



Planning,  
Industry &  
Environment

IRF21/3953

## Gateway determination report – PP-2021-5562

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Housekeeping Review No 5

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Table 1

Relevant report and plans
Planning Proposal PP-2021-5562
New England North West Regional Plan 2036 (NENWRP)
Glen Innes Severn Local Strategic Planning Statement (GIS LSPS)
Glen Innes Severn Rural Land Use Strategy 2010 (GIS RLUS)

Table 2 Attachments

Attachment	
A	Planning Proposal
B	Gateway determination
C	Letter to Council

# 1 Planning proposal

## 1.1 Overview

Table 3 Planning proposal details

LGA	LGA name
PPA	Glen Innes Severn Council
NAME	Housekeeping Review No 5
NUMBER	PP-2021-5562
LEP TO BE AMENDED	Glen Innes Severn Local Environmental Plan 2012 (GIS LEP)
ADDRESS	Glen Innes Severn LGA
RECEIVED	8/09/2021
FILE NO.	IRF21/3953
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

## 1.2 Objectives of planning proposal

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

The objectives of the planning proposal are to:

1. **Include** a *Riparian land and watercourses* clause provision in the GIS LEP 2012
2. **Amend** *Clause 4.2A Erection of dwelling houses and dual occupancies on land in certain rural, residential and environmental protection zones* to delete references to land being an “existing holding”.
3. **Insert** the Standard Instrument LEP *Natural Disaster Clause*, consistent with a recommendation from the Department of Planning, Industry and Environment (DPIE) to all Councils to include the clause in their respective Local Environmental Plans.
4. **Rezone** Council owned infrastructure as *SP2 Infrastructure zones* and **amend** the relevant minimum lot size.
5. **Rezone** land used for industrial purposes in Deepwater from *RU5 Village* to *IN1 Industrial* and **amend** the relevant minimum lot size.
6. **Delete** two *Urban Release Areas (URA)* from the LEP including associated mapping and Part 6 Urban Release Areas clause from the GIS LEP 2012.

It is noted that the planning proposal does not mention the amendment of the relevant minimum lot size for items 4 and 5. It is recommended that as a condition of the Gateway determination items 4 and 5 are updated to include a notation that the minimum lot size for these items will also be amended.

The objectives of this planning proposal are otherwise clear and adequate.

## 1.3 Explanation of provisions

The planning proposal seeks to amend the Glen Innes Severn LEP 2012 per the changes below:

### 1. **Insert** a new clause Riparian land and watercourses

The objective of the new clause is to protect and maintain water quality within watercourses, the stability of the bed and banks of watercourses, aquatic and riparian habitats, and ecological processes within watercourses and riparian areas.

Action 8.8 of the Glen Innes Severn Local Strategic Planning Statement (GIS LSPS) identifies this item as a short term action for Council to complete.

#### 7.3 Riparian land and watercourses

- (1) The objective of this clause is to protect and maintain the following—
  - (a) water quality within watercourses,
  - (b) the stability of the bed and banks of watercourses,
  - (c) aquatic and riparian habitats,
  - (d) ecological processes within watercourses and riparian areas.
- (2) This clause applies to all of the following—
  - (a) land identified as “Watercourse” on the Riparian Lands and Watercourses Map,
  - (b) all land that is within 40 metres of the top of the bank of each watercourse on land identified as “Watercourse” on that map.
- (3) Before determining a development application for development on land to which this clause applies, the consent authority must consider—
  - (a) whether or not the development is likely to have any adverse impact on the following—
    - (i) the water quality and flows within the watercourse,
    - (ii) aquatic and riparian species, habitats and ecosystems of the watercourse,
    - (iii) the stability of the bed and banks of the watercourse,
    - (iv) the free passage of fish and other aquatic organisms within or along the watercourse,
    - (v) any future rehabilitation of the watercourse and riparian areas, and
  - (b) whether or not the development is likely to increase water extraction from the watercourse, and
  - (c) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.
- (4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—
  - (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or
  - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
  - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

It is recognised the final clause will be drafted by Parliamentary Counsel to ensure it is legally consistent with the intent of the proposal and the GIS LEP.

### 2. **Amend** Clause 4.2A Erection of dwelling houses and dual occupancies on land in certain rural, residential, and environmental protection zones, to delete references to land being an “existing holding”.

Dwelling Opportunity Maps were introduced into the GIS LEP in 2012. An existing holding provision and definition was included in the GIS LEP 2012 as council’s previous planning

controls contained a provision for the erection of dwellings on an existing holding that related to land ownership being held at 31 October 1975. Council did not choose to sunset this provision within a specified time period, instead utilising Dwelling Entitlement Mapping.

Council identified unused dwelling entitlements via a review of Council's rates records of land holdings as at the 'appointed day' (31 October 1975); and from land held in rural subdivisions created prior to the gazettal of the former Severn LEP in 1991. Dwelling Entitlement Maps are considered to be efficient way of identifying such land holdings and can be amended if required to include any further unmapped entitlements once they are verified.

There is therefore no planning need to retain subclause 4.2A(3)(d) or 4.2A(5) referring to existing holdings in the GIS LEP.

Clause 4.2A is reproduced below with proposed changes highlighted in red, however it is recognised the final clause will be drafted by Parliamentary Counsel to ensure it is legally consistent with the intent of the proposal and the GIS LEP.

#### 4.2A Erection of dwelling houses and dual occupancies (attached) on land in certain rural, residential, and environmental protection zones

- (1) The objectives of this clause are as follows—
  - (a) to minimise unplanned rural residential development,
  - (b) to enable the replacement of certain lawfully erected dwelling houses and dual occupancies (attached) in certain rural, residential and environmental protection zones.
- (2) This clause applies to land in the following zones—
  - (a) Zone RU1 Primary Production,
  - (b) Zone R5 Large Lot Residential,
  - (c) Zone E3 Environmental Management.
- (3) Development consent must not be granted for the erection of a dwelling house or dual occupancy (attached) on land in a zone to which this clause applies, and on which no dwelling house or dual occupancy (attached) has been erected, unless the land—
  - (a) is a lot that is at least the minimum lot size specified for that land by the Lot Size Map, or
  - (b) is a lot created before this Plan commenced and on which the erection of a dwelling house or dual occupancy (attached) was permissible immediately before that commencement, or
  - (c) is a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dwelling house or dual occupancy (attached) would have been permissible if the plan of subdivision had been registered before that commencement, or
  - (d) is an existing holding, or
  - (e) is within a lot identified as "Dwelling Opportunity" on the Dwelling Opportunity Map, or
  - (f) would have been a lot or a holding referred to in paragraphs (a)–(d), had it not been affected by—
    - (i) a minor realignment of its boundaries that did not create an additional lot, or
    - (ii) a subdivision creating or widening a public road or public reserve or for another public purpose.

Note—

A dwelling cannot be erected on a lot created under clause 9 of State Environmental Planning Policy (Rural Lands) 2008 or clause 4.2.

