal does apply to some flood prone land.</p> <p>The proposal is consistent with this Direction because it is administrative in nature and does not seek to rezone land or seek to facilitate new development activity. The planning proposal will not affect the application of relevant flood planning policies and principles.</p>
Direction 4.3 Planning for Bushfire Protection	Consistent	<p>Direction 4.3 aims to protect life, property and the environment from bushfire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and to encourage sound management of bush fire prone areas.</p> <p>The Department notes that the proposal does apply to bushfire prone land.</p> <p>The proposal is consistent with this Direction because it is administrative in nature and does not seek to facilitate new development activity. It will not affect the application of the relevant bushfire planning strategies and provisions.</p> <p>The Department notes that consideration of bushfire protection would be required in the assessment of any future development on the subject land.</p>
Direction 4.4 Remediation of Contaminated Land	Consistent	<p>Direction 4.4 aims to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.</p> <p>The proposal is consistent with this Direction because it is administrative in nature and does not seek to rezone land.</p> <p>The Department notes that consideration of contamination may be required in the assessment of any future development on the subject land.</p>
Direction 5.1 Integrating Land Use and Transport	Consistent	<p>Direction 5.1 seeks to improve access by public and active transport, reduce travel demand and car dependency and to provide for efficient freight.</p> <p>The proposal is consistent with this Direction because it is administrative in nature and does not seek to facilitate any significant change in land use on the subject sites and is therefore unlikely to</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
		generate additional travel demand, increase car dependency or affect freight.
Direction 5.2 Reserving Land for Public Purposes	Consistent	<p>Direction 5.2 aims to facilitate the provision of public services and facilities by reserving land for public purposes, and to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.</p> <p>The proposal is consistent with this Direction because it is administrative in nature and does not seek to create, alter or reduce existing zonings or reservations of land for public purposes.</p>
Direction 6.1 Residential zones	Consistent	<p>Direction 6.1 aims to encourage housing diversity, make efficient use of existing services and infrastructure and minimise the impacts of residential development on environment and resource lands.</p> <p>The Department notes that 4 of the subject sites are zoned for residential purposes.</p> <p>The proposal is consistent with this Direction because it is administrative in nature and does not seek to change the permissible residential density of the subject land.</p>
Direction 7.1 Business and Industrial Zones	Consistent	<p>Direction 7.1 aims to encourage employment growth in suitable locations, protect employment land and support the viability of identified centres.</p> <p>The Department notes that 2 of the subject sites are zoned for business and industrial purposes.</p> <p>The proposal is consistent with this Direction because it is administrative in nature. It does not seek to rezone the land or reduce potential employment floorspace.</p>
Direction 9.1 Rural Zones	Consistent	<p>Direction 9.1 aims to protect the agricultural production value of rural land.</p> <p>The proposal is consistent with this Direction because it is administrative in nature and does not seek to rezone land.</p>
Direction 9.2 Rural Lands	Consistent	<p>Direction 9.2 aims to protect the agricultural production value of rural land, facilitate the orderly development and proper management of rural land, and support the delivery of the NSW Right to Farm Policy.</p> <p>The proposal is consistent with this Direction because it is administrative in nature as it does not</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
		seek to rezone land or change any existing development standards applying to the land.

3.4 State environmental planning policies (SEPPs)

The planning proposal is not inconsistent with relevant SEPPs, as discussed in the **Table 4** below.

Table 4 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Biodiversity and Conservation) 2021	Chapter 3 Koala habitat protection 2020 applies to the planning proposal. Chapter 4 Koala habitat protection 2021 applies to the planning proposal.	Consistent	The planning proposal is not inconsistent with the Biodiversity and Conservation SEPP. Note that the proposed changes are administrative only and do not seek to facilitate any change in land use or other controls.
SEPP (Primary Production) 2021	Chapter 2 Primary production and rural development applies to the planning proposal.	Consistent	The planning proposal is not inconsistent with the Primary Production SEPP and does not include provisions which would interfere with its implementation. Note that the proposed changes are administrative only and do not seek to facilitate any change in land use or other controls.
SEPP (Transport and Infrastructure) 2021	Chapter 2 Infrastructure applies to the planning proposal.	Consistent	The planning proposal is not inconsistent with the Transport and Infrastructure SEPP. Note that the proposed changes are administrative only and do not seek to facilitate any change in land use or other controls.

