

Planning and Assessment

IRF19/5064

Gateway determination report

LGA	Glen Innes Severn
PPA	Glen Innes Severn Council
NAME	General Housekeeping Amendment No. 4
NUMBER	PP_2019_GLENI_001_00
LEP TO BE AMENDED	Glen Innes Severn Local Environmental Plan (LEP) 2012
ADDRESS	Various land parcels within Glen Innes Severn LGA
DESCRIPTION	Various land parcels within Glen Innes Severn LGA
RECEIVED	15/07/2019
FILE NO.	IRF19/5064 EF19/22653
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.

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal (**Attachment A**) seeks to undertake a housekeeping amendment to Glen Innes Severn Local Environmental Plan (LEP) 2012 to make the following changes:

- correct a minimum lot size map anomaly at Wullumulla Street, Glen Innes;
- permit dual occupancies (detached) in the RU1 Primary Production Zone;
- introduce a local provision to control the development of dual occupancies (detached) in the RU1 Primary Production Zone;
- correct the RU1 Primary Production Zone land use table by removing 'intensive plant agriculture' from permitted without consent;
- permit 'caravan parks' and 'camping grounds' with consent in the RE1 Public Recreation Zone;
- correct various errors in Schedule 5 Environmental Heritage and associated maps; and
- include an additional 15 local significant heritage items into Schedule 5 Environmental Heritage.

1.2 Site description

The proposal applies to land at Wullumulla Street, Glen Innes, Zones RU1 Primary Production and RE1 Public Recreation, and the existing / proposed heritage items identified in the planning proposal.

1.3 Existing planning controls

The existing planning controls under the Glen Innes Severn LEP 2012 that the proposal is seeking to amend are:

- no minimum lot size applies to residential land north of Wullumulla Street, Glen Innes;
- dual occupancies (detached) are currently prohibited in the RU1 Primary Production Zone;
- intensive plant agriculture is permitted with and without consent in the RU1 Primary Production Zone;
- caravan parks and camping grounds are prohibited in the RE1 Public Recreation Zone; and
- Schedule 5 Environmental Heritage.

1.4 Summary of recommendation

The planning proposal should proceed subject to conditions. The planning proposal is supported as the minor corrections and amendments will ensure an accurate and current LEP for the Glen Innes Severn Shire.

2. PROPOSAL

2.1 Objectives or intended outcomes

The planning proposal includes a clear statement confirming that it seeks to undertake various housekeeping amendments to ensure the currency and accuracy of the Glen Innes Severn LEP 2012.

2.2 Explanation of provisions

The explanation of provisions adequately addresses the intended changes to the Glen Innes Severn LEP 2012. The planning proposal seeks to:

- apply a minimum lot size (MLS) of 450m² to residential land north of Wullumulla Street, Glen Innes, by amending the MLS map;
- amend the RU1 Primary Production Zone land use table by:
 - permitting detached dual occupancies with consent;
 - omitting intensive plant agriculture from permitted without consent;
- amend the RE1 Public Recreation Zone land use table by permitting 'caravans parks' and 'camping grounds' with consent;
- insert a local provision (clause 4.2AA) to control the erection of dual occupancies (detached) in Zone RU1 Primary Production; and
- adjust heritage maps and listings to correct addresses and property descriptions, reflect appropriate significance status and introduce 15 new local heritage sites.

2.3 Mapping

The planning proposal includes current and proposed Minimum Lot Size (MLS) and Heritage (HER) maps. These are considered suitable for exhibition purposes.

An Additional Permitted Uses (APU) map will need to be prepared prior to exhibition. An explanation for this map is discussed further in the report.

Amendments to the MLS, HER and APU maps are to be prepared in accordance with the Standard Technical Requirements for Spatial Datasets and Maps prior to finalisation of the LEP.

3. NEED FOR THE PLANNING PROPOSAL

The proposal is not the result of any strategic study or strategy.

The housekeeping proposal has been prepared to ensure the effectiveness and currency of the LEP. The proposed amendments are summarised below and shown on accompanying maps in the planning proposal (**Attachment A**).

Minimum Lot Size Map Anomaly

A number of residential properties adjoining Wullumulla Street, Glen Innes, currently have no MLS (Figure 2).

A 450m² MLS is proposed to align with other surrounding residential land. This adjustment will be done through an amendment to the MLS map (Figure 3).