- (4) Development consent may be granted for development to which this clause applies if there is a lawfully erected dwelling house or dual occupancy (attached) on the land

and the dwelling house or dual occupancy (attached) to be erected is intended only to replace the existing dwelling house or dual occupancy (attached).

(5) In this clause—

**existing holding** means land that—

- (a) was a holding on 31 October 1975, and
- (b) is a holding at the time the application for development consent referred to in subclause (3) is lodged, whether or not there has been a change in the ownership of the holding since 31 October 1975.

**holding** means all adjoining land, even if separated by a road or railway, held by the same person or persons.

Note—

The owner in whose ownership all the land is at the time the application is lodged need not be the same person as the owner in whose ownership all the land was on the stated date.

It is recognised the final clause will be drafted by Parliamentary Counsel to ensure it is legally consistent with the intent of the proposal and the GIS LEP.

### 3. **Insert** the Standard Instrument LEP Natural Disaster Clause as follows:

#### 5.9 Dwelling house or secondary dwelling affected by natural disaster.

- (1) The objective of this clause is to enable the repair or replacement of lawfully erected dwelling houses and secondary dwellings that have been damaged or destroyed by a natural disaster.
- (2) This clause applies to land in the following zones—
  - (a) RU1 Primary Production
  - (b) RU5 Village
  - (c) R1 General Residential
  - (d) R2 Low Density Residential
  - (e) R5 Large Lot Residential
  - (f) B4 Mixed Use
  - (g) E3 Environmental Management
- (3) Despite any other provision of this Plan, development consent may be granted to development on land to which this clause applies to enable a dwelling house or secondary dwelling that has been damaged or destroyed by a natural disaster to be repaired or replaced if—
  - (a) the dwelling house or secondary dwelling was lawfully erected, and
  - (b) the development application seeking the development consent is made to the consent authority no later than 5 years after the day on which the natural disaster caused the damage or destruction.

On 23 June 2021, the NSW Government introduced a new provision to give councils the flexibility they need to make it easier for homeowners to rebuild or repair their homes after a natural disaster. Councils can now use an optional clause in the Standard Instrument (Local Environmental Plans) Order that gives them the flexibility to help homeowners rebuild after a natural disaster.

### 4. **Rezone** Council owned infrastructure to an appropriate SP2 Infrastructure zone and **amend** the associated minimum lot size as follows:

Table 4 Item 4 rezoning items

	Name	Address	Lot / DP	Rezone From / To	MLS From / To
1	Glen Innes Water Treatment Plant	59 Watsons Drive Glen Innes 2370	Part of Lot 515 DP753282	RE1 to SP2	NA
2	Glen Innes Sewage Treatment Plant	299 New England Highway Glen Innes 2370	Lot 221 DP1174923  Note – the maps in the PP are only showing part of Lot 221.	RU1 to SP2	40ha to no category
<i>Note – the maps in the PP are only showing part of Lot 221 DP1174923. The description will need to be amended or, if the entire lot is to be rezoned and the minimum lot size amended, then the maps should be amended to include the entire lot.</i>					
3	Deepwater Landfill Facility	46 Deepwater Tip Road Deepwater 2371	Lot 306 DP753323	RU1 to SP2	100ha to no category
4	Deepwater Water Treatment Plan	25 Carl Baer Circuit Deepwater 2371	Lot 3 DP1176546 Lot 2 DP542366	RU1 to SP2 RU5 to SP2	40ha to no category 500m <sup>2</sup> to no category
5	Deepwater Sewage Treatment Plan	7 Carl Baer Circuit Deepwater 2371	Lot 1 DP397297	RU1 to SP2	300ha to no category
6	Red Range Waste Transfer Facility	75 Red Range Tip Road Red Range 2370	Lot 280 DP861283	RU1 to SP2	500m <sup>2</sup> to no category

It is noted that Action 6.5 of the GIS LSPS identified a review of Council's infrastructure assets to ensure they are appropriately identified and zoned.

5. **Rezone** the Deepwater Industrial Estate to an appropriate zone and **amend** the associated minimum lot size.

Name	Address	Lot / DP	Rezone From / To	MLS From / To
Deepwater Industrial Area	29 Carl Bear Circuit, Deepwater 2371	Lots 1 & 2 DP1176546 Lots 1 to 10 DP1077598 Lot 13 DP1077598 Lot 11 DP1172142	RU5 to IN1	500m <sup>2</sup> to no category

The Glen Innes Severn Land Use Strategy 2010 (GISLUS), endorsed by the Department on 17 June 2010, identifies the Deepwater industrial zone as appropriate to be rezoned to the appropriate general industrial zone.

It is noted that the planning proposal is also intending to amend the minimum lot size of the item 5 as well as the zoning. Accordingly, as a condition of the Gateway determination the relevant item 5 is to be updated to include the minimum lot size for these items.

6. **Remove** two URAs from the GIS LEP (Figure 1) by deleting the Urban Release Area Map and corresponding Part 6 Urban release areas from the GIS LEP 2012. Neither URA requires state infrastructure provision or upgrading as the areas have been given consent for urban development with appropriate infrastructure being provided.

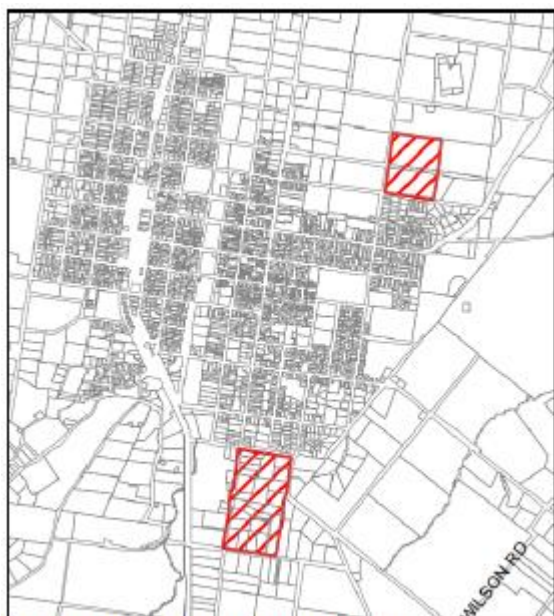


Figure 1 – Glen Innes Urban Release Areas  
Source: Planning Proposal

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved. However, it is recommended as a condition of the Gateway determination that some content is updated prior to agency and community consultation, as follows:

- Amend Item 1 to number the proposed clause as 7.2A, or the next available number 7.7, removing references to the proposed renumbering of clauses 7.3-7.6;
- Amend Item 4 No. 2, Glen Innes Sewage Treatment Plant, to read 'Part of Lot 221 DP1174923', or, if the entire lot is to be rezoned and the minimum lot size amended, then the maps should be amended to include the entire lot;
- Amend Item 4 No. 3, Deepwater Landfill Facility, to remove the reference RU1 on the proposed map;
- Amend the maps and description for Item 4 Nos. 4 & 5, Deepwater Water & Sewage Treatment Plants, from R5 Village to read RU5 Village; and remove IN1 from the proposed map;
- Amend Items 4 and 5 to include the relevant associated minimum lot size (MLS) changes in sections 1.2 and 2.1;
- Include a statement acknowledging that final drafting for all proposed clauses will be subject to legal opinion to recognise the clauses as proposed may not be as reflected within the final LEP; and
- Nominate the reasons that the urban release areas are proposed to be removed, as per the report to the Ordinary Meeting of Council on 22 July 2021.