4 Site-specific assessment

4.1 Environmental

The planning proposal will not result in any significant adverse environmental effects. The planning proposal is administrative in nature and does not seek to facilitate any significant change in the existing land use.

4.2 Social and economic

The planning proposal will not result in any significant negative social and economic effects. The proposed changes are administrative in nature and do not seek to facilitate any significant change in the existing land use. The proposed changes will not result in the loss of development potential or of public land. Reclassifying the subject sites to 'operational' will allow Council to renew leasing arrangements on some sites and continue using the land for Council functions.

4.3 Infrastructure

The planning proposal will not result in increased demand for public infrastructure. The proposed changes are administrative in nature and do not facilitate any significant change in land use. The reclassification of the subject sites will formalise the operational nature of their use.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days, consistent with LEP practice note PN 16-001. The exhibition period proposed is considered appropriate, and forms the conditions of the Gateway determination.

LEP practice note PN 16-001 requires a public hearing to be held in accordance with section 29 of the *Local Government Act 1993* and section 3.34(2)(e) of the *Environmental Planning and Assessment Act 1979*.

5.2 Agencies

Council does not consider agency consultation is required. This approach is supported given the minor and administrative nature of the planning proposal.

6 Timeframe

Council does not propose a time frame to complete the LEP. The Gateway determination includes a condition that the planning proposal be updated to include the project timeline, as per the LEP Making Guideline (December 2021).

Council identifies the planning proposal as 'basic' under the LEP Making Guideline (December 2021) classification scheme. The timeframe set by the Guideline for completing a basic planning proposal is 140 working days.

The Department agrees that the planning proposal is 'basic' and that a timeframe of 6 months is therefore appropriate for the proposal's scale and complexity. However, a timeframe of 6 months would likely overlap with close-down periods in December 2022 and January 2023. To account for delays caused by close-down periods and for the community consultation and public hearing, a timeframe of 9 months is recommended.

A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

Council does not request delegation to be the Local Plan-Making authority.

This is consistent with Council's resolution of 19 May 2022.

Because Council is the owner of the subject sites, the Department recommends that Council not be authorised to be 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 proposal reclassifies Council owned land as 'operational' to reflect the ongoing use, correcting a previous administrative oversight.
- The proposal is not inconsistent with the relevant plans and directions.
- The proposal is considered unlikely to cause negative environmental, social, economic or infrastructure related impacts.

Based on the assessment in this report, the proposal requires minor administrative amendments prior to exhibition.

9 Recommendation

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

1. Prior to exhibition, the planning proposal should be updated as follows:
 - Include a timeframe for project completion within 9 months, as per the LEP Making Guideline (December 2021).
 - Appendix 1 Map 4 should be updated to show the subject site.
 - Appendix 1 Map 8 should be updated to clearly show which lots are within the subject site.
 - Appendix 1 Map 15 includes Lot 39 DP753391 in the subject site, but this lot isn't listed elsewhere in the planning proposal. This inconsistency should be rectified by either adding Lot 39 to the planning proposal or removing it from the site map.
 - Appendix 1 Map 17 should be updated to show only Lot B as the subject site.
 - The listed street address for Appendix 1 Map 18 is not consistent with the address on State records. This difference should be reconciled.
2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. A public hearing is required, in accordance with section 29 of the *Local Government Act 1993* and section 3.34(2)(e) of the *Environmental Planning and Assessment Act 1979*
4. Consultation is not required with public authorities.
5. The timeframe for completing the LEP is to be 9 months from the date of the Gateway determination.
6. Council should not be authorised to be the local plan-making authority.



(Signature)

7 July 2022 (Date)

Wayne Garnsey
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Noted:



(Signature)

7 July 2022 (Date)

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