Figure 2: Current Minimum lot size map

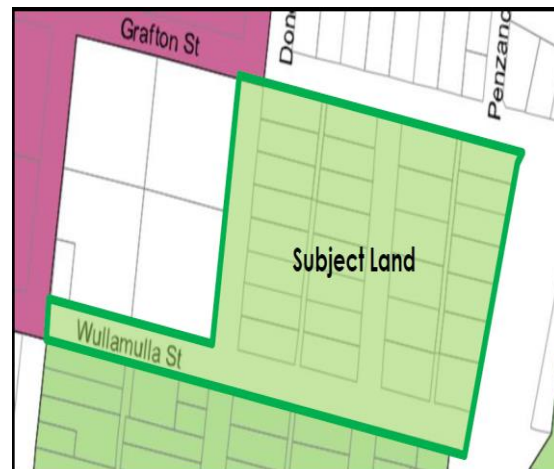


Figure 3: Proposed minimum lot size

This amendment will provide clear lot size controls for any potential future subdivision of the land consistent with other residential land in the locality.

Land Use Tables

Council has identified a number of inaccuracies or issues within the RU1 Primary Production and RE1 Public Recreation land use tables. The changes include:

- allowing detached dual occupancies with consent in the RU1 zone

Glen Innes Severn LEP 2012 currently only permits attached dual occupancies in the RU1 zone. Council is seeking to provide additional housing options by also permitting detached dual occupancies. This is considered appropriate as:

- detached dual occupancies in rural zones are unlikely to apply significant additional pressure to existing services;
- dual occupancies are required to maintain their own water supply and waste management systems, with other services often linked to the principal dwelling; and
- it will align the LEP consistent with many other adjoining LGAs which already permit detached dual occupancies in rural areas.

To help better inform the community, it is recommended that additional detail justifying this change be included in the proposal prior to consultation. Council has raised no objection and has provided an outline of the additional detail (**Attachment D**) which will be incorporated in the planning proposal.

- removing intensive plant agriculture from permitted without consent in the RU1 zone

Intensive plant agriculture is currently included in both Item 2 Permitted without consent and Item 3 Permitted with consent in the RU1 zone. This amendment will correct this error and make intensive plant agriculture permitted only with consent in the RU1 zone. This amendment is considered appropriate.

- permitting caravan parks and camping grounds with consent in the RE1 zone

Council has advised that this change is aimed only at allowing caravan parks and camping grounds at the Glen Innes Showground (which is zoned RE1). This change is not supported as it would permit caravan parks and camping grounds in the RE1 zone across the Shire and potentially diminish community access to public land.

Camping and caravans at the showground (particularly when associated with an event being held at the showground) is however considered appropriate and consistent with the historical use of the showground. It is therefore recommended that these uses be facilitated by identifying them as an additional permitted use only at the showground under Schedule 1 of the LEP. Council has confirmed that it is supportive of this option (**Attachment E**). It is recommended that the planning proposal be amended prior to consultation.

Local Provision for Detached Dual Occupancies in the RU1 Zone

The proposal seeks to insert a local provision to ensure the scale of detached dual occupancy development is compatible with the primary production potential, access, siting and land suitability. This is considered appropriate to help manage and regulate detached dual occupancies in the RU1 zone.

It is noted that Council currently includes a draft version of the local provision. As the final drafting of the clause will be undertaken by Parliamentary Counsel, it is recommended that that current clause be moved to an appendix prior to consultation to avoid any confusion by the general community in regard to the final clause.

Heritage Schedule and Maps

The proposal seeks to update Schedule 5 Environmental Heritage and the associated maps by making adjustments to property descriptions, addresses and significance. Council is also introducing 15 new local heritage items. The assessment of significance for each of these items is included in the planning proposal (**Attachment A**).

The amendment to the instrument and the maps is the most appropriate mechanism to achieve the objectives and intent of the proposal.

4. STRATEGIC ASSESSMENT

4.2 Regional

The proposal is not inconsistent with the New England North West Regional Plan 2036. The amendments are generally minor in nature and are updating the currency and accuracy of the LEP to ensure an effective local planning instrument.

4.3 Local

The proposal is not inconsistent with Council's adopted Community Strategic Plan 2013-2023 or the Department approved Glen Innes Severn Land Use Strategy 2010.

4.4 Section 9.1 Ministerial Directions

The proposal is considered to be consistent with all relevant 9.1 Directions except for the following:

1.5 Rural Lands

The proposal is inconsistent with this direction as it will permit detached dual occupancies in the RU1 Zone while not meeting all the specified requirements such as supporting farmers in exercising their right to farm. The inconsistency is considered to be of minor significance as the proposal also seeks to include a local provision which will regulate when detached dual occupancies are appropriate to help protect primary production activities.

It is noted that the planning proposal currently addresses the former section 9.1 Direction 1.5 Rural Lands. This direction has been amended to reflect the introduction of the SEPP (Primary Production and Rural Lands) 2019. It is recommended that the current discussion regarding section 9.1 Direction 1.5 Rural Lands be updated prior to consultation to reflect the recently amended direction.