## 1.4 Site description and surrounding area

The planning proposal Items 1, 2 and 3 apply across the entire Glen Innes Severn LGA. Item 6 of the planning proposal is proposing to remove the two Urban Release Areas (URA) from the GIS LEP 2012.

Item 4 is rezoning and amending the MLS for six Council infrastructure items as described in Table 4. Item 5 is rezoning and amending the Deepwater industrial area. A site description of the individual items is described further below.

Item 4 No. 1 – Glen Innes water treatment plant (Figure 2) is located to the east of Glen Innes. There are limited residential dwellings, to the north west of the site. The Centennial Parklands and Glen Innes Standing Stones, the national monument to Celtic people past and present, are to the

north; Martins Lookout is to the south; and to the east the area is predominantly grazing farmland that is cleared land. The perimeter of the water treatment plant has a chain wire fence and has vegetation along the fenceline.



Figure 2 – Glen Innes Water Treatment Plant  
Source: NearMap

*Item 4 No. 2 – Glen Innes sewage treatment plant*, Lot 221 DP 1174923, (Figure 3) is located approximately 3km to the north of Glen Innes on the New England Highway, is approximately 26.5ha, and is surrounded by open grazing farmland.



Figure 3 – Glen Innes Sewage Treatment Plant location  
Source: NearMap

Item 4 No. 3 – Deepwater landfill facility, Lot 306 DP753323, is approximately 5km north west of Deepwater (Figure 4). Deepwater is approximately 42km north of Glen Innes. The lot is approximately 5.5ha and immediately surrounded by open bushland. There are scattered farms within 0.5km of the facility, otherwise the surrounding area is open grazing farmland with scattered vegetation.



Figure 4 – Deepwater Landfill Facility location  
Source: NearMap

Item 4 No. 4 – Deepwater water treatment plant, Lot 3 DP1176546 & Lot 2 DP542366; and Item 4 No. 5 – Deepwater sewage treatment plant, Lot 1 DP937297; are located north west of Deepwater CBD. The Deepwater River runs along the western boundaries; and the industrial area is to the east of Lot 3 DP1176546.

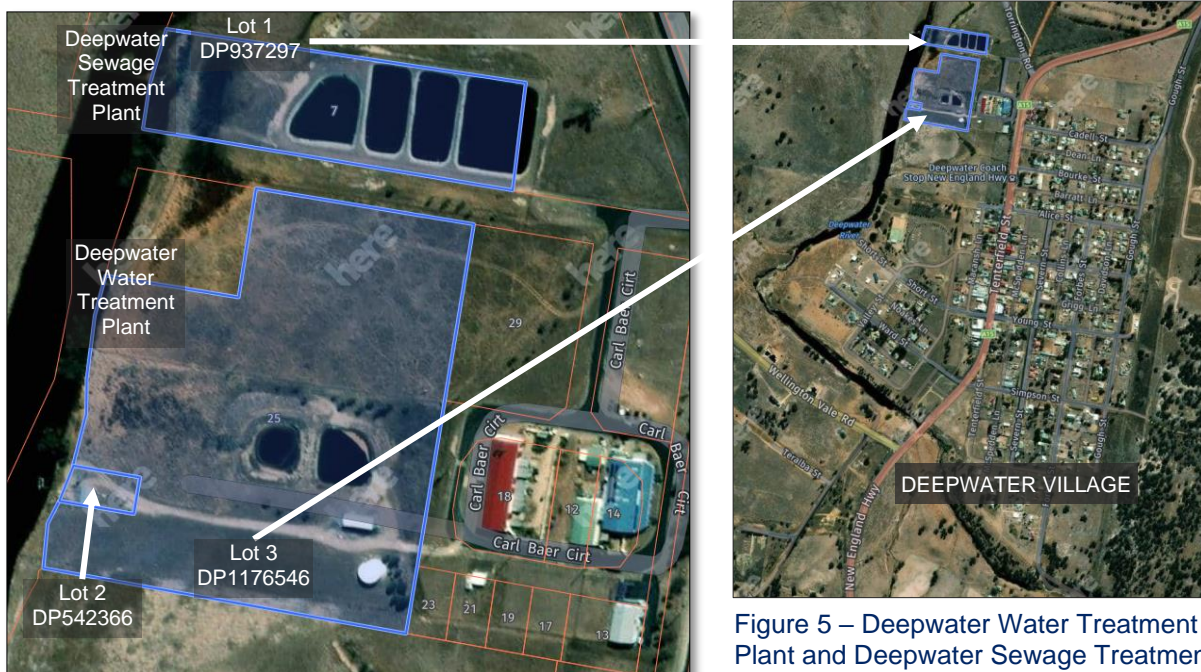


Figure 5 – Deepwater Water Treatment Plant and Deepwater Sewage Treatment Plant  
Source: NearMap

Item 4 No. 6 Red Range Waste Transfer Facility, Lot 280 DP861283, is located approximately 3.4km south west of Red Range village and is approximately 3ha. The surrounding area is open grazing farmland with scattered trees.



Figure 6 – Red Range Waste Transfer Facility  
Source: NearMap

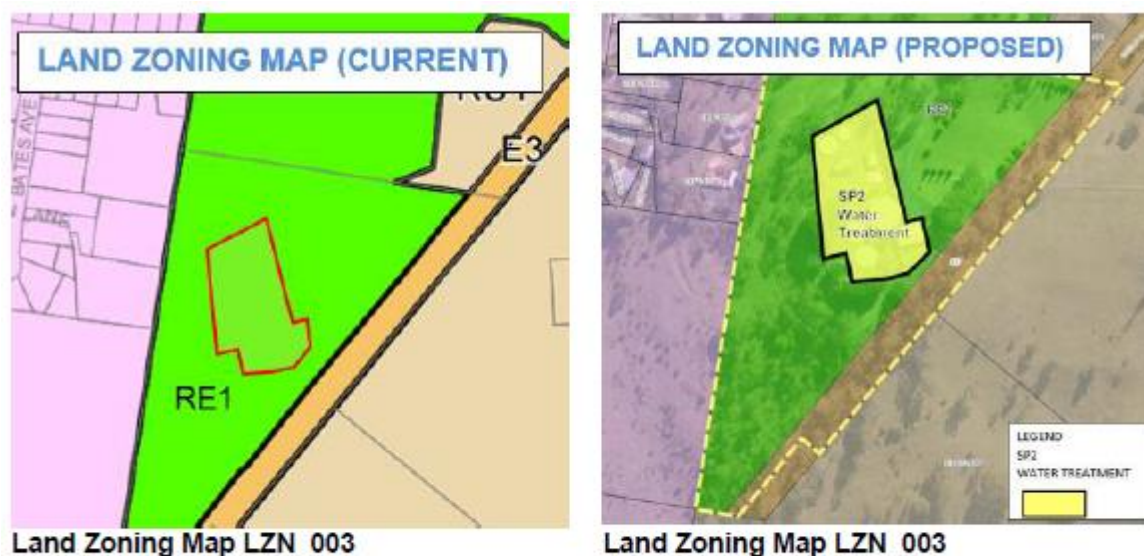
Item 5 Deepwater Industrial Area is a group of 14 lots (Figure 7). The area is approximately 3ha in size; is to the north of the Deepwater village, adjacent to the New England Highway; and is a mix of vacant lots and a few that have been developed. The Deepwater sewage and water treatment areas are located west of the site and a pub and café are on the opposite side of the New England Highway.



Figure 7 – Deepwater Village Proposed Industrial Area  
Source: NearMap

## 1.5 Existing Planning Controls

*Item 4 No. 1 – Glen Innes water treatment plant*, part of Lot 515 DP753282 is proposed to be rezoned from RE1 Public Recreation to SP2 Infrastructure (Water Treatment), approximately 1ha of the lot, where the water treatment plant is located (Figure 8).

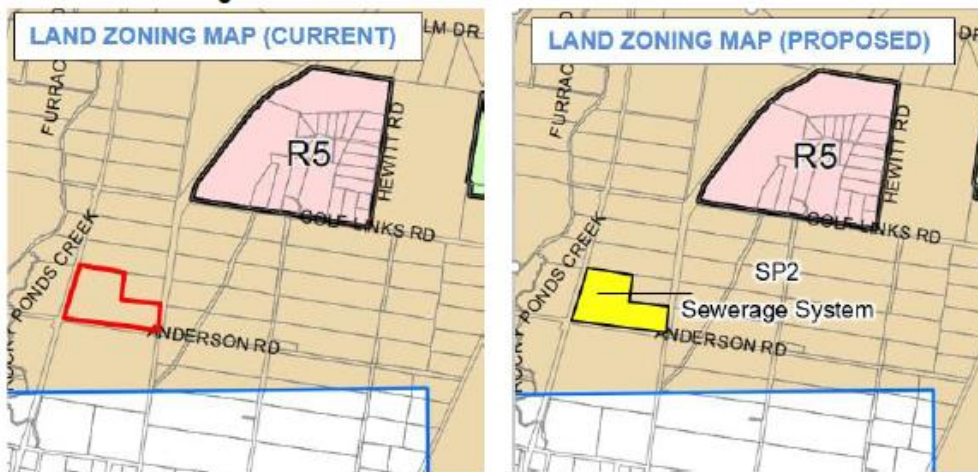


Amend the zone from RE1 Public Recreation to SP2 Infrastructure as shown below and add annotation "SP2 Water Treatment".

Figure 8 – Glen Innes Water Treatment Plant  
Current and proposed land zoning  
Source: Planning Proposal

*Item 4 No. 2 – Glen Innes sewage treatment plant*, Lot 221 DP1174923 is proposed to be rezoned from RU1 Primary Production to SP2 Infrastructure (Sewerage System) and the minimum lot size amended from the 40ha to no category (Figure 9). The lot has potential high environmental value land (HEV) and biophysical strategic agricultural land (BSAL) (Figure 10).

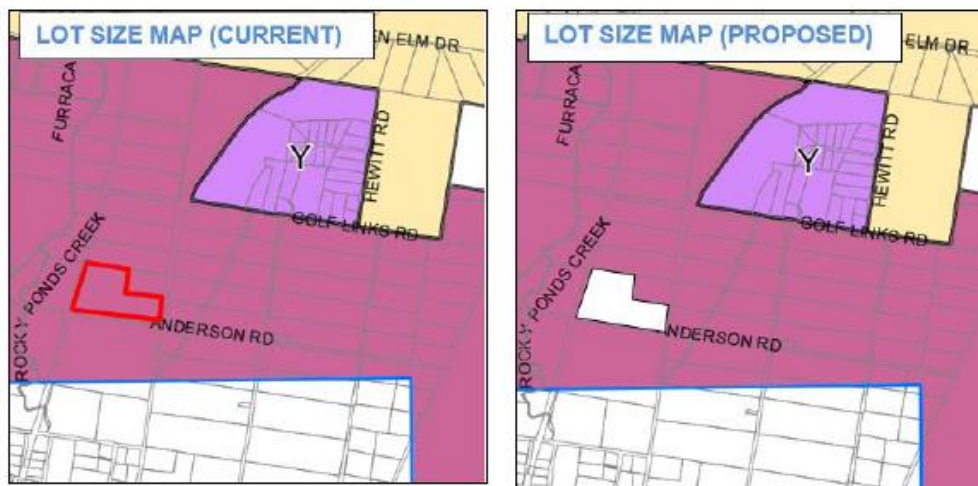
It is noted the maps in the planning proposal are only showing part of Lot 221 DP1174923. It is recommended that as a condition of the Gateway determination that the description or the maps will need to be amended prior to community and agency consultation.



Land Zoning Map LZN\_003

Land Zoning Map LZN\_003

Amend the Zone from RU1 Primary Production to SP2 Infrastructure, add annotation "SP2 Sewerage System".



Lot Size Map LSZ\_003

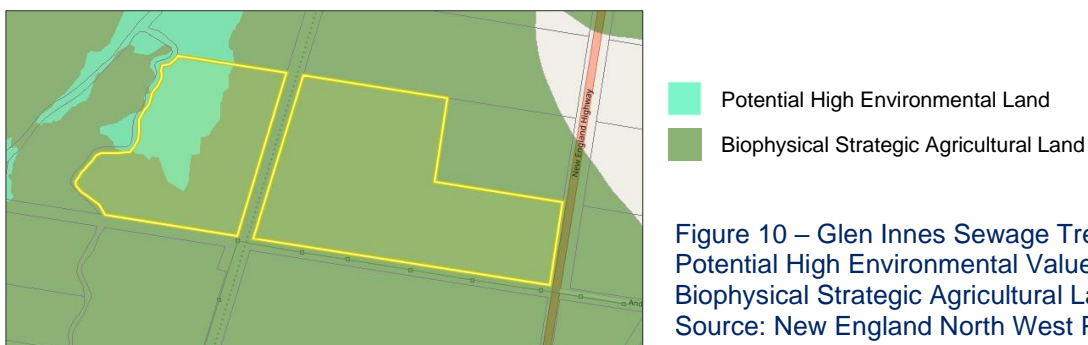
Lot Size Map LSZ\_003

Amend the minimum subdivision lot size from Category AB 40 ha to no category.