Direction 4.3 Flood Prone Land

The proposal is inconsistent with this direction as it will increase the development potential of flood prone land by permitting detached dual occupancies across the RU1 zone. This inconsistency is considered to be of minor significance as the LEP already contains appropriate provisions to ensure the consideration of flood prone land during development assessment.

Direction 4.4 Planning for Bushfire Protection

Direction 4.4 Planning for Bushfire Protection is relevant as the proposal applies to land that is bush fire prone. The direction provides that the RPA must consult with the Commissioner of the NSW Rural Fire Service (RFS). Consultation with the RFS is required after a Gateway Determination is issued. Until this consultation has occurred the consistency of the proposal with the direction remains unresolved.

4.5 State environmental planning policies (SEPPs)

The proposal is considered to be consistent with all applicable SEPPs.

It is however recommended that the current discussion regarding SEPP (Rural Lands) 2008 be updated prior to consultation to reflect the new SEPP (Primary Production and Rural Development) 2019.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

No adverse social impact is considered likely to result from the housekeeping proposal. It is also considered likely that some positive social outcomes will result by increasing the potential for greater diversity in rural housing opportunities and correctly identifying and protecting known heritage items.

5.2 Environmental

No potential adverse environmental impacts have been identified from the housekeeping amendment that can't be appropriately assessed and managed at the development application stage.

5.3 Economic

No adverse economic impact is considered likely to result from the housekeeping proposal. It is also considered likely that some positive economic outcomes will result by ensuring the LEP remains accurate and effective.

6. CONSULTATION

6.1 Community

The planning proposal did not specify a public exhibition period. This proposal is consistent with the description of a low impact proposal in *A guide to preparing local environmental plans* (Department of Planning and Environment 2016) which recommends a 14 day exhibition period. This exhibition period is considered appropriate.

6.2 Agencies

It is recommended that the following agencies be consulted:

- NSW Rural Fire Service (RFS)
- Department of Planning, Industry and Environment (Environment, Energy & Science)

Consultation with the NSW RFS will be necessary to satisfy the requirements of section 9.1 Direction Planning for Bushfire Protection.

Consultation with Environment, Energy & Science is recommended to consider comments regarding development on flood prone land.

7. TIME FRAME

The planning proposal includes a project time line which suggests a completion time within six months. It is recommended that a 12 month period be granted to allow adequate time to consult with the relevant government agencies and finalise the proposal.

8. LOCAL PLAN-MAKING AUTHORITY

Council has advised that it wishes to act as the local plan-making authority for this matter. As the proposal involves only local matters and raises no issues of State or regional significance, it is considered appropriate the Council act as the local plan-making authority.

9. CONCLUSION

The housekeeping proposal is supported to ensure the accuracy and currency of the Glen Innes Severn LEP 2012 by:

- correcting a minimum lot size map anomaly to be corrected;
- updating the land use tables to correct inconsistencies and the permissibility of uses within the RU1 Primary Production zone;
- introducing a local provision to control development of dual occupancies (detached) in the RU1 zone;
- updating Schedule 1 Additional Permitted Uses to permit caravan parks and camping grounds with consent at the Glen Innes Showground;
- updating Schedule 5 Environmental Heritage and associated maps; and
- including an additional 15 local heritage items into the LEP.

10. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions 1.5 Rural Lands and 4.3 Flood Prone Land are minor or justified; and
2. note that the consistency with section 9.1 Direction 4.4 Planning for Bushfire Protection is unresolved and will require further justification.

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

1. The planning proposal is to be amended prior to consultation by:
 - (a) removing the proposed change to the RE1 Public Recreation zone land use table;
 - (b) including an amendment to Schedule 1 Additional Permitted Uses of Glen Innes Severn LEP 2012 and associated map to permit caravan parks and camping grounds with consent at the Glen Innes Showground;
 - (c) incorporating additional justification regarding the proposal to permit dual occupancies (detached) with consent in the RU1 Primary Production zone;
 - (d) updating the discussion on SEPP (Rural Lands) 2008 to SEPP (Primary Production and Rural Development) 2019;
 - (e) updating the discussion to address the amendments to section 9.1 Direction 1.5 Rural Lands associated with SEPP (Primary Production and Rural Development) 2019;

- (f) moving the proposed clause 4.2AA relating to detached dual occupancies to an appendix and retaining only a plain English explanation in the body of the planning proposal; and
 - (g) updating the timeline to reflect a 12 month timeframe.
2. The planning proposal should be made available for community consultation for a minimum of 14 days.
 3. Consultation is required with the following public authorities:
 - NSW Rural Fire Service
 - Department of Planning, Industry and Environment (Environment, Energy & Science)
 4. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
 5. Given the nature of the planning proposal, Council should be the local plan-making authority to make this plan.



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