Figure 9 – Glen Innes Sewage Treatment Plant  
Current and proposed land zoning and minimum lot size

Source: Planning Proposal

Note – the PP is only showing part of Lot 221 DP1174923, as shown above. Either the description or maps will be required to be updated prior to community and agency consultation



- Potential High Environmental Land
- Biophysical Strategic Agricultural Land

Figure 10 – Glen Innes Sewage Treatment Plant  
Potential High Environmental Value Land and  
Biophysical Strategic Agricultural Land  
Source: New England North West Plan 2036

*Item 4 No. 3 – Deepwater landfill facility*, Lot 306 DP753323 is proposed to be rezoned from RU1 Primary Production to SP2 Infrastructure (Landfill) and the minimum lot size amended from 100ha to no category (Figure 11). The lot has a couple of areas of HEV land (Figure 12).



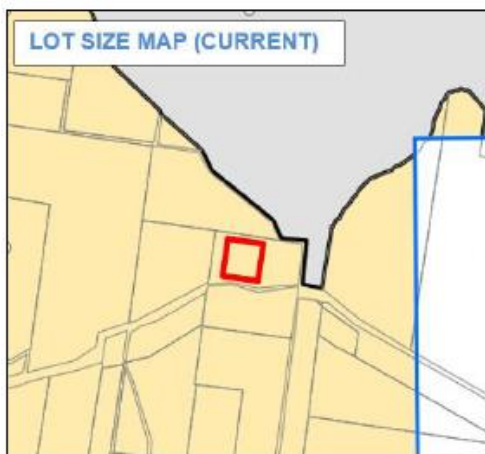
Land Zone Map LSZ\_002



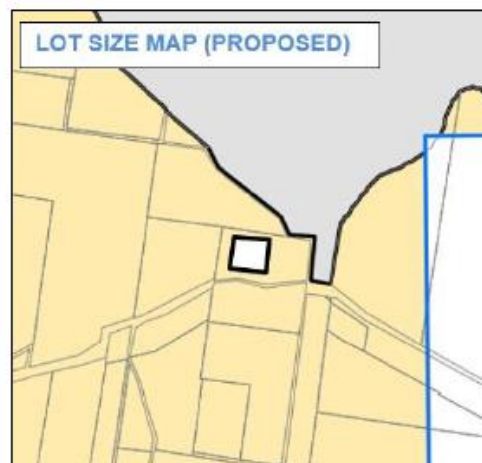
Land Zone Map LSZ\_002

Amend from RU1 Primary Production to SP2 Landfill Facility.

Amend the Zone from RU1 Primary Production to SP2 Infrastructure 'Landfill'.



Lot Size Map LSZ\_002

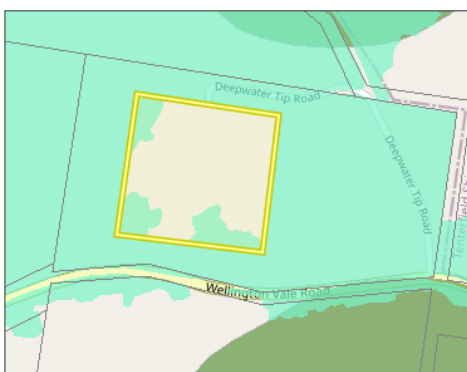


Lot Size Map LSZ\_002

Amend from Category AD (100 hectares) to No Category.

Figure 11 – Deepwater Landfill Facility  
Current and proposed land zoning and minimum lot size

Source: Planning Proposal



Potential High Environmental Land

Figure 12 – Deepwater Landfill Facility  
Potential High Environmental Value Land  
Source: New England North West Plan 2036

*Item 4 No. 4 – Deepwater water treatment plant*, Lot 3 DP1176546 & Lot 2 DP542366 are proposed to be rezoned from RU1 Primary Production to SP2 Infrastructure (Water Treatment); and

*Item 4 No. 5 – Deepwater sewage treatment plant*, Lot 1 DP937297 is proposed to be rezoned from RU1 Primary Production and RU5 Village to SP2 Infrastructure (Sewerage System).

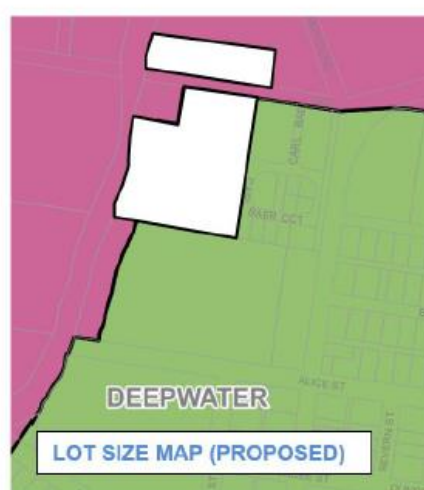
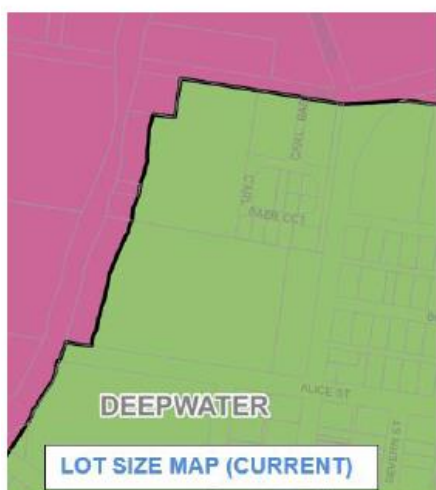


Land Zone Map LZN\_002D

Land Zone Map LZN\_002D

Amend the zones from part RU1 Primary Production and part RU5 Village to SP2 Infrastructure. Add annotation "SP2 Water Treatment" and "SP2 Sewerage Management".

Refer Item 5 Deepwater Industrial Area rezone from RU5 Village to IN1 General Industrial



Lot Size Map LSZ\_002D

Lot Size Map LSZ\_002D

Amend the lands proposed to be rezoned from the Category AB 40 ha and Category I 500m<sup>2</sup> to No Category.

Figure 13 – Deepwater Water Treatment Plant and Deepwater Sewage Treatment Plant  
Current and proposed land zoning and minimum lot size

Source: Planning Proposal (amended)

*Item 4 No. 6 Red Range Waste Transfer Facility*, Lot 280 DP861283 is proposed to be rezoned from RU1 Primary Production to SP2 Infrastructure (Waste Transfer Facility).



Lot Zone Map LZN\_003C

Lot Zone Map LZN\_003C

Amend from RU1 Primary Production to SP2 Infrastructure, add annotation "SP2 Waste Management".



Lot Size Map LSZ\_003C

Lot Size Map LSZ\_003C

Amend from the Category AE 300 ha to No Category.

Figure 8 – Red Range Waste Transfer Facility  
Current and proposed land zoning and minimum lot size  
Source: Planning Proposal

*Item 5* of the planning proposal is proposing to rezone 14 lots used for industrial purposes in the Deepwater village from RU5 Village to IN1 General Industrial and amend the minimum lot size from 500m<sup>2</sup> to no category (Figure 14).

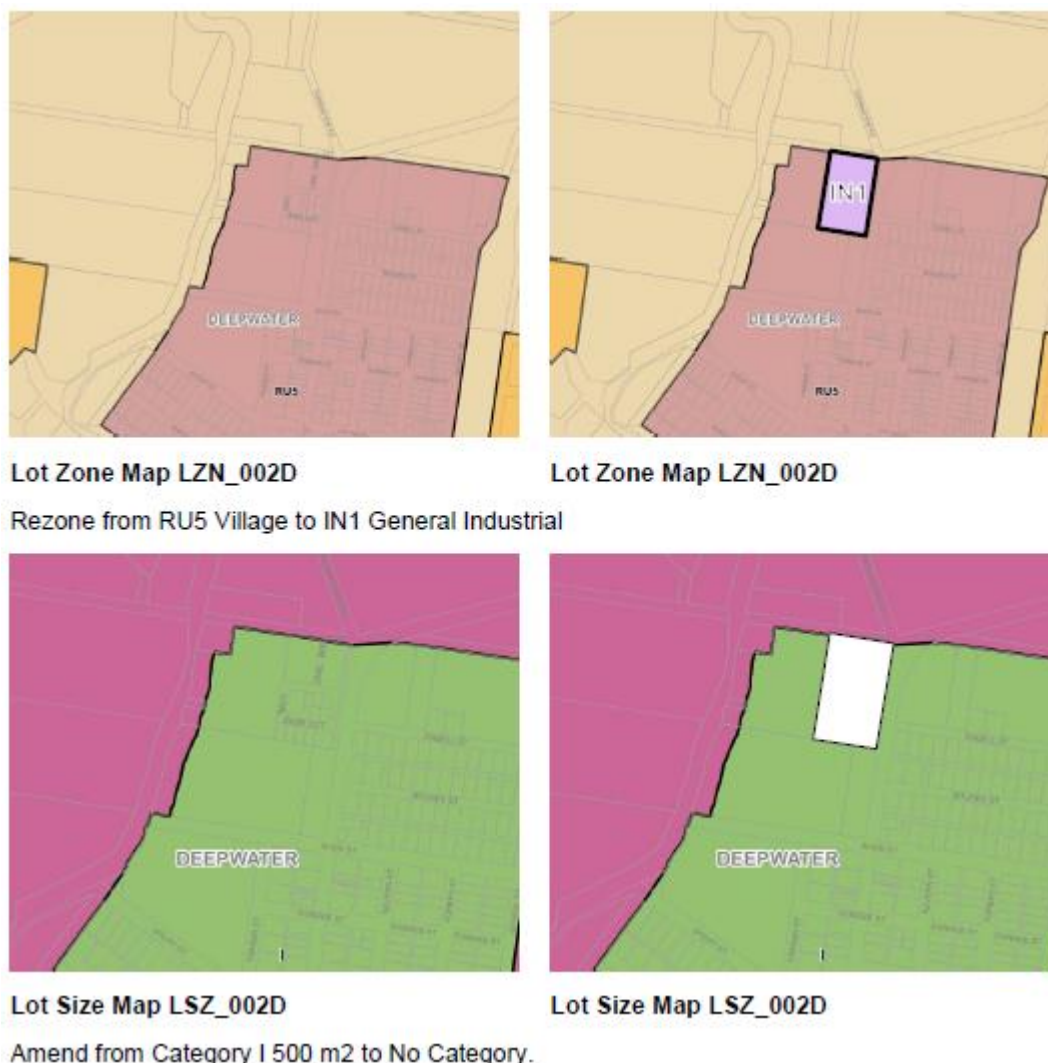


Figure 14 – Deepwater Village Proposed Industrial Area  
Current and proposed land zoning and minimum lot size  
Source: Planning Proposal

## 1.6 Mapping

The planning proposal is proposing to amend the Land Zone and Minimum Lot Size maps and includes maps showing the current and proposed changes which are suitable for community consultation.

As noted above, it is recommended as a condition of the Gateway determination that the maps included in the planning proposal for Item 4 Nos. 4 & 5, Deepwater Water & Sewage Treatment Plants, references to R5 Village on the maps are to be amended to read RU5 Village prior to agency and community consultation.

Maps consistent with the Standard Technical Requirements will need to be prepared before the making of the LEP amendment.

## 2 Need for the planning proposal

The planning proposal is in part a result of actions from the Glen Innes Local Strategic Planning Statement (GIS LSPS); and the Glen Innes Rural Land Use Strategy 2010 (GIS RLUS), approved by the Department on 17 June 2010.

Item 1 is a result of LSPS Action 8.8: Review the LEP and associated map overlays to include Additional Local Provisions to ensure the LEP managed riparian areas, water catchment areas and ground water sources avoid potential development impacts. The map overlay has been prepared by the Biodiversity and Conservation Division of DPIE. This was identified as a short term action in the LSPS.

Item 2 is a general housekeeping LEP amendment to amend Clause 4.2A and is not a result of a strategic study or report.

Item 3 is a result of notice from the Department of Planning, Industry and Environment (DPIE) to all Councils that the optional Standard Instrument LEP *Natural Disaster Clause* can be included Council's Local Environmental Plan.

Item 4 is a result of the GIS LSPS Action 6.5 Review Council's infrastructure assets to ensure they are appropriately identified and zoned.

Item 5 is a result of the GIS RLUS where the Deepwater industrial zone is identified to be rezoned to the appropriate general industrial zone. The intention of this rezoning is to differentiate between the mix of uses permissible in the RU5 Village zone and the existing industrial uses within the industrial precinct described below.

Light industries are the only type of industry that are permissible with consent in the RU5 zone, whereas general industries and light industries are permissible with consent in the IN1 zone. This will increase the range of permissible industrial land uses that can be carried out in the Deepwater Industrial Area and will have no effect on the permissible land uses in the RU5 zone.

Item 6 is a general housekeeping LEP amendment removing two URAs from the LEP and is not a result of a strategic study or report.

The report to Council on 22 July, 2021 indicates that the Hunter Street URA has now been rezoned to residential land and a development application has been received for the development of the land into 106 residential lots. The planning proposal advises that consent with appropriate infrastructure has been provided.

The Glen Legh Road URA is considered by Council to be too difficult to pursue as it involves the agreement of multiple land holders and would be unlikely to allow any orderly residential development in the future.

It is understood that these URAs were nominated by Council, and neither area requires the provision of State infrastructure. As such, it is considered reasonable that Council be permitted to amend the LEP to remove the relevant provisions.

## 3 Strategic assessment

### 3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the New England North West Regional Plan 2036 (NENWRP).

Table 5 Regional Plan assessment

Regional Plan Objectives	Justification
Direction 3: Protect and enhance	The planning proposal is inconsistent with this direction as it is rezoning RU1 Primary production lands to SP2 Infrastructure. These sites all contain Council

Regional Plan Objectives	Justification
Productive agricultural lands	<p>infrastructure such as waste, landfill, water or sewage treatment plants. The sites are not currently used for agricultural purposes and have no potential to be used for agricultural purposes, the rezoning appropriately reflecting their current and future long term uses.</p> <p>It is also noted that Item 4 No. 2 – Glen Innes sewage treatment plant, Lot 221 DP1174923, is identified as having BSAL in the NENWRP. The subject lot is not agriculturally viable as noted above.</p> <p>The inconsistency is considered to be of minor significance as the lots identified in the planning proposal for rezoning from RU1 are not currently viable agricultural land, nor do they have the potential to become agriculturally viable. The SP2 Infrastructure zone is more appropriate in line with current and future land uses.</p>
Direction 6: Deliver new industries of the future	The planning proposal is consistent with this direction. Item 5, the Deepwater industrial area proposed rezoning to IN1 General Industry will provide clear planning direction for industry, minimising land use conflict with the residential village.
Direction 7: Build strong economic centres	The planning proposal is consistent with this direction, and in particular Item 5 the Deepwater industrial area with Action 7.5 Promote an appropriate mix of land uses and prevent the encroachment of sensitive uses on employment land through local planning controls; and Action 7.6 Deliver an adequate supply of employment land through local growth management strategies and local environmental plans. The Deepwater industrial area proposed rezoning to IN1 General Industry, identified in the GIS RLUS, will provide clear planning direction for industry, minimising land use conflict with the residential village.
Direction 10: Sustainably manage and conserve water resources	The planning proposal is consistent with this direction, and in particular Item 1 of the planning proposal which proposes to introduce a clause and a map overlay to help enhance, preserve, and protect riparian land and watercourses. The Department of Biodiversity and Conservation (DPIE) prepared the map overlay.
Direction 11: Protect areas of potential high environmental value	<p>The planning proposal is not inconsistent with this direction.</p> <p>Item 4 No. 2 – Glen Innes sewage treatment plant, Lot 221 DP1174923; and Item 4 No. 3 – Deepwater landfill facility, Lot 306 DP753323; both lots have areas of HEV and are being rezoned to SP2 Infrastructure. Both lots are long term Council infrastructure sites, are cleared land, and have little or no potential to contain any HEV land.</p> <p>Item 1 which introduces a clause and map overlay to help enhance, preserve, and protect riparian land and watercourses, is consistent with this direction.</p>

## 3.2 Local

The proposal states that it is consistent with Community Strategic Plan 2013-2023, and the Glen Innes Severn Economic Development Strategy 2012 – 2017. It is also consistent with the following local plans and endorsed strategies, strategic direction and objectives, as stated in the table below:

Table 6 Local strategic planning assessment

Local Strategies	Justification
Glen Innes Severn Local Strategic Planning Statement	<p>The planning proposal is not inconsistent with the GIS LSPS and in particular is consistent with:</p> <p>Action 6.5 Review LEP zoning of land where Council's Infrastructure assets are located e.g. Water Treatment Plant, to ensure they are appropriately identified for 'special purpose' activities, which is a short term.</p> <p>Action 8.8 Review the LEP and associated map overlays to include Additional Local Provisions to ensure the LEP managed riparian areas, water catchment areas and ground water sources to avoid potential development impacts, which was a short term action.</p>
Glen Innes Severn Rural Land Use Strategy 2010	<p>The planning proposal is consistent with the GIS RLUS, and in particular 5.2.5 Industry, 9 (a) Zone land currently under the Glen Innes LEP 1991 4 Industrial Zone <u>and the industrial area in Deepwater currently zoned 2(v) Village</u> under the Severn LEP 2002 to an appropriate general industrial zone under the new LEP. The GIS RLUS was endorsed by the former Department of Planning on 17 June 2010.</p>

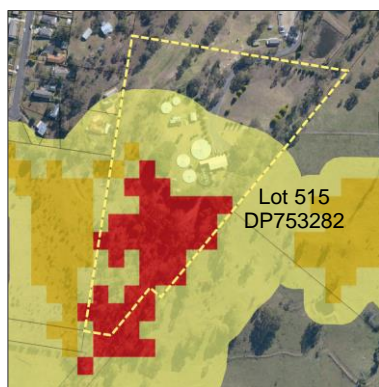
### 3.3 Section 9.1 Ministerial Directions

The planning proposal is consistent with relevant section 9.1 Directions except for the following as discussed below.

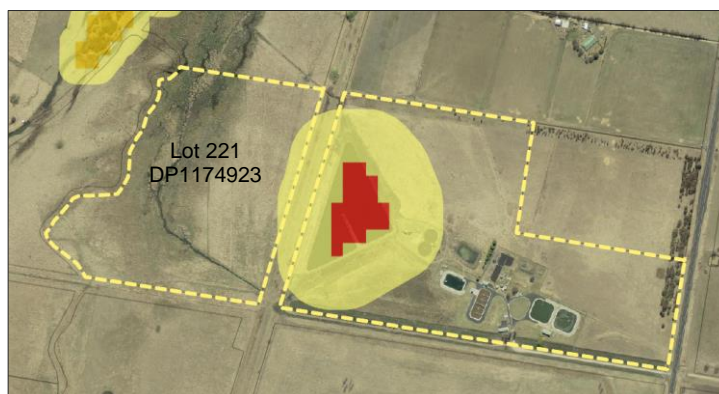
Table 7 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.3 Mining, Petroleum Production and Extractive Industries	Justifiably Inconsistent	<p>This proposal is inconsistent with this Direction as it will prohibit the mining of coal or other minerals or winning or obtaining of extractive material by changing the zoning of various lots from RU1 to SP2. The inconsistency is considered to be of minor significance as these sites all contain Council infrastructure such as waste, landfill, water or sewage treatment plants, and not likely to be able to be used for mining, petroleum production or extractive industries. However, it is recommended that consultation is undertaken with Mining, Exploration and Geoscience to confirm the suitability of the proposal.</p>
1.5 Rural Lands	Justifiably Inconsistent	<p>The planning proposal is inconsistent with this Direction as it affects land that is within a rural zone and is unable to satisfy all the requirements of the direction. Items 4 and 5 are rezoning RU1 Primary Production land and reducing the minimum lot size to zero. Item 4 No. 2 has BSAL and HEV and Item 4 No. 3 has HEV identified lands.</p> <p>The sites are not currently viable agricultural land and are long term sites for Council infrastructure such as waste, landfill, water or sewage treatment plants. The GIS LSPS also identifies the relevant sites via Action 6.5 as noted above in Section 3.2. The inconsistency with this Direction is therefore considered to be of minor significance.</p>
3.2 Caravan Parks and Manufactured Home Estates	Justifiably Inconsistent	<p>The planning proposal is inconsistent with this Direction as it is rezoning RU1 Primary Production land that currently permits caravan parks with development consent. The sites that are being rezoned to SP2 Infrastructure are Council owned and have no potential to be used for</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
		caravan parks. The inconsistency with this Direction is considered to be of minor significance.
4.4 Planning for Bushfire Protection	Inconsistent	The planning proposal is inconsistent with this Direction as various lots identified in the proposal have identified bushfire prone land (Figure 16).  The Direction provides that the Council must consult with the Commissioner of the NSW Rural Fire Service (RFS) following the issue of a Gateway determination and prior to community consultation. Until consultation has occurred the inconsistency with the Direction is unresolved.
5.10 Implementation of Regional Plans	Justifiably Inconsistent	The planning proposal is inconsistent with the NENWRP Direction 3: Protect and enhance productive agricultural lands, as it is rezoning RU1 Primary Production lots to SP2 Infrastructure. As discussed above in Table 5 the inconsistency is considered to be of minor significance.
6.2 Reserving Land for Public Purposes	Justifiably Inconsistent	The planning proposal is inconsistent with this Direction as it is rezoning part of Lot 515 DP753282 (Item 4 No. 1) from RE1 Public Recreation, thereby reducing the land that is reserved for public purposes. The inconsistency with this Direction is considered to be of minor significance as the part of Lot 515 being rezoned is the Glen Innes Water Treatment Plant and does not have public access nor is it currently utilised as a public open space.



Item 4 No 1 – Glen Innes Water Treatment Plant



Item 4 No 2 – Glen Innes Sewage Treatment Plant



Item 4 No 3 – Deepwater Landfill Facility

#### Bushfire Prone Land

- Vegetation Category 1
- Vegetation Category 2
- Vegetation Category 3
- Vegetation Buffer

Figure 15 – Bushfire Prone Land  
Source: ePlanning Spatial Viewer

## 3.4 State environmental planning policies (SEPPs)

The planning proposal is considered to be consistent with all relevant SEPPs.

# 4 Site-specific assessment

## 4.1 Environmental

The planning proposal is proposing to insert a new clause to help protect the riparian land and watercourses of the GIS LGA, thereby enhancing environmental protection mechanisms and considerations. The primary objectives of the proposed clause are to protect and maintain the water quality within watercourses; the stability of the bed and banks of watercourses; aquatic and riparian habitats; and ecological processes within watercourses and riparian areas; identified on a Riparian Lands and Watercourses Map and all land within 40m of identified watercourses. The proposed clause will also provide heads of consideration for all development applications on land to which the clause applies.

## 4.2 Social and economic

The planning proposal is promoting social and economic benefits to the community by:

- Enhancing the environmental protections for water quality and responsible watercourse management in the LGA;
- Implementing the Natural Disaster clause enabling the repair or replacement of lawfully erected dwelling houses and secondary dwellings that have been damaged or destroyed by a natural disaster; and
- Introducing the IN1 General Industrial zone for the Deepwater Village providing clarity around the permissible industrial land uses and clear planning direction for industry.

## 4.3 Infrastructure

The planning proposal is rezoning Council owned infrastructure to a more appropriate SP2 Infrastructure zone; and the Deepwater Village industrial area to a more appropriate IN1 General Industry zone. It is not anticipated that further infrastructure will be required.

# 5 Consultation

## 5.1 Community

Council has not proposed a community consultation period. It is considered that a 28 day consultation period is appropriate and will form part of the conditions of the Gateway Determination.

## 5.2 Agencies

The planning proposal does not specifically raise which agencies will be consulted.

It is recommended the following agencies be consulted on the planning proposal and given 21 days to comment:

- NSW Rural Fire Service
- NSW Mining, Exploration and Geoscience

## 6 Timeframe

Council proposes a six month time frame to complete the LEP.

The Department recommends a time frame of six months to ensure it is completed in line with its commitment to reduce processing times.

## 7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

As the proposal deals only with matters of local significance the Department recommends that Council 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:

- It is not inconsistent with the New England North West Regional Plan 2036;
- It will implement enhanced protection of riparian lands and watercourses supported by the Department of Biodiversity and Conservation (DPIE);
- It will implement the Standard Instrument LEP Natural Disaster Clause recommended by the Department of Planning, Industry and Environment;
- It will appropriately zone Council infrastructure in line with the LSPS Action 8.8; and
- It will appropriately zone the Deepwater Village industrial area in line with the GIS RLUS.

## 9 Recommendation

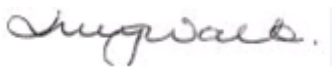
It is recommended the Director, as delegate of the Secretary:

- **Agree** that any inconsistencies with section 9.1 Directions 1.2 Mining, Petroleum Production and Extractive Industries, 1.5 Rural Lands; 3.2 Caravan Parks and Manufactured Home Estates; 5.10 Implementation of Regional Plans and 6.2 Reserving Land for Public Purposes are minor or justified; and
- **Note** that the consistency with section 9.1 Direction 4.4 Planning for Bushfire Protection is unresolved and will require justification.

It is recommended the Director, as delegate of the Minister:

- **Note** the planning proposal (**Attachment A**);
- **Determine** that the planning proposal should proceed subject to the following conditions:
  1. Prior to community consultation, the planning proposal is to be updated to:
    - (a) Amend Item 1 to number the proposed clause as 7.2A, or the next available number 7.7, removing references to the proposed renumbering of clauses 7.3-7.6;
    - (b) Amend Item 4 No. 2, Glen Innes Sewage Treatment Plant, to read 'Part of Lot 221 DP1174923', or, if the entire lot is to be rezoned and the minimum lot size amended, then the maps should be amended to include the entire lot;
    - (c) Amend Item 4 No. 3, Deepwater Landfill Facility, to remove the reference RU1 on the proposed map;
    - (d) Amend the maps and description for Item 4 Nos. 4 & 5, Deepwater Water & Sewage Treatment Plants, from R5 Village to read RU5 Village; and remove IN1 from the proposed map;
    - (e) Amend Items 4 and 5 to include the relevant associated minimum lot size (MLS) changes in sections 1.2 and 2.1;

- (f) Include a statement acknowledging that final drafting for all proposed clauses will be subject to legal opinion to recognise the clauses as proposed may not be as reflected within the final LEP;
  - (g) Amend the reference to “Coffs Harbour LEP 2013” under Direction 2.3;
  - (h) Note Lot 306 DP753323 also has bushfire mapped land under Direction 4.4;
  - (i) Remove references to SEPP 55 – Remediation of Land; clause 6 has been repealed and replaced by section 9.1 Direction 2.6 Remediation of Contaminated Land; and
  - (j) Nominate the reasons that the urban release areas are proposed to be removed, as per the report to the Ordinary Meeting of Council on 22 July 2021.
2. Prior to community consultation, consultation is required with the following public authorities:
    - NSW Rural Fire Service
    - NSW Mining, Exploration and Geoscience
  3. The planning proposal should be made available for community consultation for a minimum of 28 days.
  4. The timeframe for completing the LEP is to be **six** months from the date of the Gateway determination.
  5. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.
- **Sign** the Gateway determination (**Attachment B**) and the attached letter to Council (**Attachment C**).



5/10/2021

(Signature)

(Date)

**Lucy Walker**  
**Specialist Planning Officer, Local and Regional Planning**  
**Northern Region**



13/10/2021

(Signature)

(Date)

**Jeremy Gray**  
**Director, Northern Region**  
**Local and Regional Planning**

Assessment officer

Helen Willis  
 A/Planning Officer  
 5778 1489